



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
2000**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 3, 2000, 6:00 p.m. at the Duluth Entertainment Convention Center, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: None -- 0

REPORTS OF COUNCILORS

Scott Keenan, 1999 council president, announced that the election of officers for 2000 would now take place.

Councilor Gilbert was elected president upon a unanimous vote.

Councilor Edwards was elected vice president upon a unanimous vote.

Scott Keenan spoke of the accomplishments of the council during the past year. He introduced President Gilbert.

President Gilbert thanked councilors for their support and spoke of his view for the coming year.

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR EDWARDS:

RESOLVED, that Superior Ford, Inc., Plymouth, Minnesota, be and hereby is awarded a contract for furnishing and delivering nine police patrol vehicles for the police department in accordance with specifications on its low specification bid of \$186,939, terms net 30, FOB shipping point, payable out of Capital Equipment Fund 250, Dept./Agency 015; to be encumbered out of 2000 budget.

Resolution 00-0017 was unanimously adopted.
Approved January 3, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the Duluth News-Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 2000, 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 \$0.2364 per line, 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. Term: net 30 and payable out of various funds, dept./agencies, organizations and objects.

Resolution 00-0023 was unanimously adopted.
Approved January 3, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Cartier Agency, Inc., be and hereby is awarded a contract for furnishing and delivering property insurance for city owned structures in accordance with specifications on its low specification bid of \$50,308, terms net 30, FOB destination, payable out of Self Insurance Fund 605.

Resolution 00-0024 was unanimously adopted.
Approved January 3, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

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

<u>File #</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
99141	Fred Smallacombe	Southerly 50 feet of east 25 of east half of northwest quarter of southeast quarter of southwest quarter except east 33 feet of south half for road and except south 200 feet (10-2720-140)	West side of St. Andrew Avenue and 200 feet north of Chisholm Street (Woodland)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

99142	Stephanie Keppers	Lot 23, Block 26, New Duluth First Division (10-3430-8580)	East side of 101 st Avenue West between Goodhue and Bowser Streets (Gary-New Duluth)
99143	Shockley Communications Corporation	Lot 65, Block 174, Lots 54 through 62 even, Block 178, (10-1350-15850{p}) Duluth Proper Third Division (10-1350-15590), and Lots 15 and 16, Block 3, Summitt Park Division (10-4250-110{p})	Northeast corner of 11 th Street and Fourth Avenue West and southeast corner of 13 th Street and Fourth Avenue West (Tower Farm)
99147	Menards Incorporated	That part of Lots 6, 7, and 8 westerly of a line drawn parallel with and distant 50 feet from the center of DW&Pacific Railroad, Block 178, West Duluth 7th Division (10-4530-1690)	West of Mike Colalillo Drive and north of I-35 (Ramsey)

Resolution 00-0010 was unanimously adopted.
Approved January 3, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

WHEREAS, by Resolution 89-0885, adopted on October 30, 1989, the city council designated portions of certain streets in the vicinity of the University of Minnesota - Duluth as resident permit parking zones pursuant to Section 33-125 of the City Code; and

WHEREAS, the residents of one of the blocks designated as a residential permit parking zone by such resolution have submitted a petition requesting removal of such block from the regulations of the residential permit parking zone ordinance; and

WHEREAS, after review of the matter, the city council has determined that removal of such block from the residential permit parking zone is appropriate;

NOW, THEREFORE, BE IT RESOLVED, that Resolution 89-0885 is hereby amended by deleting the parking areas on both sides of 18th Avenue East between Chester Park Drive and Grandview Avenue from the residential permit parking zone established by such resolution.

Resolution 00-0011 was unanimously adopted.
Approved January 3, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following one hour parking, 8:00 a.m. to 5:30 p.m., Monday through Friday zone is hereby established:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

south side of East Fourth Street for 100 feet in front of the business of Dannie Duluth at 932 East Fourth Street.

Resolution 00-0012 was unanimously adopted.
Approved January 3, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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:

south side of West Michigan Street at parking meter number MW20.

RESOLVED FURTHER, that in accordance with the provisions of Section 33-108 of the Duluth City Code, 1959, as amended, the following metered parking space is rescinded:

south side of West Michigan Street, parking meter number MW20.

Resolution 00-0013 was unanimously adopted.
Approved January 3, 2000
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR NESS

00-001 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON EAST SUPERIOR STREET TO DEDA FOR THE TECH VILLAGE PROJECT.

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Mayor Doty presented the 2000 State of the City Address (Public Document No. 00-0103-01.)

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Mayor Doty introduced the 1999 employees of the month and announced the selection of Marnie E. Grondahl as employee of the year.

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The meeting was adjourned at 7:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 10, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0110-01a The following submitting communications regarding the Fourth Council District vacancy (00-0020R): (a) Carol L. Henson; (b) Myrna I. Matheson; (c) Steven Nelson; (d) Joe Perfetti; (e) Lance G. Reasor. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 00-0020, by President Gilbert, appointing _____ to fill the vacancy in the fourth district city council seat, was introduced for discussion.

President Gilbert reviewed the name of all the nominees and explained the voting procedures for the fourth district council vacancy. He continued by saying that each councilor would receive a ballot and vote for one candidate, the clerk would pick up the ballots, tabulate the votes and announce the total for each candidate. President Gilbert went on by saying that if there were four consecutive identical ballots, the final candidates would be asked two questions and if, after these two questions, there are two more additional tie votes, there would be a coin toss to decide the winner.

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

Craig Olson, representing local construction workers, voiced support for Yvonne Prettner Solon, as the council and mayor have had a lot to do with the increased construction projects in the community and that Yvonne Prettner Solon deserves the chance to continue on this council and serve in this capacity.

George Sundstrom, representing the Duluth Central Labor Body, voiced support for Yvonne Prettner Solon, as she has helped the labor body with several projects.

Gail Huntley, associate chair of the state DFL party, stated her support for Yvonne Prettner Solon, as she has the experience the council needs with the new councilors on staff. She also stated that she would represent the diversity of the fourth district very well.

Bevan Schraw stated support for Gary Eckenberg, as he has visions for the fourth district and represents the views of the people of the fourth district.

Ed Kale voiced concern that there is no public election for this council seat and hoped that the councilor would be one that opposed the Spirit Mountain golf course project.

Peggy Marin stated that this decision should not be based on a gender issue.

There being no further discussion, paper balloting began.

The voting on Ballot No. 1 was as follows:

Councilor Edwards	Gary Eckenberg
Councilor Fena	Yvonne Prettner Solon
Councilor Hogg	Gary Eckenberg
Councilor Ness	Yvonne Prettner Solon
Councilor Stenberg	Yvonne Prettner Solon
Councilor Stewart	Gary Eckenberg
Councilor Stover	Neill Atkins

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilor President Gilbert Gary Eckenberg

All names from Ballot No. 1 were considered as nominees for Ballot No. 2.

The voting on Ballot No. 2 was as follows:

Councilor Edwards Gary Eckenberg

Councilor Fena Yvonne Prettner Solon

Councilor Hogg Gary Eckenberg

Councilor Ness Yvonne Prettner Solon

Councilor Stenberg Yvonne Prettner Solon

Councilor Stewart Gary Eckenberg

Councilor Stover Gary Eckenberg

Councilor President Gilbert Gary Eckenberg

Resolution 00-0020 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, Fourth District Councilor Dale Swapinski has resigned his council seat effective November 12, 1999; and

WHEREAS, the Duluth City Charter requires the city council to fill a vacancy in a council seat by appointment of an eligible person to serve until the next municipal election;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby appoints Gary Eckenberg to fill the vacancy in the Fourth District council seat, effective immediately.

Resolution 00-0020 was adopted upon the following vote:

Yeas: Councilors Edwards, Hogg, Stewart, Stover and President Gilbert -- 5

Nays: Councilors Fena, Ness and Stenberg -- 3

Approved January 10, 2000

GARY L. DOTY, Mayor

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The meeting was adjourned at 7:45 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 10, 2000, 7:55 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0110-01 James Mainello, et al. (ten signatures) submitting petitions for: (a) Construction of water main, gas main and sanitary sewer main in Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East; (b) Permanent street improvement of Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East. -- Assessor

00-0110-03 Evensen Dodge, Inc., submitting postsale analysis regarding \$2,475,000 G.O. bonds, Series 1999E, \$1,745,000 G.O. sewer utility revenue bonds, Series 1999F, \$1,220,000 G.O. improvement bonds, Series 1999G, \$1,985,000 G.O. equipment certificates of indebtedness, Series 1999H. -- Received

00-0110-02 The following submitting communications regarding the proposed bed and breakfast inn at 2617 East Third Street (00-0005R): (a) John and Anne Hansen; (b) Bonnie St. Clair. -- Received

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REPORTS OF OFFICERS

00-0110-04 Assessor submitting letter for confirmation of the assessment rolls levied to defray the assessable portion of contracts for the 1999 street improvement program, Blackman Avenue and Macfarlane Road - bituminous overlay, and 14th Avenue East from Ninth Street to 150 feet southerly - gas main. -- Clerk

00-0110-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from the Rotary Club of Duluth Harbortown Minnesota USA, Inc., on March 1, 2000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0110-06 Alcoholic beverage board minutes of November 17, 1999, meeting. -- Received

00-0110-07 Board of zoning appeals minutes of October 26, 1999, meeting. -- Received

00-0110-08 Environmental advisory council minutes of November 3, 1999, meeting. -- Received

00-0110-09 Housing and redevelopment authority of Duluth minutes of November 24, 1999, meeting. -- Received

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REPORTS OF COUNCIL COMMITTEES

President Gilbert reported that legislative issues were discussed at a committee of the whole meeting this evening and he questioned if councilors felt that there was a need to schedule a public hearing dealing with the McQuade Road safe harbor project.

Councilors discussed at length their opinions and reasons as to whether or not the council should hear additional public input regarding this specific issue before a resolution supporting and requesting funding for the project from the legislature is adopted.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Fran Doering spoke regarding parking at the end of Lakewalk East and noted that the plans included the city placing no parking signs on the street. He continued by saying that signs have not been erected and that there is a problem with individuals parking on both sides of the street. Mr. Doering encouraged the city to erect no parking signs as specified in the plan.

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K.L. Lewis spoke regarding the lack of snow removal enforcement by the city; the necessity of environmental impact statements for projects such as the one proposed for Spirit Mountain; and the availability of information regarding planning's long range comprehensive plan.

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Tom Allnew commended President Gilbert on his stance regarding following procedure. He stated that citizens have the right to be heard at public meetings and he encouraged President Gilbert to abolish the council rule that limits speakers to three minutes of speaking time.

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Peggy Marrin spoke regarding the process used by the city's administration to develop its legislative agenda.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

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 2000 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 00-0110-10, at a cost to the city of not to exceed \$20,200 plus in kind services, which shall be paid from Fund 258-030-1431-5490.

Resolution 00-0018 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, pursuant to Minnesota Statutes, Section 469.152 and 469.165, as amended (the act), the Duluth Seaway Port authority (the authority), is authorized to issue refunding bonds for the purpose of providing financing (including refinancing) for the acquisition, construction and installation of projects consisting of real and personal properties used or useful in connection with a revenue producing enterprise engaged in any business; and

WHEREAS, on May 16, 1988, the authority issued its \$18,000,000 industrial development dock and wharf revenue bonds, Series H (St. Lawrence Cement, Inc.) (the Refunding Bonds I), to provide financing for the initial acquisition and construction of a silo complex for the storage of cement (the project) which includes:

- (a) Four silos and an interstice silo with a total storage capacity of approximately 40,000 tons;
- (b) Equipment which unloads cement from ships and conveys it to the silo complex;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(c) Equipment which unloads cement from the silo complex into trucks and railroad cars; and

WHEREAS, on October 1, 1993, the authority issued its \$18,000,000 industrial development port authority revenue bonds, Series 1993H (the Refunding Bonds II) to provide refinancing of the Refunding Bonds I; and

WHEREAS, the company has requested that the authority issue its \$18,000,000 industrial development dock and wharf revenue bonds (the "bonds") for the purpose of refinancing the project by refunding the Refunding Bonds II; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the code), requires that all industrial revenue bonds issued after July 31, 1982, satisfy certain public approval requirements prior to issuance; and

WHEREAS, the authority conducted said public hearing on December 22, 1999, as the issuer of bonds (issuer) and as the hearing agent for the city of Duluth [which is approving the bonds as "applicable elected representative" as that term is defined in the regulations promulgated under Section 147(4) of the code]; and

WHEREAS, bond counsel has advised the city of Duluth that to ensure compliance with the public hearing requirements imposed by Section 147(f) of the code, the city of Duluth should, prior to the issuance of the bonds,

(a) Ratify the authority as its hearing agent for the public hearing held on December 22, 1999, with respect to the project and the bonds to be issued by the authority; and

(b) Approve the project and the issuance by the authority of the bonds.

NOW, THEREFORE, BE IT RESOLVED:

(a) That the authority is hereby ratified as the hearing agent of the city with respect to the public hearing that was conducted by the authority on December 22, 1999, with respect to the project and the bonds, and said public hearing is hereby ratified and shall be deemed to have been taken for the city for the purposes of conducting a public hearing required under Section 147(f) of the code;

(b) Issuance of the bonds by the authority in accordance with the provisions of the resolution of the authority giving approval to the issuance of \$18,000,000 industrial development dock and wharf revenue refunding bonds, of the Seaway Port authority, to refinance a project of St. Lawrence Cement, Inc., which was adopted by the authority on December 22, 1999, is hereby approved by the city for purposes of satisfying the public approval requirements of Section 147(f) of the code and regulations thereunder;

(c) The basis for this resolution and the legal basis upon which the bonds will be issued is that the bonds and the interest thereon are limited revenue obligations of the issuer and shall never constitute an indebtedness of the city, within the meaning of any state constitutional provision or statutory limitation, and shall not give rise to pecuniary liability of the city as a charge against its general credit, taxing power or assets.

Resolution 00-0021 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Miller Hill Jeep and Eagle be and hereby is awarded a contract for furnishing and delivering four vehicles for the Duluth police department in accordance with specifications on its low specification bid of \$34,665.49, terms net 30, FOB delivered, payable out of Police Grant Program Fund 215, Dept./Agency 200, Organization 2455, Object 5415.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0032 was unanimously adopted.
Approved January 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Lake Superior Office Furniture be and hereby is awarded a contract for furnishing and installing work stations and wall panels for the city engineers offices in accordance with specifications on its low specification bid of \$16,241.62, terms net 30, FOB delivered, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, Object E945.

Resolution 00-0033 was unanimously adopted.
Approved January 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Nortrax Equipment Company be and hereby is awarded a contract for furnishing and delivering John Deere O.E.M parts and repairs for the fleet services division in accordance with specifications on its low specification bid of \$21,300, terms net 30, FOB job site, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 00-0034 was unanimously adopted.
Approved January 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with InsurTec to provide the city with health claims processing services, which agreement is on file in the office of the city clerk as Public Document No. 00-0110-11, at an estimated cost to the city of \$52,575, which shall be paid from the group health fund.

Resolution 00-0037 was unanimously adopted.
Approved January 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 99-0887, authorizing the purchase of insurance from Workers' Compensation Reinsurance Association for year 2000, is hereby amended by increasing the cost of such insurance by \$5,769.49 from \$22,862 to \$28,631.49.

Resolution 00-0038 was unanimously adopted.
Approved January 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

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

TREE COMMISSION

Heidi Dulebohn for a term expiring August 31, 2002, replacing Paul Monson.
Stephen Khalar for a term expiring August 31, 2002, replacing Robert Ballou, who resigned.
Resolution 00-0028 was unanimously adopted.

Approved January 10, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Fourth Avenue West between West 12th Street and West 13th Street legally described as: Fourth Avenue West adjoining Blocks 3 & 4, Summit Park Division and Blocks 177 & 178, 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 street vacation petition at its December 15, 1999, 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. 00-0110-12.

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

Resolution 00-0003 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 84th Avenue West between Grand Avenue and the Willard Munger State Trail, legally described as: 84th Avenue West adjoining Blocks 40 and 41, Norton's Fairmount Park Division, Duluth; and

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

WHEREAS, the city planning commission approved unanimously the street vacation petition at its December 15, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 84th Avenue West described above, and as more particularly described on Public Document No. 00-0110-13.

BE IT FURTHER RESOLVED, that the northerly ten feet and ten feet each side of the centerline of said 84th Avenue West be retained as a utility easement.

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

Resolution 00-0004 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 20 foot wide utility easement legally described as: southwest ten feet of Lots 2 and 3 and the northeast ten feet of Lots 31 and 32, Block 3, Oatka Beach 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 easement vacation petition at its December 15, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of this utility easement described above, and as more particularly described on Public Document No. 00-0110-14.

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

Resolution 00-0006 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0110-15, with the Greater Downtown Council, under which the Greater Downtown Council will conduct certain activities in the Downtown area, in an amount not to exceed \$87,194, payable from General Fund 100-015-2030-SP05.

Resolution 00-0008 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city auditor as Document No. 18534, with the Duluth economic development authority, the Duluth Area Chamber of Commerce, the Duluth airport authority, Minnesota Power & Light Company and the Seaway Port authority of Duluth in the amount of \$50,000, payable from Fund 100, Ag. 020, Org. 1202.

Resolution 00-0009 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that, pursuant to Resolution No. 99-239, the agreement between the Duluth economic development authority (DEDA) and Greater Downtown Council in the amount of \$81,526, as approved by the DEDA board at its meeting of December 21, 1999, pursuant to DEDA Resolution No. 99D-58, a copy of which is on file in the office of the city clerk as Public Document No. 00-0110-16, is hereby approved.

Resolution 00-0015 was unanimously adopted.

Approved January 10, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Klassic Constructors be and hereby is awarded a contract for interior renovation, phase four and five on the M.P.D.I. building in accordance with specifications on its low specification bid of \$190,270, terms net, FOB job site, payable out of Community Development Fund 262, Dept./Agency 622, Object 6222.

Resolution 00-0040 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Damberg, Scott, Gerzina, Wagner, for the sum of not to exceed \$72,000, from Capital Fund 450, Ag. 015, Org. 1998, Obj. C813, for providing certain architectural services to the city of Duluth in connection with Lake Superior Zoological Gardens animal care 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. 00-0110-17.

Resolution 00-0014 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the library director is hereby authorized to accept a grant from the Duluth-Superior Area Community Foundation to the Duluth Public Library in the amount of \$3,470 for the "Book Time with Your Baby" project, which grant agreement is on file in the office of the city clerk as Public Document No. 00-0110-18, and which funds shall be deposited in the General Fund 100-300-1704-4690.

Resolution 00-0026 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to execute Supplemental Agreement No. 2 to a professional services agreement with F.I. Salter Company, Inc., for property appraisal services in connection with the acquisition of the Lepak property, which agreement is on file in the office of the city clerk as Public Document No. 00-0110-19, and which agreement increases the estimated total compensation from \$20,000 to \$37,000, which shall be payable from the self insurance fund.

Resolution 00-0019 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that Western Lake Superior Sanitary District be and hereby is awarded a contract for furnishing and delivering ten samplers and related equipment for the sewer division

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

in accordance with specifications on its low specification bid of \$19,624.97, terms net 30, FOB destination, payable out of Storm Water Utility Fund 535, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 00-0022 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that Bachand Painting be and hereby is awarded a contract for furnishing painting of 2,535 gas meters throughout the city of Duluth for the water and gas department in accordance with specifications on its low specification bid of \$28,340, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5400.

Resolution 00-0030 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that Earthburners, Inc., be and hereby is awarded a contract for construction of a ten inch water main on Rice Lake Road for the water and gas department in accordance with specifications on its low specification bid of \$129,271, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0031 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to accept a \$10,000 grant from General Mills to be used for the city of Duluth fire department's confined space project.

RESOLVED FURTHER, that all grant monies accepted pursuant to this resolution shall be deposited into Fund No. 210, Agency 030, Org. 2120.

Resolution 00-0036 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Duluth Typewriter and Business Furniture be and hereby is awarded a contract for furnishing and delivering various quantities of work stations, wall panels, counters and installation of same for the Duluth police Minnesota gang strike force in accordance with specifications on its low specification bid of \$12,158, terms net 30, FOB delivered, payable out of Fund 215, Dept./Agency 200, Organization 2444, Object 5580.

Resolution 00-0039 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0029, by Councilor Hogg, authorizing the execution of a joint powers agreement and the issuance and sale of \$225,000 general obligation revenue note, Series 2000, and providing for its payment, was introduced for discussion

Councilor Hogg noted that Resolution 00-0051 is tied to Resolution 00-0029 and also deals with the issue of the proposed sanitary sewer to the North Shore. He moved to consider Resolution 00-0051 at this time, which motion was seconded and unanimously carried.

Resolution 00-0051, by Councilor Ness, directing the administration to prepare a one-year moratorium ordinance prohibiting development in the area proposed to be served by the North Shore wastewater collection system until comprehensive planning can be completed for the area, was introduced for discussion.

Councilor Hogg expressed concern that language pertaining to comprehensive planning is present in the title of the resolution but not in the body. He suggested that the title be amended so that it more appropriately reflects what is stated in the body of the resolution, which is a moratorium for one year.

Councilor Fena stated that her desire is to have the title reflect what is in the body of the resolution, that is, by ending the title with the words "North Shore wastewater collection system," "pending comprehensive planning" or "until comprehensive planning is completed" so that the purpose of the moratorium is more clear.

Councilor Hogg stated that the purpose in the title can be accomplished by simply adding, "pending comprehensive planning" after the words "North Shore wastewater collection system," and made a motion to amend the title as stated, which motion was seconded.

Councilor Edwards stated that Nelson Thomas, who is involved with the project and in the audience, may have some comments. She moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Nelson Thomas made note that the area being considered for this moratorium is property within Duluth's city limits and does not affect the other two townships' property, as they already have comprehensive plans in place.

Responding to Councilor Stover, Councilor Hogg stated that this resolution directs the administration to prepare a resolution which establishes a one year moratorium for development of property and has nothing to do with home renovation.

Acting Administrative Assistant Ollenburger stated that a moratorium requires an ordinance which would take effect 30 days after passage and publication. He clarified that the moratorium only prevents new development and subdivisions and that permits for current uses allowed by the zoning will continue.

Councilor Hogg's amendment to Resolution 00-0051 carried upon a unanimous vote.

Resolution 00-0029 was adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Authorization and Sale of Note.

1.01. Recitals.

A. The City, the Town of Duluth and the Town of Lakewood, Minnesota (the "Towns") (the City and the Towns are herein referred to collectively as the "Municipalities") are working cooperatively through a joint powers board referred to as the North Shore Wastewater Board created pursuant to Minnesota Statutes, Section 471.59, to plan, design and construct a wastewater collection system for the North Shore planning area (the "Wastewater Collection System").

B. Local funds contributed by the Municipalities were used to produce a waste water facilities plan in 1998, but additional funds are needed to complete planning and design of the Wastewater Collection System.

C. The Municipalities have submitted a petition to the Minnesota Pollution Control Agency for the creation of the Duluth/North Shore Sanitary District (the "Sanitary District"), pursuant to Minnesota Statutes, Sections 115.18 through 115.37. The Sanitary District will own and operate the Wastewater Collection System. It is anticipated that the proceedings for creation of Sanitary District will be completed by late spring in the year 2000.

D. The City has applied to the Minnesota Public Facilities Authority (the "PFA") on behalf of the Municipalities, for financial assistance to be used for the reimbursement or payment of design, engineering and legal costs incurred in anticipation of construction of the Wastewater Collection System (the "Project") and creation of the Sanitary District.

E. The Municipalities estimate that it will require financial assistance from the PFA in the amount of \$225,000 in order to undertake the Project.

F. Pursuant to a Joint Powers Agreement between Municipalities, the form of which is on file in the office of the Clerk and which has been presented to the City Council (the "Joint Powers Agreement"), the City has agreed to borrow the sum of \$225,000 from the Minnesota Public Facilities Authority (the "PFA") in order to pay the cost of the Project. The Towns have approved the Joint Powers Agreement.

G. Pursuant to the Joint Powers Agreement, the Town of Duluth has agreed to pay its proportionate share of the borrowing from the PFA in the event the Sanitary District is not created. Saint Louis County has made an appropriation of funds to pay the Town of Lakewood's proportionate share of the borrowing from the PFA in the event the Sanitary District is not created. It is anticipated that the Sanitary District will assume the City's obligations to the PFA upon its creation.

1.02. Note for Planning and Design of Wastewater Collection System. It is hereby found and determined to be necessary and in the best interest of the City and the Towns and the residents of the City and the Towns to sell and issue a general obligation revenue note of the City to the Minnesota Public Facilities Authority (the "Lender") in the amount of \$225,000 to finance the Project, all pursuant to Minnesota Statutes, Chapter 475, Sections 115.46 and 444.075, the Joint Powers Agreement and subject to execution by the Lender and the State of Minnesota of a project loan agreement further described below.

1.03. Joint Powers Agreement. The Joint Powers Agreement is hereby made a part of this Resolution as though fully set forth herein and is hereby approved in substantially the form presented to the City Council. The Mayor and the Clerk are authorized and directed to execute, acknowledge, and deliver the Joint Powers Agreement on behalf of the City with such changes, insertions, and omissions therein as bond counsel may hereafter deem appropriate, such execution to be conclusive evidence of approval of such document in accordance with the terms hereof.

1.04. Issuance and Sale of Note. The City hereby authorizes the issuance and sale of its \$225,000 General Obligation Revenue Note, Series 2000 (the "Note"), in substantially the form attached hereto as Attachment A for the purposes specified in Section 1.01 above to the Lender pursuant to a Public Facilities Authority Project Loan Agreement and General Obligation Revenue Bond Purchase Agreement between the Lender and the City, in substantially the form presented to the Council and on file with the Clerk (the "Loan Agreement"), which is hereby authorized and approved.

Section 2. Execution and Delivery of Note and Loan Agreement.

2.01. Terms. The Note to be issued hereunder will be dated as of the date of its delivery and issuance to the Lender, will be issued in the principal amount of \$225,000, in fully registered form and lettered and numbered R-1. Principal payments will be made in the respective years and amounts set forth on Exhibit A to the Note.

2.02. Execution. The Note and the Loan Agreement will be prepared for execution in accordance with the approved forms and signed by the manual signature of the Mayor and attested by the manual signature of the Clerk. If any officer whose signature appears on the Note ceases to be an officer before delivery of the Note, such signature will nevertheless be valid and sufficient for all purposes, as if such officer had remained in office until delivery.

2.03. Bond Registrar; Registration. The Council hereby designates the Treasurer as bond registrar, paying agent and transfer agent for the Note. 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 will provide for the registration of transfers of ownership of the Note. The Note will be initially registered in the name of the Lender and will be transferable upon the register by the Lender 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 Treasurer, duly executed by the Lender or its duly authorized agent.

2.04. Delivery. Delivery of the Note will be made at a place mutually satisfactory to the City and the Lender. The Note will be furnished by the City without cost to the Lender. The Note, when prepared in accordance with this Resolution and executed, will be delivered to the Lender by and under the direction of the Treasurer. Disbursement of the proceeds of the Note will be made pursuant to the Loan Agreement.

2.05. Loan Agreement to Govern. 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 will govern.

Section 3. Accounts and Tax Levies.

3.01. Public Service Sewer Utility Fund; Accounts Established. The City will continue to operate its Sewer Utility Operating Account within the Public Service Sewer Utility Fund (the "Sewer Fund") maintained under Section 54 of the City Charter, to which will be credited all gross revenues of the Sewer Utility (the "Utility"), and out of which will be paid all normal and reasonable expenses of current operations of the Utility and all money received from the sale of any facilities or equipment of the Utility. There are hereby created in the Sewer Fund the following accounts: the 2000 State Public Facilities Authority Note Construction Fund and the 2000 State Public Facilities Authority Note Debt Service Fund.

3.02. Construction Fund. Each disbursement of proceeds of the Note which is received pursuant to the terms of the Loan Agreement will be credited to a separate construction fund, which is hereby created and designated as the "2000 State Public Facilities Authority Note Construction Fund" (the "Construction Fund") and which will be a subfund of the Sewer Fund. Monies on deposit in the Construction Fund will be used from time to time to pay the capital costs of the Project, including but not limited to costs of planning, engineering, legal, financial advisory, and other professional services, printing and publication costs, and costs of issuance of the Note, as such payments become due. Upon completion of the Project, any amounts left in the Construction Fund will be transferred to the Debt Service Fund described below.

3.03. Debt Service Fund. A separate debt service fund is hereby created and designated as the "2000 State Public Facilities Authority Note Debt Service Fund" (the "Debt Service Fund"), which will be a special separate restricted subfund of the Sewer Fund. The Treasurer shall transfer from the Sewer Utility Operating Account to the Debt Service Fund amounts of the net

revenues sufficient for the payment of all interest and principal then due on the Note. The money in the Debt Service Fund may be used for no purpose other than the payment of principal and interest on the Note and other notes similarly authorized; provided, however, that if any payment of principal or interest becomes due when there is not sufficient money in the Debt Service Fund, the Treasurer is directed to pay the same from any other funds of the City and said funds will be reimbursed for such advance from the Debt Service Fund when a sufficient balance is available therein. The City further irrevocably appropriates to the Debt Service Fund for payment of the principal of and interest on the Note:

A. any balances available in the Sewer Fund after sufficient revenues have been set aside for or used for payment of the normal, reasonable and current expenses of operating and maintaining the Utility which balances are hereby deemed net revenues solely to the extent allocated to pay the principal of and interest on the Note when due; the portion of such payments allocated to the Note will be transferred to the Debt Service Fund no later than the last business day of the month in which such payments are received;

B. all sums collected from the taxes, if any, extended and assessed under the provisions of Sections 3.05 and 3.06;

C. all income and gain from investment of the Debt Service Fund; and

D. any funds remaining in the Construction Fund after acquisition and installation of the Project and payment of the costs thereof.

3.05. Appropriation; No Tax Levy.

A. The full faith and credit and taxing powers of the City are irrevocably pledged for the prompt and full payment of the principal of and interest on the Note, as such principal and interest respectively become due.

B. The monies and payments appropriated to the Debt Service Fund in Section 3.03, are estimated to be not less than five percent in excess of the principal and interest on the Note when due, and accordingly, no tax is levied at this time.

3.06. General Obligation. In the event the monies and payments appropriated to the Debt Service Fund in Section 3.03 hereof are insufficient to pay principal of and interest on the Note as the same become due, the City is required by law and by contract with the holder of the Note and hereby obligates itself to levy and cause to be extended, assessed and collected any additional taxes found necessary for full payment of the principal of and interest on the Note.

3.07. Investments. Subject to the requirements of Section 7 of this Resolution, monies on deposit in the Construction Fund and the Debt Service Fund may, at the discretion of the Treasurer, be invested in any securities permitted by Minnesota Statutes, Chapter 118A and in accordance with resolutions of the City; provided, however, such investments must mature at such times and in such amounts as will permit payments by the City for authorized purposes, when due.

Section 4. Registration of Note. The Clerk or his designee is directed to file with the County Auditor of St. Louis County, Minnesota, a certified copy of this Resolution, together with such other information as the County Auditor may desire concerning the Note issued hereunder and obtain from the Auditor a certificate that the Note has been entered on the Auditor's register. If any taxes are required to be levied under Section 3.05 hereof, the County Auditor will assess and extend each year the amount, or the reduced amount certified by the Treasurer. The County Auditor will certify to the Treasurer the assessed valuation of taxable property within the City each year, and may each extend and assess the full amount of the taxes to be levied that the Treasurer computes and certifies to the County Auditor.

Section 5. Authentication of Note Transcript.

5.01. Official Proceedings. The officers of the City and the Auditor of St. Louis County, Minnesota, are authorized and directed to furnish to the Lender certified copies of proceedings and information in their official records relevant to the authorization and issuance of the Note and the execution and delivery of the Loan Agreement, and such certificates and affidavits as to other matters appearing in their official records or otherwise known to them as may be reasonably required to evidence the validity and security of the Note, and all such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations and recitals of the City as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

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

Section 6. Covenants. The Council covenants and agrees with the holders of the Note that so long as any payments under the Note remain outstanding and unpaid, it will keep and enforce the following covenants and agreements through the Council.

A. The City will continue to maintain and efficiently operate the Utility as a public utility and convenience free from competition of other like utilities, and will cause all revenue therefrom to be deposited in bank accounts and credited to the Utility funds and accounts as herein above provided, and will make or authorize no expenditures from those funds and accounts except for a duly authorized purpose and in accordance with this Resolution.

B. The City will also maintain or cause to be maintained the Debt Service Fund as a separate account in the Sewer Fund and will cause monies to be credited thereto from time to time out of net revenues from the Utility in sums sufficient to pay principal and interest on the Note when due.

C. The City will keep and maintain or cause to be maintained proper and adequate books and records of accounts separate from all the records of the City in which will be complete and correct entries as to all transactions relating to the Utility, collections and disbursements of funds appropriated for payment of the Note, monies on hand, and which must be open to inspection and copying in accordance with the Loan Agreement and by the Lender or the Lender's agent or attorney at any reasonable time, and it will furnish certified transcripts therefrom upon request and upon payment of a reasonable fee therefor and said account will be audited at least annually by a qualified public accountant and statements of such audit and report will be furnished to the Lender in accordance with the requirements of the Loan Agreement.

D. The City will cause persons handling revenues of the Utility to be bonded in reasonable amounts for the protection of the City and the Lender, and will cause the funds collected on account of the operations of the Utility to be deposited in a bank whose deposits are guaranteed under the Federal Deposit Insurance Law.

E. The City will keep the wastewater collection facilities insured at all times against loss by fire, tornado and other risks customarily insured against with an insurer or insurers in good standing in such amounts as are customary for like utilities to protect the Lender and the City from any loss due to such casualty and will apply the proceeds of such insurance to make good any such loss.

F. The City and each and all of its officers will punctually perform all duties of reference to the Utility as required by law.

G. The City will impose and collect charges of the nature authorized by Minnesota Statutes, Section 444.075, at the times and in the amounts required to produce net revenues, which along with the monies appropriated pursuant to Section 3.03 of this Resolution, will be adequate to pay all principal and interest when due on the Note, and to create and maintain such reserves securing said payments as may be provided in this Resolution.

Section 7. Tax Covenants.

7.01. Lender's Bonds. The City agrees to cooperate with the Lender as necessary to maintain the tax-exempt status of any bonds issued by the Lender either to fund the Note or which are secured by the Note (the "Bonds"). The City specifically agrees:

A. Any sums from time to time held by or under the control of the City which would constitute "gross proceeds" of the Bonds ("Gross Proceeds"), as defined in the Internal Revenue Code of 1986, as amended, and the regulations in effect with respect thereto (the "Code") will not be invested at a yield in excess of the applicable yield on the Bonds. Disbursements of proceeds of the Note will not be reinvested by the City. In addition, said Gross Proceeds will not be invested in obligations or deposits issued, guaranteed 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.

B. The City hereby covenants not to use the Project or to cause or permit it or any of it to be used, or to enter into any deferred payment arrangements for the cost of such Project, in such a manner as to cause any Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

C. With respect to any Gross Proceeds, the City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code and the interest on any Bonds, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Bonds, and the rebate of excess investment earnings to the United States.

D. The City will comply with such instructions as may be provided from time to time by the Lender with respect to gross proceeds of Bonds.

7.02. General. The City covenants and agrees with the Lender 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.

7.03. Arbitrage Covenant. No portion of the proceeds of the Note will 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 Note was issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note 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 Note) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield will not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after

taking into account any applicable temporary periods or minor portion made available under the federal arbitrage regulations.

7.04. Rebate Exemption. Pursuant to Section 1.148-7(d) of the federal arbitrage regulations, relating to exception from rebate for certain proceeds spent within a specified time frame, the City hereby covenants that the proceeds of the Note and investment earnings thereon will be allocated to Project costs and costs of issuance of the Note in accordance with the following schedule measured from the date of closing and delivery of the Note:

- A. at least 15 percent within 6 months (the first spending period);
- B. at least 60 percent within 12 months (the second spending period); and
- C. 100 percent within 18 months (the third spending period);

provided that the Note will not fail to satisfy the spending requirement herein specified as a result of reasonable retainage not exceeding five percent of the proceeds of the Note if such amount is allocated to Project costs within 30 months of the date of closing and delivery of the Note.

Resolution 00-0029 was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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Resolution 00-0051, as amended, was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, in Resolution No. 00-0029, the city of Duluth is about to enter into a joint powers agreement and finance agreement with the towns of Duluth and Lakewood for the purpose of developing a sanitary sewer system along the North Shore of Lake Superior through the respective jurisdictions; and

WHEREAS, Duluth city councilors have expressed concerns that the development of such a sanitary sewer system along Lake Superior's North Shore may lead to inappropriate development and aesthetic and environmental degradation of the scenic North Shore unless comprehensive planning measures are performed simultaneously with the development of the sanitary sewer system; and

WHEREAS, both the city council and the administration deem it appropriate that a one-year moratorium be enacted to prohibit development in the area to be sewered so that the proper comprehensive planning processes can take place; and

WHEREAS, Minnesota Statutes Section 462.355, Subd. 4, provides that development moratoriums may be done only by ordinance and must be subject to the guidelines set forth in the statute; and

WHEREAS, the city of Duluth planning department is presently working on a comprehensive plan for the entire city of Duluth.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby directs the administration to prepare a one-year development moratorium ordinance for the area to be served by the proposed North Shore wastewater collection system in the city of Duluth.

RESOLVED FURTHER, that the ordinance described above be fully prepared for introduction at the first council meeting following the meeting where this resolution is passed.

RESOLVED FURTHER, that the administration is directed to place the North Shore area to be served by the wastewater collection system at the very top priority for areas to be studied in conjunction with the development of the comprehensive plan for the city of Duluth.

Resolution 00-0051, as amended, was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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Resolution 00-0007, by Councilor Edwards, awarding contracts to St. Luke's Occupational Medicine and St. Mary's Medical Center Occupational Services for medical services, in the amount of \$135,000, was introduced for discussion.

Councilor Hogg stated that by authorizing the administration to extend these agreements for two additional years eliminates the council's right to approve them at the end of the year. He moved to amend the resolution by deleting the last paragraph of the resolution which authorizes automatic renewal of the contracts after one year, which motion was seconded and carried upon a unanimous vote.

Resolution 00-0007, as amended, was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that St. Luke's Hospital Occupational Medicine and St. Mary's Medical Center Occupational Services be and hereby are awarded contracts for furnishing medical services for the administrative services division in accordance with specifications on their proposals and unit cost for a combined total of \$135,000, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

Resolution 00-0007, as amended, was unanimously adopted.

Approved January 10, 2000

GARY L. DOTY, Mayor

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Resolution 00-0027, by Councilor Stover, confirming appointment of S.C. Welles to the planning commission replacing John LaForge, was introduced for discussion.

Councilor Hogg moved to table the resolution so that the appointee can be interviewed, which motion was seconded and unanimously carried.

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BY COUNCILOR STOVER:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Patty Edwards (city councilor) for a term expiring April 27, 2003, replacing Isobel Rapaich.

Resolution 00-0049 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Abstention: Councilor Edwards -- 1

Approved January 10, 2000

GARY L. DOTY, Mayor

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Resolution 00-0005, by Councilor Ness, granting a special use permit to William Brakken and Rebecca Sieve for a bed and breakfast inn for property located at 2617 East Third Street, was introduced for discussion.

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

The following individuals spoke in support of the issuance of a special use permit for a bed and breakfast inn for property located at 2617 East Third Street: John Goldfine, representing himself and the Duluth Convention and Visitors' Bureau, Ken Aparicio; Alan Fink and Barb Trueman.

Reasons given to support issuance of the special use permit were as follows: bed and breakfast inns do not have a negative affect on neighborhood property values; Duluth has many large, older homes in this area that are in need of preservation and by allowing this use, at times, is the only way they can be preserved financially; most bed and breakfast inns are improved and maintained to a better condition than some of the large homes that are occupied and used as single family residences; bed and breakfast inns are good for the city, economically, and for the tourist industry; bed and breakfast inns are usually located in quiet, quality neighborhoods and usually attract people who are looking for quiet and serenity; guests at bed and breakfast inns are generally more quiet than neighborhood residences where children are present; bed and breakfast inn owners are required to live on the premises and it is important to them to maintain their homes and keep the neighborhood safe for their families; in order to make a bed and breakfast inn profitable, the owner is required to constantly improve and maintain the structure; bed and breakfast inns have been in Duluth for 16 years, are well received by the various neighborhoods and generally have a good rapport with neighbors; in the 16 years that bed and breakfast inns have existed in Duluth, not once have the police been called for a disturbance; generally, owners of bed and breakfast inns put all of their money back into the buildings to make them better; owners are preservationists and take pride in what they are doing; they love their yards, love to make everything beautiful and love to be hospitable;

Jay Litman, contractor and present owner of the house, gave a brief history of the home and the number of times it has changed hands. He continued by saying that he has had the home since 1969 and has done some inside restoration; however, the exterior is in need of extensive restoration, which he is unable to finance and, in addition, the property taxes have tripled over the past ten years. Mr. Litman stated that in the seven months the home has been on the market, he has not had one party look at it with the intention of making it a single family residence. He noted that the Brakken's are willing to move to Duluth with the intent to live on the third floor and restore the home to its original condition for the purpose of making it into a bed and breakfast inn. Mr. Litman continued by saying that several of his neighbors on one side of the street are not opposed to the house becoming a bed and breakfast. He encouraged the council to base its decision on the law and rules governing the establishment of bed and breakfast inns within the city of Duluth and not on the objections of a few neighbors. Mr. Litman further stated that the addition proposed by the Brakken's will only fill in an alcove to square off the house to add one bedroom and two bathrooms and that the business he now operates out of his home and roomers that he rents to probably create more traffic than a bed and breakfast ever will. He concluded that the Brakken's have received ordinance compliance approvals from the planning commission, the city building inspector and the city's fire marshal, and that the only remaining approval is the historical significance designation.

The following individuals opposed issuance of a special use permit for a bed and breakfast inn for property located at 2617 East Third Street: Don Poe; Bilin Tsai; John and Anne Hansen; Virginia King; R. Craft Dryer; Charles Andresen; and Greg Haug.

Reasons for opposing issuance of the special use permit were as follows: the planning commission appeared to have already decided to approve this application before the hearing was ever held; this house does not meet the criteria stated in the ordinance that a bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be, other than a private home with house guests; the house does not meet the requirement in the ordinance that it's use must be subordinate to that of the primary use of a residence because the Brakken's are seeking to construct an addition that includes one bedroom and two bathrooms, not for the residents, but for the sole purpose of using the home as a business; there are already four

bed and breakfast inns within a five block area and before the city issues another permit, a plan needs to be in place to address the issue of density and how many of these inns should be allowed in an area; the bed and breakfast inns presently in existence are much bigger homes and are located on busy through streets, making traffic flow much more acceptable; because it is a dead end, the street is not suitable for all of the traffic that a bed and breakfast home stay will generate; neighborhood children and pedestrians will no longer be able to play or walk in the street because of increased traffic; the house and neighborhood are just blocks from numerous school facilities that children walk to and from everyday; children and families that live in the neighborhood will not feel safe because strangers will be always be present; the Litman house has been restored and beautifully maintained over the past ten years and does not need extensive restoration as stated previously; issuing this special use permit and granting permission to construct an addition to this home will adversely impact its future sale as a single family residence, as well as the character of the neighborhood, which is made up of single family homes; it is inappropriate for this house to become a bed and breakfast because the house isn't that much larger than other homes on the block; houses on this street are much closer in proximity than other houses used for bed and breakfast inns; this neighborhood is unique because there are only eight houses on the block; neighbors will have no sense of privacy; property owners will move to other nearby cities where citizens' wishes are respected if the city does not responsibly protect the integrity and quality of neighborhoods by not allowing commercial establishments in the area; the quality, integrity and character of the neighborhood have already been through significant and dramatic changes in the last few years which include an increase in traffic due to the newly restored 26th Avenue East, which the city, by its own admission, unnecessarily cut down beautiful, matured trees on the block.

Responding to Councilor Eckenberg, Mr. Andresen noted that this resolution refers to the proposed use of this home as an inn and that the ordinance does not allow bed and breakfast inns in this type of zoning. He explained the differences of a bed and breakfast inn and a bed and breakfast home stay, and noted that the City Code deals with them each individually.

Bill Burns, attorney for the applicant, clarified that this issue should be considered as a bed and breakfast home stay and that the resolution should be amended to reflect that. He stated numerous statistics that reflect that this is the type of neighborhood that bed and breakfast home stays are most appropriate to be located in. In addition, Mr. Burns stated that this is not the only block of the street and that the neighborhood, sometimes referred to as Long View or the Holy Rosary neighborhood, is much larger than this block of eight residences. He stated that this application is in full compliance with the ordinance and encouraged the council to approve it.

Bill Brakken, applicant, explained that he is originally from Two Harbors and is looking forward to coming back to the North Shore and that the proposed use of this home will provide he and his wife with a means to do so. Responding to neighborhood concerns, he stated that comments made by planning commission members were preceded by a very strong staff recommendation supporting the application; the application and house are in compliance with the ordinance and there has been a good faith effort made to meet all of the criteria required; adjoining property behind the home is in the process of being purchased which will give the home twice the minimum acreage required for a bed and breakfast home stay; the intent is to further develop the additional property as gardens in a park-like setting; for the guests to enjoy; there are two other bed and breakfast home stays in R-1-b zoning in Duluth, noting the Far Light Inn, which is located on a dead end street. Mr. Brakken stated he does not understand concerns about strangers and issues of safety in the neighborhood because people who frequent bed and breakfast home stays are usually a little more educated and have higher incomes than the general population.

Regarding traffic, Mr. Brakken said he does not believe the establishment will ever generate as much traffic as the seven vehicles that presently go in and out of the Litman house.

Becky Brakken stated that since coming to Duluth she has met some very warm and generous people and she and her husband wish to become part of the community.

Responding to councilor questions, Mr. Brakken stated that the ordinance requires .6 acres, which is about four city lots, that the house presently sits on four city lots and that four adjoining lots are also included in the purchase price making a total of 1.2 acres; that the purchase agreement is not contingent upon approval of this application; that the planning staff gave him no guarantee that this application would be approved; that the ultimate goal is to live in the house full time; and that the purchase of the home would not be economically feasible without the addition of a fifth bedroom and two bathrooms.

Councilors supporting the resolution cited reasons of: the use of this home as a bed and breakfast home stay will assist in retaining and protecting the quality of the neighborhood; and that an alternative available to the owner to allow many renters will have a worse effect on the neighborhood.

Councilors not supporting the resolution cited reasons of: that the addition proposed does not comply with the Code; that it will adversely affect the integrity of the neighborhood by having a greater impact than any other private home; that along with the street improvements to 26th Avenue East, this will be intrusive on the neighborhood; that this would not be a subordinate use; and that the addition will make it impossible to ever sell the home as a single family residence.

Resolution 00-0005 failed upon the following vote (Public Document No. 00-0110-20):

Yeas: Councilors Fena, Stewart and Stover -- 3

Nays: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg and President Gilbert -- 6

- - -

Resolution 00-0016, by Councilor Ness, approving DEDA amendment to agreement with Duluth Plumbing Supply skywalk pursuant to DEDA Resolution 99D-56, was introduced for discussion.

The council discussed the issues of: the city attorney opinion that this is an "implied contract" and that it is binding; that the city has already spent \$500,000 on this project; and that the only reason this resolution is before the council is because this is a DEDA expenditure over \$25,000.

Councilor Fena moved to table the resolution so that a committee meeting could be scheduled to adequately brief the council on this issue before voting on it, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Hogg -- 1

- - -

At this time, 11:00 p.m., Councilor Fena moved to extend the meeting time to 11:10 p.m., 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

00-003 - AN ORDINANCE REPEALING SECTIONS 50-37, 50-37.1 AND 50-37.3 OF THE DULUTH CITY CODE RELATING TO COMMUNITY UNIT PLANS.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR EDWARDS

00-002 - AN ORDINANCE PERTAINING TO COIN OPERATED AMUSEMENT DEVICE LICENSES; AMENDING THE LICENSE FEES; AMENDING SECTIONS 5-13 AND 5-15 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR NESS

00-001 (9435) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON EAST SUPERIOR STREET TO DEDA FOR THE TECH VILLAGE PROJECT.

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

- - -

The meeting was adjourned at 11:10 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9435

BY COUNCILOR NESS:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON EAST SUPERIOR STREET TO DEDA FOR THE TECH VILLAGE PROJECT.

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 DEDA for the Tech Village project, and execute all documents necessary with regard to said conveyance:

the southerly 99 feet of the east 1/2 of Lot 1, the southerly 99 feet of Lot 3 and the east 1/2 of Lot 5, all in DULUTH PROPER, First Division.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: February 27, 2000)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed January 10, 2000

Approved January 10, 2000

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, January 20, 2000, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: Councilor Fena -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0120-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement pertaining to G.O. tax and aid anticipation certificates of indebtedness of 2000. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 00-0047, by Councilor Hogg, providing for the issuance, sale and delivery of \$9,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2000 of the city of Duluth, Minnesota, and prescribing the terms thereof; creating a debt service fund therefor; and awarding the sale thereof, was introduced for discussion.

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

Todd Torvinen, finance department director, noted the official statement (Public Document No. 00-0120-01(b)) and to what the bidders look when bidding on certificates like this.

Kathy Kardell of Evensen Dodge, Inc., reviewed the makeup of the bidders and the general trend on short term investments. She noted that the interest rate paid on this type of certificate has been going up recently. To council questions, Ms. Kardell reviewed the effect of the federal reserve on these certificates and that the Duluth credit rating is currently A1 by Moodys and A+ by Standard & Poors.

Resolution 00-0047 was adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Pursuant to authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue and sell general obligation tax and aid anticipation certificates of indebtedness in anticipation of collection of taxes and state aids. The City Council has, by Resolution No. 99-0853, adopted December 20, 1999, authorized the issuance and provided for the sale of \$9,000,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2000 (the "Certificates") in anticipation of collection of taxes levied in the year 1999 for collection during the year 2000 and state aids receivable in 2000 for the general fund of the City (the "General Fund"), which is necessary for timely payment of anticipated expenditures from the General Fund.

Section 2. Pursuant to Minnesota Statutes, Section 475.60, Subdivision 2(9), the City Council has retained an independent financial advisor, has solicited proposals for the sale of the Certificates, and has received an offer from CIBC World Markets Corp., of New York, New York (the "Purchaser"), to purchase the Certificates at a cash price of \$9,018,100 plus accrued interest on the total principal amount from February 1, 2000, to the date of delivery and upon the terms and conditions hereafter specified in this Resolution. The City Council, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are hereby authorized and directed to execute on the part of the City a

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

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

Section 4. The Certificates to be issued hereunder shall be dated February 1, 2000, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and shall mature on December 29, 2000 (the "Maturity Date"). The Certificates shall not be subject to redemption prior to the Maturity Date. The Certificates shall bear interest at the rate of 4.50 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 13, 2000, whether or not a business day, at such owners' addresses shown on such bond registration records. Principal of each Certificate shall be payable in accordance with and on presentation and surrender of the Certificate to the Bond Registrar.

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

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

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

or this Resolution, and deliver, in the names(s) of the designated transferee(s), one or more new certificates of a like aggregate principal amount, as requested by the transferor.

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

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

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

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

Section 12. The Certificates shall be prepared for execution in accordance with the form herein approved and shall be signed by the manual signature of the Mayor and attested by the manual signature of the City Clerk. If the legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. is not manually signed, the certificate as to legal opinion on each Certificate shall be executed by the manual signature of the City Clerk. In case any officer whose signature shall appear on the Certificates ceases to be an officer before delivery of the Certificates, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

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

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

GENERAL OBLIGATION TAX AND AID ANTICIPATION CERTIFICATE
OF INDEBTEDNESS OF 2000

R-1 \$9,000,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____ %	December 29, 2000	February 1, 2000	

REGISTERED OWNER: CEDE & CO.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

PRINCIPAL AMOUNT: NINE MILLION DOLLARS

The city of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 365-day year. Interest on this Certificate shall be payable on the maturity date set forth above. This Certificate is not subject to redemption prior to maturity. Both principal and interest are payable at Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council, in coin or currency of the United States of America, which on the date of payment is legal tender for payment of public and private debts. The Bond Registrar shall make the interest payment with respect to this Certificate directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on December 13, 2000, whether or not a business day, at such owner's address shown on said bond registration records. Payment of principal of the Certificates shall be made to the registered owner upon presentation and surrender of this Certificate to the Bond Registrar when due.

This Certificate is issued by the City in the aggregate amount of \$9,000,000, pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, and pursuant to a resolution adopted by the City Council of the City on January 20, 2000 (the "Resolution").

It is hereby certified and recited that a sum of \$28,515,700 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 1999 for collection during the year 2000, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 2000; and that none of said amounts have at this time been collected and credited to the City's Fund; that heretofore no tax or aid anticipation certificates have been issued against said tax levies or state aids for such Fund; and that this Certificate is issued in anticipation of collection of said taxes and state aids.

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

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

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

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

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

IN WITNESS WHEREOF, City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the signatures of the Mayor and the City Clerk; and the City has caused this Certificate to be dated the 1st day of February, 2000.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Minneapolis, Minnesota

By _____
Authorized Representative

(Certificate as to Legal Opinion)

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by Bond Counsel on the issuance of the General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2000, of the City of Duluth which includes the within Certificate, dated as of the original date of delivery of and payment for the Certificates.

City Clerk

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
2/1/00	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or other
_____ Identifying Number of
_____ Assignee

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Dated: _____.

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

Signature Guaranteed:

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

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

B. The City Council has levied \$250,000, pursuant to Section 3 of Ordinance No. 9432 (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 \$2,914,300, and based on notices from the Minnesota Department of Revenue, the State Aids are reasonably expected to be \$25,601,400.

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. 9432, adopted by the City Council on December 20, 1999 (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 2000 (the "General Fund State Aids") (collectively the General Fund Taxes and the General Fund State Aids are the "General Fund Taxes and State Aids"), to the extent necessary to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the Certificates when due. If the General Fund Taxes and State Aids are insufficient to pay all principal and interest on the Certificates when due, the City Treasurer shall, nevertheless, provide sufficient monies from other funds of the City which are available for

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

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

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

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

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

Section 19. The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds 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 00-0047 was unanimously adopted.

Approved January 20, 2000

GARY L. DOTY, Mayor

- - -

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 24, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of council meeting held on September 27, 1999, was approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0124-20 Duluth Transit Authority submitting petition for obstruction of sidewalk permit for relocation of a DTA bus shelter from 57th Avenue West and Grand Avenue to 5600 West Grand (00-0060R). - Planning commission

00-0124-21 The following submitting communications regarding the legislative agenda for 2000 (00-0068R): (a) Iver Bogen; (b) Mary Boyle Anderson; (c) Al Chepelnik; (d) Gerald H. Compton; (e) Robert Drummond; (f) Tom Fearnall; (g) Tom Johnson; (h) Gerald Kimball; (i) Steven Johnson and Carol Kondrath; (j) Clyde Ritchie; (k) Karen and Clyde Ritchie; (l) Kathy Sapp; (m) Paul Seckinger; (n) Jeremy J. Solin; (o) Tim Velner; (p) Herb Widell; (q) Kathy Winkler; (r) Jim Woldhuis. -- Received

- - -

REPORTS OF OFFICERS

00-0124-01 Assessor submitting:

(a) Letter for confirmation of the assessment rolls levied to defray the assessable portions of contracts for Arrowhead Road from Arlington Avenue to 600 feet westerly; 1999 sidewalk repair; Grand Avenue Place sanitary sewer; 32nd Avenue West from Superior Street to Carlton Avenue - bituminous overlay. -- Clerk

(b) Letter of sufficiency pertaining to the petition to construct a sanitary sewer and permanent street in Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East. -- Received

00-0124-02 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (raffle) from the Minnesota Association for Environmental Education on March 20, 2000. -- Received

00-0124-03 Community development and housing division submitting HUD-funded community development program quarterly status report for July-September, 1999. -- Received

00-0124-04 Engineering division submitting monthly project status report of January 1, 2000. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

00-0124-05 Duluth transit authority minutes of: (a) November 3; (b) December 1, 1999, meetings. -- Received

00-0124-06 Environmental advisory council minutes of December 1, 1999, meeting. -- Received

00-0124-07 Human rights commission 1999 year end report. -- Received

00-0124-08 Special assessment board: (a) Minutes of December 8, 1999, meeting; (b) Report, minutes, findings and recommendations for the proposed two inch grinder-pump sanitary sewer system in Greysolon Road from 35th Avenue East to 650 feet west. -- Received

00-0124-09 Tree commission minutes of December 14, 1999, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah noted how he feels about certain aspects of the community relative to the perception that recently there was some terrorists on the streets of Duluth.

- - -

Peggy Marrin spoke regarding the need for fair processes in dealing with the major issues that come before the city, especially the new comprehensive plan.

- - -

K.L. Lewis stressed the need for all sidewalks to be cleared.

- - -

RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 00-0027, confirming appointment of S.C. Welles to planning commission replacing John LaForge, from the table, which motion was seconded and unanimously carried.

Resolution 00-0027 was adopted as follows:

BY COUNCILOR STEWART:

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

PLANNING COMMISSION

S.C. Welles for a term expiring December 31, 2003, replacing John LaForge.

Resolution 00-0027 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

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 2000 John Beargrease Sled Dog Marathon, which agreement is on file in the office of the city clerk as Public Document No. 00-0124-10, at a cost to the city of \$10,000, which shall be payable from Fund 258, Agency 030, Organization 1431, Object 5490.

Resolution 00-0043 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

1999 street improvement program
Lester Park, Contract #7035

total assessable - \$188,300.35

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Lincoln Park, Contract #7036	total assessable - \$196,138.25
Woodland, Contract #7037	total assessable - \$304,390.80
Duluth Heights, Contract #7038	total assessable - \$164,923.15
Smithville, Contract #7039	total assessable - \$151,747.40
Chester Park, Contract #7040	total assessable - \$297,071.95
Kenwood, Contract #7041	total assessable - \$ 80,045.36

Blackman Avenue and Macfarlane Road - bituminous overlay
Contract #5317 total assessable - \$123,035.36

14th Avenue East from Ninth Street to 150 feet southerly - gas main
Contract #1195052 total assessable - \$ 1,404.05

Resolution 00-0056 was unanimously adopted.
Approved January 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement, containing the same terms and conditions, and being in the same form (except for typographical or insubstantial corrections) as that contract on file with the city clerk as Public Document No. 00-0124-11, covering years 2000, 2001, 2002.

Resolution 00-0057 was unanimously adopted.
Approved January 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that St. Joseph Equipment, Inc. be and hereby is awarded a contract for furnishing and delivering Case O.E.M. repair parts for the fleet services division in accordance with specifications on its low specification bid of \$15,975, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 00-0042 was unanimously adopted.
Approved January 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Little Falls Machine, Inc., be and hereby is awarded a contract for furnishing and delivering Falls O.E.M. parts and service for fleet services in accordance with specifications on its low specification bid of \$10,650, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 00-0044 was unanimously adopted.
Approved January 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Elgin sweepers, Sno-Go snow blowers, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

vactors for the fleet services division in accordance with specifications on its low specification bid of \$29,820, terms net 30, FOB destination, payable out of Fleet Services Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 00-0045 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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 Navistar trucks, Detroit diesel engines and Allison transmissions for the fleet services division in accordance with specifications on its low specification bid of \$21,300, terms net 30, FOB destination, payable out of Fleet Services Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 00-0046 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1. Second Harvest Duluth, Northern Lakes Food Bank	Reef Bar	January 6, 2000
2. VFW Post #137	2024 West Superior St.	January 4, 2000
3. American Legion Post #71	5824 Grand Avenue	December 28, 1999
4. Welch Center	Alpine Bar & Lounge Tappa Keg Inn	December 22, 1999

Resolution 00-0053 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a service contract with Copeland Community Center, Inc., covering year 2000, in the form and containing the terms of the contract on file with clerk as Public Document No. 00-0124-12, in the amount of \$10,000, payment to be from Fund 100, Org. 2070, Object 5990.

Resolution 00-0064 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved January 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Decision Technology be and hereby is awarded a contract for furnishing decision analyzer software for the M.I.S. division in accordance with specifications on its low specification bid of \$37,062, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, Object E957.

Resolution 00-0067 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of information systems manager, which were approved by the civil service board on December 20, 1999, which are filed with the city clerk as Public Document No. 00-0124-13, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, and pay range shall remain the same.

Resolution 00-0048 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the city is required to submit a pay equity implementation report to the Minnesota department of employee relations by January 31, 2000; and

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

WHEREAS, the city's pay equity implementation report has been submitted to the city council (Public Document No. 00-0124-14) and the council has received such report.

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

Resolution 00-0052 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Derrick Parker (Central Hillside) for a term expiring March 1, 2002, replacing Bruce Wyman who resigned.

Resolution 00-0054 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, Julie Langlee has submitted to the city council a request for a special use permit for a home beauty salon on property located at 640 Anderson Road described as: Lot 50,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Central Entrance Addition, First 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 Julie Langlee to allow for the operation of a home beauty salon at 640 Anderson Road, on the following conditions:

- (a) That the operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 00-0124-15;
 - (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 00-0059 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, Section 45-4.1 of the Duluth City Code allows for the city council by resolution to authorize the placement of objects or materials on public sidewalks or boulevard areas where the council finds such objects will not substantially interfere with pedestrian traffic and that the placement of such objects is beneficial to the public welfare; and

WHEREAS, the Duluth Transit Authority has requested permission to place a bus shelter, which will encroach upon public right-of-way, on the south side of Grand Avenue at the intersection of 57th Avenue West, adjacent to Lot 3, Block 4, Spirit Valley Division, as shown on city council Public Document No. 00-0124-16; and

WHEREAS, as per Section 45-4.1, the city planning commission has reviewed this request, considered comments and recommendations and recommends the placement of this bus shelter.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth hereby finds that the placement of a bus shelter by the Duluth Transit Authority on public right-of-way located at the intersection of 57th Avenue West and Grand Avenue, as described in city council Public Document No. 00-0124-16, will not substantially interfere with pedestrian traffic and that the placement of such objects is beneficial to the public welfare.

FURTHER RESOLVED, that the Duluth Transit Authority is hereby permitted to place a bus shelter at the intersection of 57th Avenue West and Grand Avenue, as described in city council Public Document No. 00-0124-16.

Resolution 00-0060 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract with Environmental Troubleshooters, for a cost not to exceed \$17,745, in the form and containing the terms and conditions set out in the contract on file with the city clerk as Public Document No. 00-0124-17, for remediation and cost recovery associated with the Pioneer building site, payment to be from Self Insurance Fund 605-036-1650-5319.

Resolution 00-0066 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved January 24, 2000
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 00-0055, by Councilor Stewart, confirming appointment of Karl C. Wasson to planning commission replacing David Oberstar, was introduced for discussion.

Councilor Stewart moved to table the resolution for an interview, which motion was seconded and unanimously carried.

- - -

Resolution 00-0065, by Councilor Stewart, confirming appointment of Rob Stenberg to Duluth economic development authority replacing Yvonne Prettner Solon, was introduced for discussion.

Councilor Stenberg noted that he will not be discussing this resolution and will abstain from voting.

Resolution 00-0065 was adopted as follows:

BY COUNCILOR STEWART:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Rob Stenberg (city councilor) for a term expiring April 27, 2004, replacing Yvonne Prettner Solon.

Resolution 00-0065 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Abstention: Councilor Stenberg -- 1

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

At this time, 8:00 p.m., the hearing regarding approving and authorizing the issuance of revenue notes by the city of Brainerd began.

No one was present to speak on this issue.

At this time, 8:01 p.m., the hearing was declared closed.

- - -

BY COUNCILOR HOGG:

WHEREAS, under the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152-469.165, as amended (the act), each municipality and redevelopment agency of the state of Minnesota (as defined in the act), including the city of Brainerd, Minnesota (the city of Brainerd), is authorized to issue revenue obligations to finance capital equipment and improvements to land and buildings for the benefit of a revenue-producing enterprise to be owned by a contracting party (as defined in the act); and

WHEREAS, under Section 469.155, subdivision 9, of the act, the city of Brainerd is authorized to enter into and perform contracts and agreements with other municipalities as the governing bodies of the city and as the other municipalities may deem proper and feasible for or concerning the financing of a project under the act, including an agreement whereby one municipality issues its revenue obligations in behalf of one or more other municipalities; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the city of Brainerd, has proposed to issue one or more revenue notes (the notes) and loan the proceeds derived from the sale of the notes to Lutheran Social Service of Minnesota, a nonprofit organization (the borrower), to finance the acquisition of computer equipment and motor vehicles, and the acquisition and construction of improvements to existing buildings (the project), to be located at the existing facilities of the borrower in numerous municipalities in the state of Minnesota; and

WHEREAS, a portion of the project will be located in the city of Brainerd and at the existing facilities of the borrower in the city of Duluth, Minnesota (the city);

NOW, THEREFORE, BE IT RESOLVED, THAT:

(a) The portion of the project to be located in the city (as described in the notice of public hearing published prior to the date of consideration of this resolution) is hereby approved by the city and the issuance of the notes by the city of Brainerd for such purpose (in the amount described in the notice of public hearing) and in an aggregate principal not to exceed \$1,800,000 is hereby approved;

(b) No obligations will be issued by the city to finance any portion of the project and the notes to be issued by the city of Brainerd to finance the project shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the city; and the notes, when, as, and if issued, shall recite in substance that the notes, including the interest thereon, are payable solely from the revenues received from the project and the property pledged to the payment thereof; and the notes shall not constitute an obligation of the city and shall not be secured by any taxing power of the city;

(c) The borrower shall pay any and all costs incurred by the city in connection with the portion of the project located in the city, whether or not the project is approved, the notes are issued, or the project is carried to completion.

Resolution 00-0025 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0041, by President Gilbert, amending Agreement No. 17911 with GDC for skywalk security services, extending the term and increasing the amount payable by \$21,800, was introduced for discussion.

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

K.L. Lewis voiced support for a more unified security program for the full skywalk system with better communication from one area to the other.

Resolution 00-0041 was adopted as follows:

BY PRESIDENT GILBERT:

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. 00-0124-18, with the Greater Downtown Council for the provision of skywalk security services extending the term of the agreement to run through December 31, 2000, and increasing the amount payable thereunder by \$21,800, payable from General Fund 100, Agency 500, Org. 1950, property management division.

Resolution 00-0041 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the city of Duluth accepts the appropriation of a \$450,000 grant to support the development of the Duluth Technology Village.

FURTHER RESOLVED, that the sources and amounts of the local match identified in the application are committed to the above-referenced project.

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 00-0061 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that effective January 26, 2000, pursuant to Section 2-17 of the Duluth City Code, the following rates, fines, and charges are hereby set for room and equipment rental, fines, and replacement costs, and other service charges made by the Duluth public library:

I. SPACE RENTAL

(a) Noncommercial rates

(1) Green room:	4 hours or less	\$ 75
	Day	100
(2) Gold room:	4 hours or less	45
	Day	60
(3) Conference room:	4 hours or less	40
	Day	50

(b) Commercial use rates, i.e. when admission is charged

(1) Green room:	\$200/day
(2) Gold room:	100/day
(3) Conference room:	60/day

II. EXTENDED USE FEES

(a) Juvenile books, recordings, magazines	\$.10/day
(b) Adult books, recordings, magazines	.25/day
(c) Toys	.50/day
(d) Civil service books	1.00/day
(e) Video cassettes, software, story kits	2.00/day
(f) Art prints	New/\$1.00/day

III. SERVICE CHARGES

(a) \$.10 to \$.50 for photocopies made by library patrons; charge depends on the machine and the size of the paper;

(b) \$2 for sending a bill;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

- (c) \$1 for sending a final notice;
- (d) \$2 to replace the library borrower's initial card;
- (e) \$3 for destroying a bar code or security label in library materials;
- (f) Research: first ten minutes free, then \$10 for up to 30 minutes and \$12 per hour after that, plus postage and \$.25 per page for photocopies;
- (g) Fax service: \$10 service charge for up to three pages (excluding the cover letter) and \$3 per page for additional pages.

IV. LOST AND DAMAGED MATERIALS

- (a) Lost materials: actual cost of reordering, re-cataloging, and other related expenses;
- (b) Damaged materials: actual diminution in value of the article or replacement cost, if necessary [as set forth in IV.(a) above].

V. USED BOOKS AND MATERIALS

- (a) Used adult books - \$.50 minimum sales price;
- (b) Used children's books - \$.25 minimum sales price;
- (c) Used magazines - \$.25 minimum sales price.

VI. NON-MINNESOTA RESIDENT BORROWER'S CARD

- (a) Annual fee for library materials use privileges - \$42 for the first family member and \$5/per card for each additional family member.

RESOLVED FURTHER, that this resolution rescinds Resolution 92-0466.

RESOLVED FURTHER, that the library board and library director are authorized to adopt reasonable rules, regulations, and policies and take other actions to implement the fees and charges approved by this resolution.

RESOLVED FURTHER, that monies collected under sections I through III, and VI, pursuant to this resolution, be deposited in General Fund 100 - library Department, and monies collected under sections IV and V be deposited in library special gifts for the purchase of library materials.

Resolution 00-0058 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0068, by Councilor Fena, to adopt the legislative agenda for 2000, was introduced for discussion.

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

Jeff Cook, Duluth Township supervisor, voiced support for keeping the McQuade Road project on the city of Duluth legislative agenda, noting that this project has been a shared partnership between the townships of Duluth and Lakewood and the city of Duluth. He further noted that Congressman Oberstar has assisted in securing \$2 million and if he sees that the city of Duluth does not support this it will adversely affect the project's future funding. In conclusion, Supervisor Cook stated that businesses on the North Shore would benefit from this and Duluth Township's fire department would also benefit because their insurance rates would be lower with this access to water to fill the pumper.

Resolution 00-0068 was adopted as follows:

BY COUNCILOR FENA:

WHEREAS, the Duluth City Council needs to provide direction to the legislature on city issues; and

WHEREAS, the Duluth City Council has prioritized and listed those issues on Public Document No. 00-0124-19 in order to focus the city's efforts;

NOW, THEREFORE, BE IT RESOLVED, the Duluth City Council adopts Public Document No. 00-0124-19 listing the year 2000 legislative priorities.

Resolution 00-0068 was unanimously adopted.

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0050, by Councilor Stenberg, of intent to construct a permanent street, water main, gas main and sanitary sewer main in Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East (City Job No. 9214RS00), was introduced for discussion.

To concerns from neighbors to this project and the process, the councilors discussed issues relative to the proper percentage of property owners who, at their own expense, are needed to put a street in a new development, the aspects of a remonstrance petition process and runoff issues.

Councilor Hogg moved to table the resolution for more information and to allow the neighbors to receive more information, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR EDWARDS

00-004 - AN ORDINANCE COMBINING THE ALCOHOLIC BEVERAGE BOARD AND THE LAWFUL GAMBLING COMMISSION INTO THE ALCOHOL, GAMBLING AND TOBACCO COMMISSION, AMENDING SECTIONS 8-1, 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11, 8-42, 8-43, 8-49, 8-54, 8-58, 8-62, 8-65, 8-67, 10A-10, 10A-11, 10A-12, 10A-14, 10A-15, 10A-17 AND 11-5, AND REPEALING SECTIONS 10A-8 AND 10A-9.

- - -

BY PRESIDENT GILBERT

00-005 - AN ORDINANCE ESTABLISHING A ONE YEAR DEVELOPMENT MORATORIUM IN THE AREA TO BE SERVED BY THE NORTH SHORE WASTEWATER COLLECTION SYSTEM.

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

Tom Allnew felt that this ordinance will take rights away from citizens in the area affected.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

00-003 (9436) - AN ORDINANCE REPEALING SECTIONS 50-37, 50-37.1 AND 50-37.3 OF THE DULUTH CITY CODE RELATING TO COMMUNITY UNIT PLANS.

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

John Sanford noted support for the ordinance because of the recently proposed development for property in the vicinity of Glensheen, that was approved as a community unit plan, which was overturned in court, and he further suggested that the word "contiguous" should be included in the reference to the parcels of land in a community unit plan.

Jane Gilley, president of the Duluth League of Women Voters, noted that the league is in the process of reviewing the issue of the comprehensive plan and thus there are many areas, such as the community plan, which is a part of that issue, that need to be looked at.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilors opposing the ordinance felt: that there should not be a void until a new plan is developed; that it would be better to change the existing ordinance; that the administration feels that in 90 days there will be a plan before the council that will include a citizens review committee and that it would be more positive and constructive to deal with the issue by not repealing the ordinance.

Councilors supporting the ordinance felt: that it is a reasonable reaction to prior inappropriate applications of a rather loose community unit interpretation; that not removing it will invite future developers to use this inappropriate tool; that it sends a clearer message to developers and the council will not approve anything coming under this old plan.

A motion was made, seconded and unanimously carried to call the question.

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

Yeas: Councilor Eckenberg, Fena, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilor Edwards, Stenberg and President Gilbert -- 3

- - -

BY COUNCILOR EDWARDS

00-002 (9437) - AN ORDINANCE PERTAINING TO COIN-OPERATED AMUSEMENT DEVICE LICENSES; AMENDING THE LICENSE FEES; AMENDING SECTIONS 5-13 AND 5-15 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 9:15 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9436

BY COUNCILOR HOGG:

AN ORDINANCE REPEALING SECTIONS 50-37, 50-37.1 AND 50-37.3 OF THE DULUTH CITY CODE RELATING TO COMMUNITY UNIT PLANS.

The city of Duluth does ordain:

Section 1. That sections 50-37, 50-37.1 and 50-37.3 of the Duluth City Code, 1959, as amended, are hereby repealed in their entirety.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication; provided, however, that an amendment of any community unit plan which has been approved pursuant to sections 50-37, 50-37.1 and 50-37.3 of the Duluth City Code, but has not yet been implemented, may be approved by the council in conformance with the provisions of those sections until one year after the effective date of this ordinance. (Effective date: February 27, 2000)

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

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilors Edwards, Stenberg, and President Gilbert -- 3

Passed January 24, 2000

ATTEST:

JEFFREY J. COX, City Clerk

Approved January 24, 2000

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9437

BY COUNCILOR EDWARDS:

AN ORDINANCE PERTAINING TO COIN-OPERATED AMUSEMENT
DEVICE LICENSES; AMENDING THE LICENSE FEES; AMENDING
SECTIONS 5-13 AND 5-15 OF THE DULUTH CITY CODE, 1959, AS
AMENDED.

The city of Duluth does ordain:

Section 1. That Section 5-13 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-13. Coin-operated device authorization card fee.

The annual fee for coin-operated device authorization cards shall be \$15 for each card plus \$15 for each location where coin-operated devices are located. If a coin-operated device authorization card is issued for a lesser term than one year, the fee for the same shall be computed at the rate of \$1.25 per card for each calendar month.

Section 2. That Section 5-15 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-15. Same--Supplier's license fee.

The annual fee for a supplier's license shall be \$10.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 27, 2000)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed January 24, 2000
Approved January 24, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 14, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: Councilor Eckenberg -- 1

- - -

The minutes of council meetings held on October 12 and 25, 1999, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0214-01 St. Luke's Hospital and A&L Development, by Damberg, Scott, Gerzina, Wagner Architects, petitioning for a concurrent use permit to construct a skywalk over First Street to connect the new St. Luke's Ambulatory Surgery Center to the existing hospital. -- Planning commission

00-0214-42 Karen Andresen submitting letter regarding issuance of a special use permit to William Brakken and Rebecca Sieve for a bed and breakfast inn at 2617 East Third Street (00-0106R). -- Received

00-0214-02 Duluth Plumbing Supplies Company submitting letter regarding approval of contingency amount for skywalk Project 98D-102 (00-0016R). -- Received

00-0214-18 James Mainella submitting letter regarding proposed construction of Woodlawn Street (00-0050R). -- Received

00-0214-20 The following submitting communications regarding removal of Seventh Street between Irving Place and Wallace Avenue and Sixth Street between 24th Avenue East and Wallace Avenue from the year 2000 street improvement program (00-0078R): (a) Don McGregor; (b) National Trust for Historic Preservation; (c) St. Louis County Historical Society; (d) Carolyn Sundquist. -- Received

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REPORTS OF OFFICERS

00-0214-19 Assessor submitting letter for confirmation of the assessment roll levied to defray the assessable portion of contract for the sanitary sewer in Hagberg Street. -- Clerk

00-0214-21 Business development division submitting 1999 living wage report, pursuant to Section 2-39 of the Duluth City Code. -- Received

00-0214-03 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Arrowhead Limbangers -NWTF, on March 23, 2000; (b) Duluth, Missabe & Iron Range Veteran Employee's Association, on June 2, 2000; (c) Minnesota Senior Federation - Northeast Coalition, on May 24, 2000. -- Received

00-0214-04 Parks and recreation department director submitting Lake Superior zoological society minutes of: (a) November 18, 1999; (b) December 16, 1999, annual; (c) December 16, 1999, regular meetings. -- Received

00-0214-05 Public works and utilities director submitting "surface water management - needs assessment" (99-0690R and 99-0710R). -- Received

00-0214-06 Purchasing agent submitting emergency purchase order awarded to C. Anderson Demolition for the demolition of a structure at 1534-36 West Superior Street. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0214-07 Building appeal board minutes of November 10, 1999, meeting. -- Received
00-0214-08 Civil service board minutes of December 20, 1999, meeting. -- Received
00-0214-09 Duluth airport authority: (a) Minutes of: (1) November 16; (2) December 21, 1999, meetings; (b) Balance sheets for: (1) November; (2) December, 1999. -- Received
00-0214-10 Duluth housing commission minutes of December 9, 1999, meeting. -- Received

00-0214-22 Heritage preservation commission submitting recommendation regarding removal of Seventh Street between Irving Place and Wallace Avenue and Sixth Street between 24th Avenue East and Wallace Avenue from the year 2000 street improvement program (00-0078R). -- Received

00-0214-11 Housing and redevelopment authority minutes of December 28, 1999, meeting. -- Received

00-0214-12 Lawful gambling commission minutes of: (a) November 12; (b) December 14, 1999, meetings. -- Received

00-0214-13 Parking commission minutes of: (a) June 15; (b) July 29; (c) December 14, 1999, meetings. -- Received

00-0214-14 Parks and recreation commission minutes of: (a) June 9; (b) July 14; (c) August 11; (d) October 13, (e) November 10, 1999, meetings. -- Received

00-0214-15 Seaway Port authority of Duluth minutes of: (a) October 27; (b) December 15; (c) December 22, 1999, meetings. -- Received

00-0214-16 Spirit Mountain recreation area authority minutes of January 3, 2000, meeting. -- Received

00-0214-17 Water and gas service hearing board minutes of January 11, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Peggy Marrin stated support of the council's stated commitment to a comprehensive plan and urged that maintaining the historic and environmental aspects of Duluth be included in it.

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RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 00-0055 confirming appointment of Karl C. Wasson to the planning commission replacing David Oberstar, from the table, which motion was seconded and carried upon a unanimous vote.

Councilor Stewart stated that the personnel committee unanimously recommends the appointment of Mr. Wasson.

Resolution 00-0055 was adopted as follows:

BY COUNCILOR STEWART:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

PLANNING COMMISSION

Karl C. Wasson for a term expiring December 31, 2003, replacing David Oberstar.

Resolution 00-0055 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

President Gilbert moved to remove Resolution 99-0863, accepting the Duluth housing study goal, objectives and policy statement for residential development and adopting its priorities, from the table, which motion was seconded and unanimously carried.

Resolution 99-0863 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that the city council of the city of Duluth hereby accepts the Duluth housing study goal, objectives, and policy statement for residential development dated November 1999 as a working document. This document will be the framework for the city of Duluth's consolidated plan for housing and community development; these strategies will guide the investment of public funds for FY 2000.

Resolution 99-0863 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

President Gilbert moved to remove Resolution 00-0016 approving DEDA amendment to agreement with Duluth Plumbing Supply skywalk pursuant to DEDA Resolution 99D-56, from the table, which motion was seconded and unanimously carried.

Responding to Councilor Hogg, Acting Administrative Assistant Ollenburger stated that he has instructed staff to meet with the new administrative assistant to review the process taken by the city and DEDA when making public improvements to private property.

Councilor Hogg stated he will not support the resolution because he believes the process used by the city and DEDA is flawed.

Resolution 00-0016 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Duluth Plumbing Supply skywalk is hereby amended increasing the amount payable by \$48,867.90, as approved by the DEDA board at its meeting of December 21, 1999, pursuant to DEDA Resolution No. 99D-56, a copy of which is on file in the office of the city clerk as Public Document No. 00-0214-23, is hereby approved.

Resolution 00-0016 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Eckenberg -- 1

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

Councilor Stover moved to remove Resolution 00-0050, stating intent to construct a permanent street, water main, gas main and sanitary sewer main in Woodlawn Street from 48-1/2

Avenue East to 52nd Avenue East, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg stated that the neighborhood has been informed of the process and that this resolution should be voted on this evening.

Resolution 00-0050 was adopted as follows:

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a permanent street, water main, gas main, and sanitary sewer main in Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East, including permanent residential design street with concrete curb and gutter, bituminous surface, storm sewer, sanitary sewer, water main and gas main.

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 00-0050 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the city is authorized to enter into a sponsorship agreement with North Shore Inline Marathon under which the city will contribute \$10,000 to assist with promotion of the year 2000 marathon, which agreement is on file in the office of the city clerk as Public Document No. 00-0214-24, and such contribution shall be paid from Fund 258-030-1431-5490.

Resolution 00-0077 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Background findings.

1.01 Pursuant to Laws of Minnesota for 1998, Chapter 404, Section 7, Subdivision 25, the legislature of the state of Minnesota has appropriated \$1,300,000 for a grant (the "grant") to the city for capital improvements to the animal care center, including veterinary hospital, laboratory, clinic and quarantine area and the children's zoo at the Lake Superior Zoological Garden (the "project").

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

1.02 The grant is to be administered through the Minnesota department of administration ("administration").

1.03 The project is and will be owned and operated by the city.

1.04 Pursuant to Minnesota Statutes, Section 16A.695, a precondition to receipt of the grant is execution and filing in the office of the county recorder or registrar of titles, as the case may be, of a declaration to the effect that the real property on which the project is to be constructed cannot be sold or otherwise disposed of by the city without the approval of the Minnesota commissioner of finance (the "declaration").

1.05 A form of declaration to be signed by the city is on file in the office of the clerk and has been presented to this council.

1.06 As further conditions precedent to receiving the grant, this city is required to (a) execute a general fund grant agreement and a general fund disbursement agreement in the form provided by administration (collectively, the "grant agreement"); and (b) comply with certain other procedural requirements of the State of Minnesota and administered by administration.

Section 2. Authorization and approval of grant agreement and declaration.

2.01 The grant agreement is approved. The declaration is approved.

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

2.03 The mayor and the clerk are authorized and directed to execute and deliver all other documents which may be required under the terms of the grant agreement or by administration, and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

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

2.05 In the event that for any reason the mayor or the clerk are unable to carry out the execution of any of the documents or other acts provided herein, any other officer or member of the city as in the opinion of the city attorney are authorized to act in that capacity and undertake such execution or acts on behalf of the city, shall without further act or authorization execute and deliver the grant agreement and declaration 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 city.

Resolution 00-0101 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

<u>PROJECT</u>	<u>CONTRACT NO.</u>	<u>TOTAL ASSESSABLE</u>
Arrowhead Road from Arlington Avenue to 600 feet westerly		
street and sewer	5305	\$256,058.55
sewer wyes	(direct benefit)	\$ 4,866.91
water main	1196111	\$149,064.67
gas main	1196112	<u>\$ 54,901.88</u>
	TOTAL	\$464,892.01
1999 sidewalk repair	5320	\$65,524.76
Grand Avenue Place sanitary sewer	5316	\$9,267.61
32nd Avenue West from Superior Street to Carlton Avenue		
bituminous overlay	5319	\$5,216.00.

Resolution 00-0104 was unanimously adopted.
 Approved February 14, 2000
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar equipment for the fleet services division in accordance with specifications on its low specification bid of \$17,040, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 00-0087 was unanimously adopted.
 Approved February 14, 2000
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Lake Superior Office Furniture, Inc., be and hereby is awarded a contract for furnishing and delivering office furniture for the MIS division office in accordance with specifications on its low specification bid of \$46,050.68, terms net 30, FOB destination, payable out of capital equipment Fund 250, Dept./Agency 015, Organization NR00, Object E009.

Resolution 00-0092 was unanimously adopted.
 Approved February 14, 2000
 GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing a premise permit to the following organizations.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. Climb Theater	J & J'S Limit Bar	1/28/00
2. Duluth Piedmont Hockey Association	All American Club Terry's Place	1/13/00 1/13/00

Resolution 00-0102 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals, application fee of \$200, and any specific restrictions:

AAD Temple, 201 East First Street, for March 4, 2000, with James LeBlanc, manager.

Resolution 00-0103 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Duluth Knights of Columbus 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 00-0105 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Falls Automotive, Inc., be and hereby is awarded a contract for furnishing and delivering two Dodge Durangos for the police department in accordance with specifications on its low specification bid of \$52,740, terms net 30, FOB destination, \$30,589.20 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V003 (58%) and \$22,150.80 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V005 (42%).

Resolution 00-0111 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of personnel technician II, which were approved by the civil service board on October 4, 1999, and which are filed with the city clerk as Public Document No. 00-0214-25, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, and the pay range shall change from pay range 136, \$3,427 to \$4,073 per month to pay range 137, \$3,574 to \$4,260 per month.

Resolution 00-0071 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

BUILDING APPEAL BOARD

David W. Krech (general citizenry) and Allen Willman (general citizenry) for term expiring February 1, 2003.

Resolution 00-0095 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES

D. D. Davison for a term expiring November 1, 2002.

Resolution 00-0096 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION

Carl Crawford and Leslie Gibbs for terms expiring March 1, 2003.

Resolution 00-0098 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved February 14, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKS AND RECREATION COMMISSION

Eric Larson (District 8), Harvey Winthrop (District 9) and Daniel Roth (land management) for terms expiring February 13, 2003.

Resolution 00-0099 was unanimously adopted.

Approved February 14, 2000
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

Valerie LaPorte for a term expiring November 1, 2001, replacing Scott Anderson who resigned.

Resolution 00-0100 was unanimously adopted.

Approved February 14, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT 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 homebuyers at below market interest rates.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the Minnesota city participation program application commitment agreement with the Minnesota housing finance agency related to the allocation and sale of qualified mortgage bonds for the benefit of low- and moderate-income home buyers in the city, which agreement is substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0214-26.

FURTHER RESOLVED, that said officials are authorized to issue a check to the Minnesota housing finance agency in the amount of one percent of the city's bond allocation not to exceed \$30,000, which will be refunded upon sale of the bonds and a check for a nonrefundable processing fee in the amount of \$20 per each \$100,000 in allocation not to exceed \$600, both of said amounts to be payable from General Fund 100, Agency 015, Org. 2020, Obj. 5441.

Resolution 00-0069 was unanimously adopted.

Approved February 14, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, pursuant to 42 U.S.C. 3539(d) and 42 U.S.C. 12701-12839, the U.S. department of housing and urban development (HUD) has established the HOME program and the regulations governing said program as set forth in 24 CFR Part 92.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into agreements with the entities listed below in the amounts listed below, substantially in the form of the copies on file in the office of the city clerk as Public Document No. 00-0214-27, payable from 1999 HOME Program Fund 260, Agency 020, Org. 2681, Object H012, and 2000 HOME Program Fund 260, Agency 020, Org. 2601, Object H012.

<u>Entities</u>	<u>Amount</u>	<u>HOME Fund</u>
Housing and redevelopment authority (HRA) and Minnesota housing finance agency	\$100,000	1999
Northern Communities Land Trust (NCLT) and HRA as disbursing agent	\$ 11,000	1999
Northern Communities Land Trust (NCLT) and HRA as disbursing agent	\$ 39,000	2000

BE IT FURTHER RESOLVED, that the city of Duluth does hereby reserve \$61,000 of the city's fiscal year 2000 allocation of HOME program funds for use by the Spirit Valley Citizens Neighborhood Development Association (SVCNDA) in the Ramsey Village infill housing program.

Resolution 00-0072 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, William Brakken and Rebecca Sieve submitted to the city council a request for a special use permit for a bed and breakfast homestay on property described as Lots 9 through 12 including vacated portion of 27th Avenue East, Block 1, Harrison Division of Duluth, and Lot 5, Block 4, Sterling Division, located at 2617 East Third Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the city council has reviewed the entire record of the proceedings with regard to this matter including the application for the special use permit, the staff report to the planning commission, the testimony before the planning commission and the decision of the planning commission and has, in addition, itself received extensive testimony regarding the appropriateness of approving the special use permit for this development; and

WHEREAS, after a thorough review of the entire record regarding this application and consideration of the testimony by the council, said council determined to deny said application for the reasons hereinafter set forth; and

WHEREAS, said council believes it to be in the best interests of the applicants and the city that it adopt specific findings, based upon the record made at the city council meeting, setting forth the reasons for its denial of said application;

NOW, THEREFORE, BE IT RESOLVED, that based on the foregoing record and testimony the city council makes the following findings:

(a) That the development of a bed and breakfast use on and in the property in question will have a substantial negative impact on the single family character of said property, that such a use of said property will result in a change in the character of said property and that such change in the character of the property will be permanent;

(b) That the proposed use of the property as a bed and breakfast homestay in the manner in which it is proposed to be used will result in a use subordinate to the primary single family residential use of said property;

(c) That the history of the planning of this business, the proposed structural change, and other evidence show that the proposed use of the property as a bed and breakfast homestay in the manner in which it is proposed to be used will not be subordinate to the primary single family residential use of said property;

(d) That because the property in question is located in a very quiet residential area served only by a dead-end street, as compared to other bed and breakfast operations which have been permitted, this neighborhood is more fragile than other neighborhoods where such developments have been permitted and is therefore more susceptible to suffering negative impacts as a neighborhood from the impacts of such a development;

(e) That the proposed use of the property as a bed and breakfast homestay in the manner in which it is proposed to be used will result in a negative change in the quality of the neighborhood;

(f) The signage proposed for this development would have a negative effect on the architecture of the structure in this setting.

FURTHER RESOLVED, that for the reasons set forth above, the application for a special use permit by William Brakken and Rebecca Sieve to allow for the operation of a bed and breakfast inn at 2617 East Third Street was denied by the city council at its meeting of January 10, 2000.

Resolution 00-0106 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 00-0214-28, between the city of Duluth and the Twin Ports Boxing Club, which authorizes the Twin Ports Boxing Club to use a portion of the lower level of the Central Hillside Community Center at no cost to conduct an amateur boxing instructional program.

Resolution 00-0108 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the Duluth public library and public library services should be accessible to all residents; and

WHEREAS, the city of Duluth has title to the site and building where the main library is located; and

WHEREAS, the city architect has determined that various modifications are necessary within the main library building to meet current Americans with Disabilities Act and Minnesota State Building Code accessibility standards; and

WHEREAS, the city of Duluth has determined that such modifications will cost approximately \$154,310; and

WHEREAS, the city of Duluth has determined that it will need a matching grant from the department of children, families and learning to pay for such modifications; and

WHEREAS, the city of Duluth shall provide matching funds for expenditures relating to the public library accessibility project in an amount equal to the amount of the grant from nonstate

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

sources and that such match shall be dollar for dollar and not matched by in kind contributions; and

WHEREAS, the source of the matching funds will be \$40,000 from CIP 450, Agency 015, Org. 1999, Obj. C917 and \$37,155 from Fund 743, Agency 300, 5520 building and structure; and

WHEREAS, the city of Duluth understands and agrees to adhere to the list of assurances as stated in the grant application;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth authorizes the library director to submit a grant application totaling \$77,155 to make accessibility related modifications to the main Duluth public library building.

BE IT FURTHER RESOLVED, that either the library director or the administrative assistant is authorized to sign and submit all applicable contracts, documents and agreements associated with the application or grant agreement on behalf of the city of Duluth.

Resolution 00-0110 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a memorandum of understanding with U.S. department of housing and urban development, office of inspector general, substantially the same as that on file with the city clerk as Public Document No. 00-0214-29, for a one year term, providing for cooperation in law enforcement and reimbursement of city expenses incurred.

Resolution 00-0063 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the town of Superior, Wisconsin, which is filed with the city clerk as Public Document No. 00-0214-30, for the furnishing of fire protection by the Duluth fire department for a portion of the town of Superior.

RESOLVED FURTHER, that all payments made to the city under said agreement shall be credited to the general fund.

Resolution 00-0070 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the city is hereby authorized to participate in the joint property tax study project during 2000, 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 00-0075 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the city is hereby authorized to execute a grant agreement, on file in the office of the city clerk as Public Document No. 00-0214-31, with the Minnesota department of natural resources for a \$6,000 Minnesota releaf community forest inventory grant to partially reimburse the city for an inventory of forests within the city.

BE IT FURTHER RESOLVED, all revenue from this grant shall be deposited in General Fund 100, Agency 500, Org. 1920, Revenue Source 4230.

Resolution 00-0080 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, an additional \$10,000 from the Minnesota department of economic security to operate the Title V senior community service employment program from July 1, 1999, through June 30, 2000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 00-0214-32.

FURTHER RESOLVED, that amounts received will be deposited in Fund No. 271, Budget Item No. 6329.

Resolution 00-0081 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District No. 709 for the services of one .5 FTE teacher to provide basic education instructional services to job training partnership act program clients at the employment opportunity center for the period January 24, 2000, through June 9, 2000, at costs not to exceed \$11,894. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 00-0214-41.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6233 (\$4,000) and 6228 (\$7,894).

Resolution 00-0089 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to modify city Contract 18323 with Independent School District No. 709 for the supportive employment for youth with disabilities project through community resource program funds by modifying budget title CRP and replacing it with modified budget bearing "budget modification date January 24, 2000, No. 1." Total contract amount is increased by \$10,000 to a total not to exceed \$30,000 and contract end date is extended through June 30, 2000. A copy of this modification shall be on file in the city clerk's office as Public Document No. 00-0214-33.

Resolution 00-0090 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement to accept year of the city/community resource program monies totaling \$59,436 from the state of Minnesota/department of trade and economic development to fund four community service projects as follows:

\$ 4,000	Duluth police department intern program
\$20,000	older workers program supplement
\$15,000	CRP self-sufficiency fund
\$11,521	handicapped/disabled youth supported work experience
<u>\$ 8,915</u>	administrative costs
\$59,436	total

Said agreement to run from January 12, 2000, through June 30, 2000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 00-0214-34.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund 275, Budget Item 6000.

Resolution 00-0094 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that Lake Superior Office Furniture, Inc., be and hereby is awarded a contract for furnishing and delivering office furniture for the public works and utilities department engineering division in accordance with specifications on its low specification bid of \$55,647.11, terms net 30, FOB destination, payable out of various funds, dept./agency various, Organization 0505, Object 5580.

Resolution 00-0091 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering water meter repair parts for the water and gas division in accordance with specifications on its low specification bid of \$35,000, terms net 30, FOB destination, \$17,500 payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5227 and \$17,500 payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5220.

Resolution 00-0112 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, a copy of which is on file in the office of the city clerk as Public Document No. 00-0214-35, to city Contract No. 18353 with St. Louis County for the lease of 16 parking spaces, extending the term thereof for an additional year, in the amount of \$6,480 payable from Facilities Management Fund 100-015-2500-5441.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0093 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to accept grant monies not to exceed \$3,170 from the Minnesota department of public safety, tire deflator grant program, to be used to fund the purchase of 20 tire deflator units.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in Fund 215, Agency 200, Org. 2450.

Resolution 00-0083 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to accept grant monies of up to \$3,500 from the Minnesota department of public safety, Minnesota state patrol operation nightcap project to reimburse the police department for salaries and benefits of officers working overtime on operation nightcap from March 1, 2000, to September 30, 2000.

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

Resolution 00-0084 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that Gold Cross Ambulance Service, Inc., be and hereby is awarded a contract for furnishing EMT training for the fire department in accordance with specifications on its low specification bid of \$18,800, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1503, Object 5319.

Resolution 00-0107 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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The following resolutions were also considered:

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. 00-0214-36, and under which agreement the bureau will provide advertising and promotion services to the city during the year 2000, at a cost to the city of not to exceed \$1,025,000, payable from Fund 258, Agency 030, Org. 1460, Object 5441.

Resolution 00-0076 was unanimously adopted.
Approved February 14, 2000
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to execute an employment agreement with Mark Winson for the position of administrative assistant of the city, which agreement is on file in the office of the city clerk as Public Document No. 00-0214-37.

Resolution 00-0085 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Michael Talarico for a term expiring April 27, 2006.

Resolution 00-0097 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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Resolution 00-0073, by President Gilbert, scheduling a public hearing regarding whether to designate Cleveland Street from Kenwood Avenue 900 feet westerly as a resident permit parking zone, was introduced for discussion.

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

Theresa Riggs noted various hazardous conditions that exist on Cleveland Street which are caused in part by Kenwood Shopping Center employees parking on the street and increased traffic on Kenwood Avenue due to the improvement of Arrowhead Road. She urged councilors to find a solution to the parking problems that Cleveland Avenue residents are experiencing.

Resolution 00-0073 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, the Duluth City Council hereby indicates that on Tuesday, February 29, 2000, at 8:00 p.m., in the council chambers on the third floor in City Hall, the council will conduct a public hearing regarding whether to designate that portion of Cleveland Street from Kenwood Avenue 900 feet westerly as a residential permit parking zone, as manifested by the map, on file in the city clerk's office as Public Document No. 00-0214-40.

RESOLVED FURTHER, that the city clerk is hereby directed to mail notice of such hearing by addressing such notice to occupant at each address within or abutting the parking areas of the streets proposed to be so designated.

Resolution 00-0073 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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Resolution 00-0078, by President Gilbert, amending Resolution 99-0309 to remove Seventh Street between Irving Place and Wallace Avenue and Sixth Street between 24th Avenue East and Wallace Avenue from the Year 2000 street improvement program, was introduced for discussion.

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

Dan Frentress, representing the concrete paving industry in the state of Minnesota, discussed with councilors how the original streets were constructed and the materials used for their construction; that it is possible to replicate or rehabilitate these streets; that if replicated or

rehabilitated, what the life expectancy of the streets should be; and that other cities in the country have chosen to preserve historical streets using this method.

Technical questions of councilors regarding the replication or rehabilitation of these streets by this method were answered by Mr. Frentress.

Mr. Frentress supported the resolution so that alternatives can be investigated.

Michael Koop, representing the Minnesota historical society, spoke about the National Register of Historic Places, which is the nation's official list of properties deemed worthy of preservation. He gave a brief history of how the register has been developed over the years. Mr. Koop continued by saying that in 1994 his office was asked to review East Sixth and East Seventh Streets and that, based on that review, it has been concluded that East Sixth and East Seventh Streets meet the criteria of the national register as an early example of concrete paving technology. He acknowledged that his office has received from the heritage preservation commission and the Duluth planning department a grant application to study the granitoid streets and evaluate options for the long-term management and maintenance of those streets and that, while a final decision to fund the grant has not been made, his office looks very favorably on the project and within the next two months its recommendation will be to fund the grant which will be forwarded to the grants committee of the historical society. Mr. Koop requested the council to support the resolution to remove both Sixth and Seventh Streets from the street reconstruction projects scheduled to begin this summer.

The following individuals also supported the resolution: Carolyn Sundquist; Dick Andree; Dale Lucas, representing the heritage preservation commission; Tim Sundquist; Jamie Agura; and William Palmer.

Reasons given in support of the resolution were as follows: the city engineering department is only proposing to retain just one block of the historic granitoid concrete; removing the streets for this year will allow time to do the proper evaluation and planning that will balance engineering concerns with historic preservation concerns and to seek funding sources; the granitoid concrete roadway is the second oldest in the nation, and was designed for both automobiles and horses and having a patented grid pattern scored into it to give horses traction; some sections are in poor shape because of blacktop patching that is incompatible with the concrete, and when the freeze/thaw occurs, new holes pop up, not in the granitoid, but at the edge of the blacktop patching; there are no new cracks in the streets; the granitoid concrete gains strength with age; the utility problems under the streets can be creatively resolved; a petition in favor of preservation (Public Document No. 00-0214-20 (d)) was presented; Seventh Street gets only local traffic and is not bad enough to be on the street improvement list; the sewer that needs to be replaced is in the boulevard, not the street, and there is only one tree that is already scheduled to be cut down that is affected; all three blocks of Seventh Street should be saved, not just one; the Society for Industrial Architects is going to visit Duluth this summer to study the street and it should not be torn up before they arrive; millions of dollars were spent on Downtown streets to install bricks for replication of turn-of-the-century streets and Sixth and Seventh Streets are just as worthy as the Downtown to be replicated; when Mr. Winson was city engineer, he committed to preserving these streets, but when he left, the engineering division changed all the plans without notifying the neighborhood and stated the street would just be replaced; the heritage preservation commission unanimously decided to support the preservation of these streets and has subsequently applied to the state historical society for funding; it is wiser to delay these street improvements to study the costs rather than doing something that cannot be reversed and will cause regrets later.

The following individuals opposed the resolution: Don McGregor; Dean Casperson; Lisa Hutchinson; Walt Basil; Robert Shablott; and Bill Ohnstad.

Reasons given in opposition of the resolution were as follows: grant funds for preservation of these streets are limited and will never cover all of the excess costs which will result in increased assessment costs for property owners; grant funds are preallocated and there is at least a three year waiting period which, with inflation, will make the cost of the improvement even more expensive; Sixth Street is too far gone and will be too expensive to rehabilitate or replicate; the residents of Sixth Street want to be included in the Year 2000 street improvement program; since the street improvement program was announced five years ago, the residents on Sixth Street have patiently waited their turn and it is not fair to delay it now; some residents do not want the street placed in the historical register and do not wish to have their neighborhood bombarded by tourists; residents are not willing to pay an additional assessment to have a decorative street; the reason Sixth Street is in deplorable condition is because the sewers underneath it are collapsed and residents have been told that if they are not fixed soon, all the trees on the street will need to be cut down; residents are more interested in keeping the trees than preserving the street; because of the collapsed condition of the sewers, residents are experiencing sewer backups in their homes when it rains; sewers built under an historic street that is supposed to last 100 years cannot be expected to last the same amount of time.

Responding to councilors, Dick Larson, director of public works and utilities, stated that if these streets are dropped from the Year 2000 program, then the city will bond for less money for that particular year for the street improvement program; that the 2001 program would have to be reprioritized if these streets were to be added at that time; that normally, special assessments have followed the rate of inflation and that the cost of construction will undoubtedly go up with each year that passes, that is the \$37 per frontage foot for the Year 2000 program will not remain the same in 2001. He acknowledged that what the city has done with regard to assessments for the street program over the past years is that when various projects cost more or less, it has been the practice of the city to assess everyone for that program year the same amount, so that if a particular part of the whole street improvement program is more expensive, it will not be directed at only those residents who live on that street. Mr. Larson further stated, however, that preserving or replicating these streets will cost much more than just differences in soil or rock types and that alternate funding will be necessary. He stated that the city administration is willing to work with the various historical entities to seek whatever funding is available. Mr. Larson suggested that the council table the resolution for one week to allow the engineering division to answer the questions raised more completely.

K.L. Lewis requested that the two streets be voted on separately.

Councilors discussed at length the condition of the two streets, whether it is reasonable to historically repair or replicate Sixth Street; that there would not be enough funds available to completely restore both streets; how the limited amount of funding that might be obtained can best be spent; and if it is decided to delay and replicate Sixth Street, what can be done to expedite the replacement of the sewer system.

Councilor Ness moved to amend the resolution by removing East Sixth Street from the resolution so that it can remain in the Year 2000 street improvement program, which motion was seconded and discussed.

Councilor Ness' amendment failed upon the following vote:

Yeas: Councilors Ness and Stenberg -- 2

Nays: Councilors Edwards, Fena, Hogg, Stewart, Stover and President Gilbert -- 6

Absent: Councilor Eckenberg -- 1

Councilor Stenberg moved to table the resolution for one week, which motion was seconded and failed upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Yeas: Councilors Ness and Stenberg -- 2

Nays: Councilors Edwards, Fena, Hogg, Stewart, Stover and President Gilbert -- 6

Absent: Councilor Eckenberg -- 1

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

Yeas: Councilors Edwards, Fena, Hogg, Stewart, Stover and President Gilbert -- 6

Nays: Councilors Ness and Stenberg -- 2

Absent: Councilor Eckenberg -- 1

Resolution 00-0078 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that Resolution 99-0309, passed on April 26, 1999, establishing the year 2000 street improvement program, be amended to remove Seventh Street between Irving Place and Wallace Avenue and Sixth Street between 24th Avenue East and Wallace Avenue from the said street improvement program for the purpose of investigating options to restore and/or replicate the historic concrete street surface.

Resolution 00-0078 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Hogg, Stewart, Stover and President Gilbert -- 6

Nays: Councilors Ness and Stenberg -- 2

Absent: Councilor Eckenberg -- 1

Approved February 14, 2000

GARY L. DOTY, Mayor

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Resolution 00-0109, by Councilor Ness, amending an agreement with Fryberger, Buchanan, Smith and Frederick for legal services necessary to access a \$1.3 million state grant for the Lake Superior Zoo, increasing the amount by \$2,050, was introduced for discussion.

Councilors stated that the original professional services contract was not to exceed \$4,950 and that the language in the contract is inconsistent with what is being said in this resolution. Councilors noted that in this type of contract, the contractor must stay within the limits of the contract or come back with a written statement stating why the additional cost of the services is necessary, which has not been done in this case; and even though these costs may be legitimate, the contractor is not legally entitled to receive the pay for them.

Resolution 00-0109 failed upon a unanimous vote (Public Document No. 00-0214-39).

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BY COUNCILOR FENA:

RESOLVED that the proper city officers are hereby authorized to execute and implement an agreement with Fryberger, Buchanan, Smith & Frederick, P.A. under which that firm will provide professional services related to the city's 2000 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 00-0214-38, at a cost to the city of not to exceed \$42,230, which shall be payable from the General Fund 100, Dept. 015, Org. 1514, Object 5312.

Resolution 00-0086 was unanimously adopted.

Approved February 14, 2000

GARY L. DOTY, Mayor

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Resolution 00-0088, by Councilor Stover, setting rates for erosion and sediment control permits, was introduced for discussion.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR EDWARDS

00-004 (9438) - AN ORDINANCE COMBINING THE ALCOHOLIC BEVERAGE BOARD AND THE LAWFUL GAMBLING COMMISSION INTO THE ALCOHOL, GAMBLING AND TOBACCO COMMISSION, AMENDING SECTIONS 8-1, 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11, 8-42, 8-43, 8-49, 8-54, 8-58, 8-62, 8-65, 8-67, 10A-10, 10A-11, 10A-12, 10A-14, 10A-15, 10A-17 AND 11-5, AND REPEALING SECTIONS 10A-8 AND 10A-9.

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

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BY PRESIDENT GILBERT

00-005 (9439) - AN ORDINANCE ESTABLISHING A ONE YEAR DEVELOPMENT MORATORIUM IN THE AREA TO BE SERVED BY THE NORTH SHORE WASTEWATER COLLECTION SYSTEM.

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

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The meeting was adjourned at 10:40 p.m.

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

- - -

ORDINANCE NO. 9438

BY COUNCILOR EDWARDS:

AN ORDINANCE COMBINING THE ALCOHOLIC BEVERAGE BOARD AND THE LAWFUL GAMBLING COMMISSION INTO THE ALCOHOL, GAMBLING AND TOBACCO COMMISSION, AMENDING SECTIONS 8-1, 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11, 8-42, 8-43, 8-49, 8-54, 8-58, 8-62, 8-65, 8-67, 10A-10, 10A-11, 10A-12, 10A-14, 10A-15, 10A-17 AND 11-5, AND REPEALING SECTIONS 10A-8 AND 10A-9.

The city of Duluth does ordain:

Section 1. That Chapter 8, Article I, Division I, of the Duluth City Code, 1959, as amended, is amended to read as follows:

Article I. Alcoholic Beverages.

Division I. Alcohol, gambling and tobacco commission.

Section 2. That Section 8-1 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-1. Created.

There is hereby created a nonsalaried board, to be known as the alcohol, gambling and tobacco commission of the city.

Section 3. That Section 8-2 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-2. Membership; appointment; term of office.

The alcohol, gambling and tobacco commission shall consist of seven members, who shall be appointed by the mayor, subject to the approval of the council. Each member shall be a citizen of the United States and a resident of the city for at least one year immediately preceding his appointment. Of the persons first appointed for membership on the commission, three shall be appointed for one year, three for two years and one for three years. Thereafter, all appointments shall be for the term of three years, except such appointments as may be made for the remainder of unexpired terms. Members of the commission shall be eligible for reappointment.

Section 4. That Section 8-3 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-3. Vacancies.

Vacancies on the alcohol, gambling and tobacco commission caused by death, resignation or otherwise shall be filled by the mayor only for the unexpired terms, subject to approval of the city council, in the same manner as for initial appointments. Such vacancies shall be filled by the mayor within 30 days after the occurrence of such vacancies. The term of any member of the commission shall be deemed vacant upon such failure to attend three consecutive meetings, unless such nonattendance resulted from a justifiable cause.

Section 5. That Section 8-4 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-4. Members' oath of office.

Every appointee to the alcohol, gambling and tobacco commission, before he enters upon the duties of his office, shall make and file with the city clerk an oath or affirmation to support the constitutions of the United States and of the state and to perform faithfully, honestly and impartially the duties of his office, as required by Section 28 of the City Charter. Any appointee who shall fail or neglect to make or file such oath or affirmation within ten days after notification of his appointment shall be deemed to have refused to accept such appointment.

Section 6. That Section 8-5 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-5. Officers; rules of procedure.

Within ten days after the making and filing of the oath prescribed by this Division, the alcohol, gambling and tobacco commission shall meet and elect a president and a vice president. The city clerk shall be the secretary and keeper of the minutes and records of the commission. All minutes and records of the commission shall be public records, and shall be open to inspection at the office of the city clerk during established business hours of the city. For the conduct of its business, the commission may adopt such rules and regulations as are not inconsistent with this Division.

Section 7. That Section 8-6 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-6. Meetings.

The alcohol, gambling and tobacco commission shall hold at least one regular meeting each month and shall fix the date of such meetings. Special meetings may be called by the president of the commission and shall be called upon the written

request of at least four members of the commission. Regular meetings of the commission shall be public and be held at the city hall. Final action on any matter shall be taken by the commission at a public meeting. The city attorney or an assistant city attorney designated by the city attorney shall attend all meetings of the commission. Any applicant or licensee who shall request that a special meeting of the commission be held to consider said applicant's or licensee's business shall pay to the clerk an additional fee of \$100, if such special meeting is held, to cover costs of the meeting.

Section 8. That Section 8-7 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-7. Advisory power as to issuance of alcoholic beverage licenses and lawful gambling permits and licenses.

(a) The alcohol, gambling and tobacco commission shall investigate every application for a license to sell alcoholic beverages within the city and, after such investigation, shall report its findings and make recommendation to the city council as to whether an application for a license should be granted or refused by the city council. The power to grant alcoholic beverage licenses is not delegated to the commission by this Section. The recommendations of the commission with respect to the granting or refusal of any alcoholic beverage license shall be merely advisory;

(b) No application for an alcoholic beverage license shall be considered by the alcohol, gambling and tobacco commission unless such application has first been filed with the city clerk and reports made thereon by the proper city officers, as required by sections 8-12 to 8-68. Within 60 days after an application for an alcoholic beverage license has been submitted to the commission for its consideration, the commission shall, in writing, make and file its report and recommendation thereon. Thereupon, the city clerk shall refer such report and recommendation to the city council for its determination;

(c) The alcohol, gambling and tobacco commission shall, with the assistance of the police department, investigate all applicants for state lawful gambling licenses and premises permits for operations within the city and all applicants for gambling manager licenses and jar operator licenses authorized by Chapter 10A of this Code. After making such investigation, the commission shall recommend to the city council whether to disapprove of any state lawful gambling premises permit or license pursuant to the provisions of Minnesota Statutes, Section 349.213, Subdivision 2, and shall grant or deny all gambling manager licenses and jar operator licenses. Commission recommendations on state lawful gambling licenses and premises permits are advisory only and shall not be binding upon the city council;

(d) The city council shall not waive any statutory time period for objecting to lawful gambling operations until after the alcohol, gambling and tobacco commission has investigated the prospective applicant and made a recommendation to the city council.

Section 9. That Section 8-8 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-8. Complaints and questions as to licenses, laws, etc.

Whenever there shall be filed with the city clerk or with the city council any complaint or question relating to the issuance or granting of alcoholic beverage

licenses, lawful gambling licenses or permits, or tobacco licenses or any problem relating to control or enforcement of this Chapter or chapters 10A or 11 or any other regulations of the city relating to alcoholic beverages, lawful gambling or tobacco, such complaints or questions shall be referred immediately to the alcohol, gambling and tobacco commission and the commission shall, at its next regular meeting or as soon thereafter as may be, investigate such complaints or give consideration to such questions and report its findings in writing to the city council. Such report and findings shall be filed with the city clerk as a public document.

Section 10. That Section 8-9 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-9. Suspension and revocation of licenses.

(a) When it comes to the attention of the alcohol, gambling and tobacco commission that any establishment licensed pursuant to this Chapter may have violated the provisions of this Chapter or any other law relating to the operation of a liquor establishment, or that such establishment may be engaging in other conduct that may constitute good cause for the suspension or revocation of its liquor license, the alcohol, gambling and tobacco commission may call for a hearing to determine the validity of the allegations and to determine what, if any, disciplinary measures shall be recommended to the city council for their implementation against the licensee. Any hearing called pursuant to the provisions of this Section shall be held before the alcohol, gambling and tobacco commission and shall be held pursuant to the procedural and evidentiary provisions of Minnesota Statutes, sections 14.57 to 14.69, and rules promulgated there under. At such hearing, the commission shall hear all relevant evidence and arguments from all parties. After due deliberation, the commission shall determine the validity of the allegations and what, if any, corrective or punitive measures will be recommended to the city council. At the completion of the hearing and deliberations, the commission shall direct the city clerk to prepare a report to the city council which shall consist of the commission's findings of fact, conclusions and recommendation to the city council. The report shall be filed with the city council and served personally or by first class mail upon the parties to the hearing. The council shall also receive a copy of the transcript of the commission's hearing and any exhibits introduced as evidence. The city council shall not render a decision on the matter until at least ten days after it has received the report of the alcohol, gambling and tobacco commission. During this ten day period, either party to the hearing may present written exceptions to the report of the alcohol, gambling and tobacco commission or make arrangements to be placed on the agenda of the city council to present oral argument to the city council concerning the matter. The city council's decision on the matter shall be in the form of a written resolution which shall contain findings of fact and conclusions on all material issues and shall set forth any punitive action taken against the license. A copy of the resolution shall be served upon the licensee personally or by first class mail;

(b) Without limiting other grounds for suspension or revocation, the following shall be deemed to be good cause for suspension or revocation of a liquor license:

(1) Violation of any law relating to the operation of a liquor establishment, including, but not limited to, state, federal and local laws on liquor, gambling, prostitution, health and fire safety;

(2) The establishment is operated in such a way as to constitute a public nuisance;

(3) The establishment has failed to pay license fees or city or state sales tax or that property taxes on the building have not been paid;

(4) The establishment has failed to file or maintain any insurance or bond required by law;

(5) The establishment is insolvent, bankrupt or otherwise financially unable to continue business;

(6) Refusal to cooperate with the board or the police in any investigation and the refusal to admit police officers into the establishment at any time when people are in the establishment;

(7) Failure to follow the procedures set forth in this Chapter with respect to change of ownership, change of location or changes in serving area of the establishment;

(8) Nonuse of the license;

(9) The filing of a license application containing information or statements known by the applicant to be false;

(c) The city council may request that the alcohol, gambling and tobacco commission conduct a hearing concerning the operation of any establishment licensed pursuant to this Chapter. The commission shall conduct any hearings so requested.

Section 11. That Section 8-10 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-10. Conflicts of interest.

No member of the commission, directly or indirectly, individually or as a member of a charitable organization or of a partnership or association or as a stockholder in a corporation, shall have any interest whatsoever in any lawful gambling operation or in the manufacture or distribution of any lawful gambling supplies or equipment, or in the manufacturing, transporting, or storing, or sale of alcoholic beverages or tobacco products. A violation of this Subsection by any member of the commission shall disqualify such person from membership on the commission.

Section 12. That Section 8-11 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-11. Duties of administrative assistant and city attorney.

Subject to the provisions of the City Charter, the alcohol, gambling and tobacco commission may require the administrative assistant to furnish such information and assistance to the commission as the commission shall deem necessary in carrying out the provisions of this Division. The city attorney shall be the legal advisor of the commission.

Section 13. That Section 8-42 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-42. Issuance or transfer of an on sale license; application procedure; limitation on issuance of inactive licenses.

(a) Whenever there shall be filed with the city clerk an application for the issuance of an on sale alcoholic beverage license or for a transfer thereof, the fire marshal and the St. Louis County health department shall proceed to inspect and examine such premises and make a report to the alcohol, gambling and tobacco commission as to whether such premises show substantial compliance with the requirements of this Chapter and other applicable laws. The police department shall investigate the applicant and report whether the applicant is a proper person to receive such license. In the event such reports and any supplementary assurances indicate the building will comply with the requirements of laws relating to on sale alcoholic beverage licenses, including building, fire and health codes, a license may be granted, which shall be held by the city clerk until completion of the proposed premises. Thereafter, a final inspection and report shall be made by each of such officers and if their reports indicate that the premises meet the requirements of all applicable laws and are otherwise suitable for the operation of the business permitted by such license, then the clerk shall physically deliver the license to the applicant. In the event that construction of the proposed premises is not prosecuted by the applicant with reasonable diligence, or in the event the building, when completed, does not comply with the requirements above set forth, the council may revoke such license as provided for in this Chapter;

(b) Except as provided herein, no alcoholic beverage license shall be reissued to any licensee who has held a license for a period of two years or more without using said license by engaging in the business of selling alcoholic beverages on the licensed premises pursuant to said license for a continuous period of 30 days or more. The city council may reissue a liquor license that has been inactive for more than two years for an additional year, but only if it has been shown at a hearing before the alcohol, gambling and tobacco commission that the licensee is subject to special circumstances that make it difficult for the licensee to use the license and make it inequitable to divest the licensee of the license. Any licensee wishing a hearing hereunder shall request the hearing at least 45 days before the renewal date of the license. The request shall be in writing and shall outline the special circumstances affecting the licensee. At the hearing, the alcohol, gambling and tobacco commission shall examine the licensee's circumstances and shall make a recommendation for or against reissuance to the city council. The recommendation, together with a transcript of the hearing, shall be sent to the city council. After reviewing the recommendation, the city council shall grant or deny the license. More than one reissuance may be granted, but each reissuance shall require a hearing.

Section 14. That Section 8-43 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-43. Bottle clubs.

(a) Definitions;

(1) Bottle clubs. For the purposes of this Section, a bottle club is a club, as defined in Section 8-13, or an unincorporated society which, except for

its lack of incorporation, otherwise meets the requirement of a club, as defined in such Section, and which is not licensed for the sale of intoxicating liquors, either on sale or off sale, or both;

(2) Sale. For the purposes of this Section, sale shall include any form of dispensing;

(b) No administrative officer of the city shall grant approval for issuance of any bottle club permit by the liquor control commissioner of the state of Minnesota unless the city council has authorized such approval by resolution after investigation and recommendation regarding such permit application has been made by the alcohol, gambling and tobacco commission pursuant to the procedures set forth in Section 8-7 of this Chapter, except that such recommendation shall be made by the commission to the council within 30 days after submission of the permit application to the commission;

(c) All bottle clubs licensed by the state to do business in the city of Duluth shall pay a fee of \$300 annually to the city in addition to any fee paid to the state. The fee payable to the city shall be paid prior to the beginning of operation of a bottle club, and prior to April 1 of the following and each succeeding year;

(d) The provisions and regulations of sections 8-15, 8-16, 8-24, 8-26, 8-28, 8-34 and 8-35 shall fully and equally apply and regulate establishments holding bottle club licenses from the Minnesota state liquor control commissioner;

(e) No person shall consume or display or allow consumption or display of intoxicating liquor on any premises of a bottle club between the hours of 1:00 a.m. and 8:00 a.m., or between the hours of 1:00 a.m. and 12:00 Noon on any Sunday.

Section 15. That Section 8-49 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-49. Same--Nonintoxicating malt liquor.

On sale nonintoxicating malt liquor licenses shall be granted only to premises which have been approved by the city council upon advice from the alcohol, gambling and tobacco commission. The total number of on sale licenses to be granted under this Section shall not exceed the ratio of one on sale license for every 800 inhabitants of the city or fraction thereof, as determined by the last federal census; provided, that in determining such ratio, clubs shall not be included or limited in such number.

Section 16. That Section 8-54 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-54. License not effective beyond space for which granted; exceptions.

No license shall be effective beyond the compact and contiguous space named therein for which the same was granted. Licensed premises shall include the entire parcel of land on which the establishment is located; provided, however, that no sales or service shall take place outside the designated serving areas approved by the city council in the licensing procedure unless such sales and/or service is authorized on a temporary basis for a special event by city council resolution and shall be subject to any conditions and limitations the council deems appropriate. Before any temporary service area is authorized, the licensee shall make application, accompanied by the appropriate fee and including a diagram of

the proposed area, the time and date of the event, and fencing and security measures to be taken, to the city clerk. Thereafter, the alcohol, gambling and tobacco commission shall review the matter and make any recommendation it deems appropriate to the city council. The fee for temporary expansions shall be \$250 for the first day of the event and \$125 for each day thereafter. If the application is denied, all but \$25 of the fee shall be refunded to the applicant. No temporary expansion of service area shall be granted for a period of time greater than three consecutive days.

Section 17. That Section 8-58 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-58. Applications for intoxicating liquor licenses.

Applications for intoxicating liquor licenses shall be made to and filed with the city clerk. On sale applications shall be made on forms prescribed by the city council. Off sale applications shall be made on forms prescribed by the liquor control commissioner. All forms shall be supplied by the city clerk. The council or alcohol, gambling and tobacco commission may require applicants to furnish information in addition to that contained in the written forms. If required under the provisions of Minnesota Statutes, Chapter 340A, a liability insurance policy shall accompany each application for a license.

The application for an off sale intoxicating liquor license is subject to approval by the state department of public safety. Before such off sale license shall become effective, the application therefor, together with the required insurance policy, shall be approved by the liquor control commissioner.

Section 18. That Section 8-62 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-62. Issuance--generally.

The city clerk shall not issue any license under this Division unless directed to do so by resolution duly adopted by the city council. No application for a license to sell intoxicating liquor shall be received or filed by the city clerk before June 15 nor after July 15. No application for a license to sell nonintoxicating malt liquor shall be received or filed by the city clerk before February 15 nor after March 15. Where a license is made available by revocation, abandonment, surrender, cancellation or for some other cause, such available license may, upon application to the city council, be reissued by the city council as determined by a resolution adopted for such purpose. Any resolution granting a license may be conditioned on final departmental approvals, payment of taxes or any other condition the council deems appropriate. The city clerk shall not issue any license until all such conditions are met.

The alcohol, gambling and tobacco commission shall cause an investigation to be made of all of the representations set forth in the applications. Opportunity shall be given at a regular or special meeting of the alcohol, gambling and tobacco commission to any person to be heard for or against the granting of any license. After such investigation, the city council shall grant or refuse such license in its discretion; provided, that no off sale intoxicating liquor license shall become effective

until it, together with any required insurance policy, has the approval of the liquor control commissioner of the state.

The licensed premises shall have the license posted in a conspicuous place.

Section 19. That Section 8-65 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-65. Payment of taxes.

Except as provided herein, no license shall be issued or any transfer thereof made under this Division unless the applicant for such license or transfer thereof shall accompany the application therefor with written proof of payment of delinquent sales taxes and real estate taxes, as well as all delinquent special assessments for local improvements on the premises for which a license is being sought. Proof of payment shall be evidenced by tax receipt, assessment certificate or a certified copy thereof or a certified copy of so much of any proceedings showing agreement under the laws of the state for the payment of such delinquent taxes and assessments; provided, however, that for the purposes of this Section, the holder of any license, the applicant for such license or the applicant for a transfer of such license shall be permitted to make proof of payment of current real estate taxes by filing with the city clerk a duplicate tax receipt or certified copy of such tax receipt, showing payment not later than June 30 of the first 1/2 of such current real estate taxes or not later than November 30 of the second 1/2 of such current real estate taxes.

The city council may grant a license notwithstanding the existence of delinquent real estate taxes and assessments, but only after good cause for an extension to pay such taxes has been shown to exist at a public hearing held before the alcohol, gambling and tobacco commission. Any applicant owing delinquent real estate taxes or assessments may request in writing a hearing to determine if good cause exists for the granting of such license. At the hearing, the alcohol, gambling and tobacco commission shall examine the financial condition of the applicant and the reasons for its inability to promptly pay all real estate taxes and assessments. After hearing all evidence, the alcohol, gambling and tobacco commission shall make a recommendation to the city council and forward said recommendation together with a transcript of the hearing to the city council. The city council shall then grant or deny the request. Failure to file proof of payment of current sales taxes and real estate taxes shall be deemed, in addition to all other grounds of revocation, sufficient cause to revoke a license granted or to refuse the application for transfer of such license.

If the applicant for a license or for a transfer of a license is the owner, either in fee or under contract for deed of the real estate where the licensed business is proposed to be located, such applicant shall also obtain a certificate or other written proof from the county auditor, showing that there are no delinquent real estate taxes of record against such real estate.

In the event the applicant does not own the real estate where the licensed business is to be located and there are delinquent taxes of record against such real estate, the city council may nevertheless, by affirmative vote of five members of the council, authorize and direct the issuance of such license or the transfer thereof, but only in the event that the applicant shall file with the city clerk proof that the owner

of said real estate and the applicant have entered into a written rental agreement or lease providing that rent paid shall be first applied to such delinquent real estate taxes.

Section 20. That Section 8-67 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-67. Transfer; modification of licensed premises or designated serving area.

(a) No license issued under the provisions of this Subdivision shall be assigned or transferred by the licensee, nor shall a change of address in the location of the licensed premises be permitted, unless a resolution authorizing such assignment, transfer or change of address shall have been first duly passed by the city council. A request for an assignment, transfer or change of address shall be treated in the same manner as an application for a new license under the provisions of this Chapter. Such applications shall be accompanied by a fee of \$200 in the case of an intoxicating liquor license and \$75 in the case of a non-intoxicating malt liquor license. The fee shall be refunded if the application is withdrawn, or the assignment, transfer or change of address is not granted by the city council. No fee for the assignment, transfer or change of address of an off sale nonintoxicating malt liquor license shall be charged when such application is accompanied by an application for assignment, transfer or change of address of an on sale nonintoxicating malt liquor license;

(b) No licensee shall permanently expand its licensed premises or designated serving area, unless such expansion is approved by the city council. A request for such expansion shall be made in writing to the city clerk accompanied by a \$50 fee. Thereafter, the matter shall be reviewed by the alcohol, gambling and tobacco commission and referred to the city council together with the recommendation of the alcoholic beverage board.

Section 21. That Section 10A-10 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 10A-10. Procedure for review of state lawful gambling license or premises permit applications.

(a) The alcohol, gambling and tobacco commission established in Division I of Article I of Chapter 8 of this Code shall review and make recommendations and approvals as provided herein with respect to lawful gambling licenses, premises permits, and gambling manager and jar operator licenses;

(b) Each lawful gambling license or premises permit applicant shall file with the clerk a completed, sworn and verified gambling investigation information form at the time it delivers a copy of its application form to the clerk. The gambling investigation information form shall be available from the clerk. The copy of the lawful gambling license or premises permit application filed with the clerk shall include copies of all required attachments. After receiving these documents, the clerk shall immediately refer the matter to the police department for investigation and, if all documents are received at least five days before the next regularly scheduled meeting of the alcohol, gambling and tobacco commission, place the item on the commission's agenda. After the investigation, the police department shall

indicate its approval or disapproval of the license or permit application to the commission. If it disapproves of the license or permit, it shall make such disapproval in writing together with a statement stating why it disapproves of the applicant receiving a license or permit. This statement shall be served upon the applicant by first class mail or personally as soon as is reasonably possible. Representatives of all applicants shall appear before the commission at the time and place where their application is to be heard, unless such appearance is waived in advance by the commission. Applicants may be examined by commission members, police representatives and counsel. The commission may require that questions be answered under oath. The applicant may be represented by counsel and may present testimonial and documentary evidence relevant to issues raised. The applicant may examine the police representative concerning any police objections to the license or permit application and may make reasonable inquiries to commission members and staff. After hearing all relevant evidence and arguments concerning the license or permit application, the commission shall recommend that the city council pass a resolution approving or disapproving of the license or permit. If the commission recommends that the city council disapprove of an application, reasons for the recommendation shall be clearly stated on the record;

(c) Any license or permit applicant who receives a recommendation of disapproval from the commission may request a hearing before the city council on its license or permit application. A request for such a hearing must be made in writing to the city clerk within five days after the commission makes its recommendation. If such a request is received, the clerk shall set the matter for hearing before the council within 15 days and in any event at a time no later than five days before the end of the statutory period of time in which the council can take action on the application. The hearing must be held and decided within the period of time in which the council can take action on the license or permit application. At the hearing, the applicant may be represented by counsel, may present any oral and written testimony and arguments relevant to the issues, and may cross-examine adverse witnesses. Testimony taken shall be under oath. At the conclusion of the hearing, the council shall pass a resolution disapproving or approving of the license or permit. Any resolution disapproving of the license or permit shall contain written findings of fact that the council has made which justify disapproval of the license or permit application.

Section 22. That Section 10A-11 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 10A-11. Standards for state lawful gambling license or premises permit disapproval.

The alcohol, gambling and tobacco commission may recommend disapproval of a lawful gambling license or premises permit and the city council may disapprove of a lawful gambling license or premises permit if substantial evidence shows:

(a) That the applicant, its managers or employees violated any ordinance or state or federal statute or regulation which relates to the operation of lawful gambling, or of theft, fraud or bribery;

(b) That the applicant, its managers or employees were convicted of a crime that directly relates to the operation of lawful gambling and have not been rehabilitated within the meaning of Minnesota Statutes, Chapter 364;

(c) That the applicant, its managers or employees have operated lawful gambling games in an unfair manner so as to give some players a better chance of winning than other players;

(d) That the applicant made material misstatements of fact or omissions of fact on its present or past applications or on gambling information investigation form;

(e) That the applicant, its managers or employees refused to answer questions concerning its application or operations asked by the police, the commission or the city council;

(f) That the applicant failed to pay any city gambling tax when due;

(g) A refusal by the applicant or its managers or employees to cooperate with the police or commission in any investigation;

(h) Employment by the applicant of gambling managers or jar operators who are not lawfully qualified to work in their respective positions;

(i) Payment by the applicant of any lease fee or other payment for its operating premises in excess of legal limits;

(j) Participation by the applicant in any conspiracy or scheme to limit the applicant's source of gambling supplies;

(k) Bribery or fraud by the applicant in securing a license;

(l) Incompetence by applicant or its managers in conducting and managing lawful gambling games;

(m) That the applicant failed to keep records of its operation as required by law and consistent with good accounting practices;

(n) That the applicant's gambling operations constitute a public nuisance or result in the excessive commercialization of lawful gambling;

(o) That the applicant or its representative failed to appear for its licensing hearing.

Section 23. That Section 10A-12 of the Duluth City Code, 1959, as amended, is 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 are first licensed by the alcohol, gambling and tobacco commission pursuant to this Article. 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 24. That Section 10A-14 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 10A-14. Investigation; issuance; appeals.

(a) Upon receipt of an application, the clerk shall refer the matter to the police department for investigation. The police shall examine the applicant's qualifications and criminal history and shall report to the alcohol, gambling and tobacco commission its finding. The alcohol, gambling and tobacco commission shall hear each initial license application and shall make inquiries of each applicant for the purpose of establishing applicant's knowledge of gambling laws, competence, and good moral character. After hearing all relevant evidence, the commission shall approve or deny the license. Each applicant shall have all the procedural rights set forth in Section 10A-10(b) in conjunction with the application;

(b) Any person aggrieved by a licensing decision of the alcohol, gambling and tobacco commission may appeal the decision to the city council by serving notice of appeal in writing to the city clerk within ten days after the decision is rendered. The notice shall state the grounds for the appeal. The city council commission shall then hear and decide the appeal, giving the appellant the procedural rights set forth in Section 10A-10(b) of this Chapter.

Section 25. That Section 10A-15 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 10A-15. Suspension and revocation of licenses.

The alcohol, gambling and tobacco commission may suspend a gambling manager or jar operator license for up to 60 days or revoke such license, but only for good cause as provided in this Article. No license shall be suspended or revoked unless the licensee has received at least 20 days' written notice of the proposed reasons for the action and has been given an opportunity for a hearing before the commission. Any licensee requesting a hearing shall make the request in writing to the city clerk. If a hearing is requested, the commission shall hear and determine the matter, affording the licensee the procedural rights set forth in Section 10A-10(b) of this Chapter. The licensee may appeal any adverse decision to the city council as provided in Section 10A-14(b).

Section 26. That Section 10A-17 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 10A-17. Paddlewheels prohibited.

No person shall conduct lawful gambling in the city of Duluth by the operation or use of a paddlewheel as defined in Minnesota Statutes 349.12.

Section 27. That Section 11-5 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 11-5. Same--Revocation or suspension, administrative penalties.

(a) Every license issued under this Chapter may be suspended up to 60 days or revoked by the alcohol, gambling and tobacco commission for any cause set forth in paragraph (b) of this Section after a public hearing held for such purpose, notice of which shall be mailed to the licensee at his place of business ten days

before the holding of such hearing. Any decision to suspend or revoke a license shall be made in writing. Any licensee aggrieved by a decision of the alcohol, gambling and tobacco commission may appeal such decision to district court as provided in Minnesota Statutes, Section 461.12, Subd. 7;

(b) The following shall be good cause to revoke or suspend a tobacco license:

(1) That the applicant, its managers or employees violated any ordinance or state or federal statute or regulation which relates to the sale or possession of tobacco or tobacco related devices;

(2) That the applicant, its managers or employees were convicted of a crime that directly relates to the sale of tobacco or tobacco related devices and have not been rehabilitated within the meaning of Minnesota Statutes, Chapter 364;

(3) That the applicant made material misstatements of fact or omissions of fact on its present or past applications;

(4) A refusal by the applicant or its managers or employees to cooperate with the police in any investigation of unlawful tobacco sales;

(c) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this Chapter, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven days. No penalty or suspension under this paragraph shall be imposed until the licensee has been served personally by mail with notice of the alleged violation and been given an opportunity for a hearing as provided in paragraph (a) of this Section;

(d) If it appears that a licensee or the licensee's employees acting under the scope of the license have sold tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions during any 24 month period, the alcohol, gambling and tobacco commission must set a disciplinary hearing for the licensee. If, at the hearing, it is shown that the licensee or licensee's employees did sell tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions in a 24 month period, the alcohol, gambling and tobacco commission must revoke the license. In addition, the licensee shall be ineligible to apply for a cigarette license in the next succeeding license year;

(e) An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing as provided in paragraph (a) of this Section.

Section 28. That Sections 10A-8 and 10A-9 of the Duluth City Code, 1959, as amended, be repealed in their entirety.

Section 29. That the title of Article II of Chapter 10A of the Duluth City Code, 1959, as amended, be amended to read:

Article II. State Licenses and Permits; Review Procedures.

Section 30. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 20, 2000)

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

Yeas: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Absent: Councilor Eckenberg -- 1

Passed February 14, 2000

Approved February 14, 2000

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9439

BY PRESIDENT GILBERT:

AN ORDINANCE ESTABLISHING A ONE YEAR DEVELOPMENT MORATORIUM IN THE AREA TO BE SERVED BY THE NORTH SHORE WASTEWATER COLLECTION SYSTEM.

The city of Duluth does ordain:

Section 1. Statement of purpose.

The city of Duluth is in the process of extending a sanitary sewer system along the North Shore of Lake Superior through a cooperative effort with Lakewood and Duluth townships and other governmental entities. The sewer extension is necessary for both within and beyond the city of Duluth's territorial boundaries to alleviate health and safety problems caused by failing and marginal septic systems constructed on the rocky terrain of Lake Superior's North Shore. The extension of the sanitary sewer system along the North Shore will inevitably lead to increased development pressures in this scenic and environmentally sensitive area. The city of Duluth is in the process of updating its comprehensive municipal plan but has not yet conducted necessary land use studies of the North Shore area. It is also envisioned that land use studies of the North Shore area will be conducted by the proposed North Shore Sanitary District after it is established. It is the purpose of this ordinance to impose a one year moratorium on development within the North Shore area of the city of Duluth to allow for the completion of land use studies and the development of appropriate land use regulations to regulate development after the sewer is available. This moratorium is necessary to prevent inappropriate development and urban sprawl on the North Shore and to prevent overall aesthetic and environmental degradation in the area.

Section 2. Findings of fact.

The Duluth City Council finds that the following facts exist:

(a) The North Shore of Lake Superior within and adjacent to the city limits of Duluth is a uniquely beautiful and environmentally sensitive scenic area;

(b) Protecting the scenic North Shore from aesthetic and environmental degradation is essential to maintaining the quality of life for residents of Duluth and for maintaining the economic health of Duluth and the surrounding region;

(c) It is necessary to extend municipal sewage collection systems along the North Shore from the Lester River to beyond the corporate limits of Duluth to alleviate health and safety problems caused by failing and marginal septic systems;

(d) The development of a sewer system along the North Shore as described above will cause economic pressure to develop more land in the area;

(e) Present land use controls that the city of Duluth has in effect are not adequate to protect the environmental and aesthetic qualities of the North Shore from intense development pressure;

(f) The city of Duluth is presently updating its comprehensive municipal plan but has not completed land use studies in the North Shore area;

(g) It is now planned that the sewer system along the North Shore will be operated by a proposed North Shore Sanitary District which is scheduled to conduct an independent land use study for its sewered area;

(h) It is necessary for the city of Duluth to enact a one year development moratorium in the North Shore area to allow for the completion of the above mentioned land use studies and for the development and enactment of new land use controls when appropriate;

(i) The area encompassed by the moratorium should be the area between the shore of Lake Superior and Minnesota State Highway 61 (Rohweder Memorial Highway) bounded by the Lester River on the southwest and the Duluth city limits boundary on the northeast.

Section 3. Moratorium.

The Duluth City Council hereby places a moratorium from the effective date of this ordinance until one year thereafter upon development of any kind, except as expressly permitted herein, in the area described below. This action prohibits all additional development, except as expressly permitted herein, in the area described below. This action prohibits all additional development, except as expressly permitted herein, in said area and places a moratorium on those provisions of Chapter 50, Duluth City Code, 1959, as amended, pertaining to zoning, permitted uses, variances, and special use permits in the area. This action also places a moratorium on the issuance of building permits in the area except for items specifically allowed herein. The area covered by this moratorium is as follows:

The area lying between the shore of Lake Superior and Minnesota State Highway 61 (Rohweder Memorial Highway) bounded by the Lester River on the southwest and the Duluth city limits boundary on the Northeast.

Section 4. Exceptions to moratorium.

It is the intent of the Duluth City Council that this moratorium should not impose undue hardship upon the existing residents in the moratorium area. Therefore, the following actions are exempt from the moratorium:

(a) The repair or remodeling of any structure in existence on the effective date of this ordinance provided that no change in use of the structure, as defined in Chapter 50 of the Duluth City Code, is made;

(b) The construction of a garage which is accessory to an existing residence, is 900 square feet or less in area, is not designed for human occupancy and contains no plumbing facilities.

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 20, 2000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

Yeas: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Absent: Councilor Eckenberg -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 14, 2000

Approved February 14, 2000

GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, February 29, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0229-01 Craig Carlson, et al. (three signatures) submitting petitions for:

(a) Construction of water main, gas main and sanitary sewer main to serve both sides of Lester Street from 51st Avenue East and 52nd Avenue East;

(b) Permanent street improvement of Lester Street from 51st Avenue East to 52nd Avenue East. -- Assessor

00-0229-02 Duluth economic development authority, et al. (two signatures), submitting petition to vacate the westerly seven feet of 39th Avenue West between West Superior Street and West Michigan Street, adjacent to Lot 1, Block 5, and Lot 1, Block 8, Harrington's Addition, St. Louis County, Minnesota. -- Assessor

00-0229-25 Minnesota Senior Federation - Northeast Coalition, submitting letter regarding subsidies to businesses. -- Received

00-0229-20 The following submitting communications regarding the proposed permit parking zone on Cleveland Street from Kenwood Avenue 900 feet westerly (00-0074R): (a) Glenn and Adele Burke; (b) Dave's Pizza; (c) Ella Fenessy (supported by two signatures); (d) Daniel and Barbara Hoffman (two letters); (e) Steven G. LaFlamme; (f) Caroline Naddy (supported by six signatures); (g) Theresa Riggs (copy of letter from Earl Richards to Peak Bagel); (h) Randy Rudd; (i) Diane Schubert; (j) John Sorenson (supported by 11 signatures); (k) Judy Watczak (supported by nine signatures); (l) C. William Ziegler. -- Received

00-0229-21 The following submitting communications regarding the proposed bed and breakfast inn at 2617 East Third Street (00-0116R): (a) Charles and Karen Andresen, et al. (139 signatures); (b) William Burns, attorney for applicants; (c) Carolyn Crouch; (d) Duluth Convention and Visitors Bureau; (e) Gregg Haug; (f) Barbara Kirschling; (g) Roy A. and Angeline M. Meyer; (h) David Tyackes. -- Received

00-0229-22 The following submitting communications regarding the proposed McQuade public access (00-0150R): (a) Alvine Berg; (b) Cheryl Erickson; (c) Friends of the North Shore; (d) Albert Katz; (e) Glenn Maxham; (f) Steven J. Running. -- Received

00-0229-24 The following submitting communications regarding the appeal of the building appeal board denial of a request allowing reinstatement temporary rental license at 1905-07 East Superior Street (00-0001R and 00-0002R): (a) Kent W. Hilman; (b) Michael Sengbush. -- Received

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REPORTS OF OFFICERS

00-0229-03 Mayor Doty submitting letter appointing Lynn Fena as acting mayor in his absence. -- Received

00-0229-04 Assessor submitting: (a) Letter of insufficiency regarding the petition to construct a permanent street improvement of Lester Street from 51st Avenue East and 52nd Avenue East; (b) Letter of sufficiency pertaining to the petition to construct a sanitary sewer main to serve both sides of Lester Street from 51st Avenue East and 52nd Avenue East. -- Received

00-0229-05 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses from: (a) Duluth Retriever Club on August 20, 2000 (raffle); (b) St. Margaret Mary Church on April 13, 2000 (bingo). -- Received

00-0229-06 Engineering division submitting monthly project status report of February 1, 2000. -- Received

00-0229-23 Purchasing agent submitting emergency purchase order awarded to Pierce Manufacturing, Inc., for aerial platform bucket repair. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0229-07 Alcoholic beverage board minutes of: (a) December 8, 1999; (b) January 12, 2000, meetings. -- Received

00-0229-08 Board of zoning appeals minutes of December 21, 1999, meeting. -- Received

00-0229-09 Duluth airport authority minutes of January 18, 2000, meeting. -- Received

00-0229-10 Environmental advisory council minutes of January 5, 2000, meeting. -- Received

00-0229-11 Lawful gambling commission minutes of January 12, 2000, meeting. -- Received

00-0229-12 Planning commission minutes of: (a) November 17; (b) December 15, 1999, meetings. -- Received

00-0229-13 Special assessment board minutes of January 11, 2000, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Hal Moore, K.L. Lewis, John Sanford, Susan Perala-Dewey, Marta Maddy, Susan Anderson and Bill Gibson spoke regarding the need for a new comprehensive plan noting reasons of: the recent poor use of a community unit plan for the development between Trinity Road and Miller Trunk Highway; the failed recent attempt to use the community unit plan for a development by Glensheen; the uncontrolled developments on the cliff above 40th and Jay Street; the need for input from all neighborhoods for sustainable development; that neighbors have been viewed as adversary if they do not support any developer's plan; that a comprehensive plan would leave less to the incorrect imagination of citizens as to what developments would occur in particular areas; that the conditions of development, relative to holding ponds and runoff, be implemented; that the outcome of the 2001 process has not been incorporated and that Duluth citizens care about the neighborhoods.

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Carmen Arnold, representing the Minnesota Senior Federation - Northeast Coalition, reviewed her letter (Public Document No. 00-0229-25) regarding Minnesota Solutions.

- - -

Jason Lyons stated that last year he submitted a petition to have sidewalks put on the both sides of Haines Road and now, with the improvements being made, there are no sidewalks being put in. He also suggested the use of a voluntary citizen patrol to assist the police.

Administrative Assistant Winson noted that he will contact the speaker regarding the Haines Road project and Councilor Ness stated that Duluth has a voluntary citizen patrol and that he should look into it.

- - -

At this time, 8:00 p.m., the hearing regarding the proposed designation of Cleveland Street from Kenwood Avenue 900 feet westerly, as a resident permit parking zone began (Public Document No. 00-0229-26).

- - -

At the end of the public hearing the council meeting was called back to order.

- - -

Motion was made, seconded and carried to consider Resolution 00-0074, by President Gilbert, designating Cleveland Street From Kenwood Avenue 900 feet westerly as a resident permit parking zone; and specifying a fee for residents' parking permits, at this time.

Councilor Hogg stated he is aware of a possibility to find some off street parking for the employees of a business in the area that will not require that this permit parking zone be established, and therefore moved to table the resolution, which motion was second and unanimously carried.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

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

sanitary sewer in Hagberg Street

Contract #5313, total assessable amount - \$ 19,593.73.

Resolution 00-0114 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 5,970 gallons of yellow and white traffic marking paint for the building maintenance division in accordance with specifications on its low specification bid of \$27,910.39, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 00-0129 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that whenever any claim for damages or worker's compensation benefits is filed against the city, or whenever the city has a claim for damages against any party, or whenever the city has a dispute with any party over the interpretation of a contract, other than a collective bargaining agreement, the city attorney shall investigate such claim or contract dispute and, if he shall be of the opinion that such claim or contract dispute shall be settled and compromised, he shall make written recommendation of settlement to the administrative assistant; and if such recommendation is approved by the administrative assistant, or such other officer of the city that the administrative assistant has so designated by written instrument, such settlement may be implemented without city council approval.

RESOLVED FURTHER, that whenever it is necessary for the city to sign a release or any

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

other document in order to implement a settlement made under authority of this resolution, the administrative assistant, or such other officer of the city that the administrative assistant has so designated by written instrument, or the city attorney is hereby authorized to sign such release or other document on behalf of the city.

RESOLVED FURTHER, that the administrative assistant, or such other officer of the city that the administrative assistant has so designated by written instrument, is hereby given authority to settle and compromise grievances brought under the provision of any collective bargaining agreement entered into by the city, and such settlements may be implemented without city council approval.

RESOLVED FURTHER, that no settlement of any contract dispute, grievance or any claim other than a claim for worker's compensation benefits providing for payment of more than \$8,500 either to or by the city shall be made under authority of this resolution.

RESOLVED, that all prior resolutions authorizing the settlement of claims, contract disputes or grievances by the city administration are hereby rescinded.

Resolution 00-0130 was unanimously adopted.

Approved February 29, 2000

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

Joyce M. Blodgett for a term expiring November 1, 2002, replacing Laurie Berner.

Richard Anderson for a term expiring November 1, 2002, replacing Gerald Camelon.

Resolution 00-0118 was unanimously adopted.

Approved February 29, 2000

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

Katie Krikorian for a term expiring September 30, 2000, replacing Joseph Leek.

Resolution 00-0119 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ENVIRONMENTAL ADVISORY COUNCIL

Dana A. Slade for a term expiring January 5, 2003, replacing James Kurtz who resigned.

Resolution 00-0120 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

PARKS AND RECREATION COMMISSION

Bruce Kelii for a term expiring February 13, 2003, replacing Sandra Robinson.

Resolution 00-0121 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

WOMEN'S COMMISSION

Melissa Lochner for a term expiring September 17, 2001, replacing Roberta Kucera who resigned.

Resolution 00-0122 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Ronald A. Boshey (at large) and Jeffrey Jackson (planning commission) for terms expiring March 1, 2003.

Resolution 00-0140 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Marvella Davis (East Hillside) for a term expiring March 1, 2003, replacing William Parra who resigned.

NEIGHBORHOOD ADVISORY COUNCIL

Marvella Davis (East Hillside) for a term expiring March 1, 2003, replacing William Parra who resigned.

Resolution 00-0141 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

NEIGHBORHOOD ADVISORY COUNCIL

Myrna Matheson (East Hillside) for a term expiring March 1, 2003.

Resolution 00-0142 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Isobel Rapaich for a term expiring March 30, 2003, replacing Richard Gastler who resigned. Resolution 00-0143 was unanimously adopted.

Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Neighborhood Housing Services in the amount of \$40,000, as approved by the DEDA board at its meeting of February 15, 2000, pursuant to DEDA Resolution No. 00D-03, a copy of which is on file in the office of the city clerk as Public Document No. 00-0229-14, is hereby approved.

Resolution 00-0132 was unanimously adopted.
Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

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. 00-0229-15, which allows DEDA to participate during 2000 in the city's self insurance fund program.

Resolution 00-0113 was unanimously adopted.
Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the city owns two large tracts of land known as the Arlington Soccer Complex and the Jean Duluth Soccer Complex; and

WHEREAS, the city and the Arrowhead Youth Soccer Association of Northeastern Minnesota desire to establish a sound working relationship toward the goal of achieving a quality soccer program for the youth of the city; and

WHEREAS, the city acknowledges the financial and management commitment made by the Arrowhead Youth Soccer Association of Northeastern Minnesota in the development of the Arlington and Jean Duluth soccer complexes; and

WHEREAS, the city recognizes the desire and ability of the Arrowhead Youth Soccer Association of Northeastern Minnesota to provide field scheduling responsibilities;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute an agreement filed as Public Document No. 00-0229-16, between the city of Duluth and the Arrowhead Youth Soccer Association of Northeastern Minnesota for the operation and maintenance of the Arlington and Jean Duluth soccer complexes.

Resolution 00-0117 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 00-0229-17 granting to Belinda D. Saylor and Tamara L. Waldowski in consideration for undertaking the obligation of performing the services set forth in the agreement, the right to occupy the living quarters at the Wheeler Fieldhouse apartment for a gross rental of \$400 per month, which will be adjusted based on satisfactory performance under the terms and conditions of the agreement.

Resolution 00-0136 was unanimously adopted.

Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

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

Section 1. Recitals.

1.01 The board of commissioners of Lake County desires to establish a sanitary district in the Knife River-Larsmont area (the "sanitary district") pursuant to Minnesota Statutes, sections 115.18 through 115.37 (the "act").

1.02 Section 115.19 of the act requires that no sanitary district shall be created within 25 miles of the boundary of any city of the first class without the approval of the governing body thereof.

1.03 The city is a city of the first class, the boundaries of which are within 25 miles of the sanitary district.

Section 2. Findings. The city hereby finds, determines and declares that there are continuing and persistent issues of water quality in the Lake Superior watershed which need to be addressed through the provision of adequate public systems for the collection and treatment of wastewater.

Section 3. Approval. The city supports the creation of the sanitary district and hereby approves creation of the sanitary district.

Resolution 00-0144 was unanimously adopted.

Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires a limited utility study for the Morgan Park area; and

WHEREAS, the city desires to hire a consulting engineer to provide the professional services required to collect, data, analyze and make recommendations for repairs and/or relocation of the utilities; and

WHEREAS, Camp Dresser McKee, Inc., has submitted a proposal for such 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 Camp Dresser McKee, Inc., to provide the city with such utility study services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BE IT FURTHER RESOLVED, that the cost of said utility services, estimated at \$28,020, will be payable from the various funds, various dept./agencies, various organizations, various objects.

Resolution 00-0123 was unanimously adopted.
Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0435 to Ayres Associates, Inc., for furnishing professional engineering services for design of a sanitary sewer network to and in Fond-du-Lac, be amended to increase the amount by \$23,329 for a new total of \$145,829, payable out of Sewer Construction Fund 531, Dept./Agency 500, Object 5532.

Resolution 00-0133 was unanimously adopted.
Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0392 to Glacier Paving, Inc., for furnishing fine mix paving program, be amended to increase the amount by \$49,231.70 for a new total of \$188,056.70, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9909, Object 5530.

Resolution 00-0134 was unanimously adopted.
Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Arcon Construction, Inc., be and hereby is awarded a contract for construction of Como Avenue between Willow Avenue and Butternut Avenue for the public works and utilities department in accordance with specifications on its low specification bid of \$442,624.28, terms net 30, FOB destination, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5326, Object 5530.

Resolution 00-0149 was unanimously adopted.
Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established on both sides of the following streets:

25th Avenue East from Sixth Street to Seventh Street;
Greysolon Place east of 36th Avenue East.

Resolution 00-0124 was unanimously adopted.
Approved February 29, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 the east side of Third Avenue West from First Street Alley to First Street, and on the north side of Superior Street from Third Avenue West easterly 75 feet.

The proposed meter rate to be: one quarter for 15 minutes with a 15 minute limit.

Resolution 00-0125 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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: Oakley Street from Crosley Avenue to 58th Avenue East.

Resolution 00-0126 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 Regent Street from 44th Avenue East to 45th Avenue East.

BE IT FURTHER 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: south side of Regent Street between 44th Avenue East and 45th Avenue East.

Resolution 00-0127 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that Stratus Computer be and hereby is awarded a contract for furnishing and delivering 12 months of maintenance covering computer hardware and software for the police department in accordance with specifications on its low specification bid of \$22,930.40, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 00-0146 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that proper city officials are hereby authorized to pay the county of St. Louis an approximate \$40,000 payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5445 for the St. Louis County jail during the year 2000 of persons charged with violations of the Duluth City Code, 1959, as amended; said boarding fees to be paid in four equal quarterly installments on March 31, June 30, September 30 and December 31.

Resolution 00-0147 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that St. Louis County department of communications be and hereby is awarded a contract for furnishing one year's use of computer aided dispatch system access for the police department in accordance with specifications on its low specification bid of \$22,000, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5441.

Resolution 00-0148 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 00-0137, by Councilor Edwards, memorializing the Duluth delegation to the state legislature to secure passage of legislation granting an additional on sale intoxicating liquor license to the Lake Superior Center authority for use at the Great Lakes Aquarium, was introduced for discussion.

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

Edwin Russell, member of the board of directors of Lake Superior Center, voiced support for the resolution because it will allow the aquarium to host special events in the evening so revenues can be received to assist in covering the debt obligations. He noted that this is similar to other public entities that have liquor licenses, that enhances the revenue stream.

David Lonsdale, executive director of Lake Superior Center, responded to councilors concerns by noting that the liquor license is intended for after hours special events.

Resolution 00-0137 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the Duluth City Council hereby memorializes the Duluth delegation to the state legislature to secure passage of special legislation authorizing the Duluth City Council to issue an intoxicating on sale liquor license to the Lake Superior Center authority for use on premises known as the Great Lakes Aquarium, said legislation to be substantially in the form of Public Document No. 00-0229-19 and made a part hereof.

Resolution 00-0137 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0145, by Councilor Edwards and President Gilbert, denying a special use permit to William Brakken And Rebecca Sieve for a bed and breakfast inn for property located at 2617 East Third Street; and Resolution 00-0116, by President Gilbert, granting a special use permit to William Brakken and Rebecca Sieve for a bed and breakfast homestay for property located at 2617 East Third Street, were introduced for discussion.

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

Carl Casperson, Lisa Casperson and Ken Aparicio expressed support for Resolution 00-0116 because: the existing bed and breakfast (B&B) buildings have improved in appearance and property values have been positively improved; children have safely grown up around existing B&B's; B&B guests prefer the quiet atmosphere where there is less noise; B&B's have previously come into existing neighborhoods; houses like this are not likely to be financially kept up unless they are allowed to become a B&B; these older homes were originally built to house large numbers of people and had large numbers of people visiting them; the other nine B&B's have also

been reviewed and approved by the same standards and, if a B&B is not allowed for this property, the owner can rent out the rooms to college students without securing any permits.

Don Kundel, Bilin Tsai, Kraft Dryer, Virginia King, Anne Hanson, John Hanson, Don Poe, Barbara Kirshling, Peggy Mason, Gregg Haug, Natalie Haug, Molly Thibodeau, Charles Andresen, Suzanna Johnson and Susan Schumacher spoke in opposition to Resolution 00-0116 because: existing houses in this area are being well maintained as single family residences; there is still a group of people that can maintain this sort of house as a single family residence; this application does not meet all the conditions of the ordinance for this sort of special use permit; the architectural criteria language was added to restrict the proliferation of B&B's and preserve the uniqueness of Duluth's older homes; a trade off of five or six more bedrooms for tourists versus a very defined neighborhood is not worth it; B&B's is a commercial business that would be noticed in this residential neighborhood; it would have a significant negative impact on the single family quality and character of the neighborhood; that a tenth B&B in a close area is not necessary (Public Document No. 00-0229-21(f)); traffic on this dead end street will increase and safety will be greatly reduced; according to the Code, modifications shall not compromise the primarily residential character of the building and are inconsistent with residential use; real estate figures show that houses in the close proximity of a B&B in a residential neighborhood will not sell as fast or will sell at a lower value; there's not a plan in place as to where and how many B&B's may be established; five out of seven neighbors on the block oppose this; any benefits of this do not outweigh the negative impacts; the next door neighbor's house is 18 feet away; R-1-b zoning is a covenant to citizens that protects them from commercial developments; there is no change from two weeks ago when the council denied this special use permit and that if this is approved and the business is not successful, there needs to be assurance that the building is maintained so it will not be a blight on the neighborhood.

Jay Litman, former owner of this property, noted that he had lived in this home for 11 years and that the carriage house and third floor have been rental units. He further noted that a large church, tennis courts, elementary school, an Alzheimer house and juvenile delinquent home are all with the immediate neighborhood. Mr. Litman felt that a B&B would have less traffic than when he lived there, with all the vehicles of his family and renters that came and went.

William Brakken and Becky Seive, applicants, reviewed that: this is the fifth public meeting; they have responded to emotionally and untrue allegations; they have strong feelings to return to the area that they grew up in; they want to become proud owners of a B&B; they felt they have complied with all the requirements of the ordinance; they have worked on suggestions from councilors as to how this could be more acceptable; almost by definition B&B's are intended to be in neighborhoods; there are those who support B&B's, but just not in their neighborhood and questioned why; there have been statements against their character; there has been an attempt to get their tenant to oppose this; there have been half-truths in the newspaper on the day of a decision; three close neighbors have stated their support; with 1-1/2 acres of land there could be a lot worse plans for this property where many more people could live there; citizens have come forward stating their support; they want to be good neighbors; this is a way to have former residents come back home to live while preserving Duluth's older homes; and this will be their homestead.

William Burns, attorney for the applicant, presented a fact sheet (Public Document No. 00-0229-21(b)) and a letter (Public Document No. 00-0229-21(h)) prepared by David Tyackea and further noted that the planning and heritage preservation commissions' criteria has been met; this is a very little impact project that is an appropriate and legal use of the property and the business aspect is subordinate to the personal residence.

Councilors supporting Resolution 00-0116 noted that: all the conditions required for this special use permit have been met; the character of the neighborhood is not being altered with this use; the business will be subordinate to the residence issue, irregardless of the sequence of the timing of these two aspects; the planning and heritage preservation commissions' reviews have been met; where the applicants specifically live on this property is irrelevant; the number of bathrooms and bedrooms is not a criteria for this special use permit; using this home to its full potential, without any permits needed, would have far greater negative impact on neighborhood; the state of Minnesota allows this to be homestead, thus the B&B is a subordinate use; with a B&B you can not have renters; the prior owner operated a business out of this location that produced more activity; this is a good way to support young families to come back to this community and also a competitor in the area spoke in favor of this.

Councilors opposing Resolution 00-0116 stated that: B&B homestays are automatically allowed in other residential zones, but with a R-1 zoning it needs to meet the conditions of a special use permit, thus a higher standard is applied, which is, a finding of fact that all the conditions have been completely met, which is not the case here; this current application does not differ in any material manner from what was considered and denied on January 10, 2000; the findings and conclusions listed in Resolution 00-0145 are factual and that the poorly written ordinance allows for too much room for different interpretations.

Resolution 00-0116 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, William Brakken and Rebecca Sieve have submitted to the city council a request for a special use permit for a bed and breakfast homestay, consisting of six guest rooms, on property described as: Lots 6 - 12, Block 1, and adjoining vacated 27th Avenue East, Harrison Division of Duluth; Lots 1-3, Block 1, Willards Addition to Duluth, except that part within 390 feet of the easterly line of 26th Avenue East; Lot 6, except the westerly 30 feet and all of Lots 7 and 8, Block 3, and Lot 5, Block 4, Sterling Division of Duluth; and that part of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$ which lies between the center line of 27th Avenue East extended and a line parallel with the easterly line of 26th Avenue East and 390 feet easterly thereof, and located at 2617 East Third Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to William Brakken and Rebecca Sieve to allow for the operation of a bed and breakfast homestay, consisting of six guest rooms, at 2617 East Third Street, subject to the condition that the property be maintained in perpetual compliance with Section 50-35(d) of the Code, and as identified as Public Document No. 00-0229-18 and the following terms and conditions:

- (a) Issuance of certificate of occupancy by the building inspection division; and
- (b) Health license from St. Louis County.

Resolution 00-0116 was adopted upon the following vote:

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

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

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

At this time, 10:55 p.m., motion was made, seconded and carried to suspend the rules to extend the council meeting until midnight.

- - -

Motion was made, seconded and carried to remove Resolution 00-0145 from the agenda.

- - -

Resolution 00-0138, by Councilor Stewart, confirming appointments of C.J. Bird, Neil Glazman and Kamal Gindy to human rights commission replacing Connie Saaristo, Russell Stover and Chau Nguyen. Was introduced for discussion.

Councilor Stewart moved to table the resolution for interviews, which motion was seconded and unanimously carried.

- - -

BY COUNCILORS STEWART AND HOGG:

WHEREAS, the U.S. House of Representatives will consider H.R. 2372, the Private Property Implementation Act of 1999; and

WHEREAS, said act constitutes a preemption of local governing authority by allowing landowners and developers to bypass state courts and local planning commissions and city councils and take their land use grievances directly into federal court thereby effectively federalizing land use laws; and

WHEREAS, land use laws including planning and zoning codes have historically been under the authority of local governing bodies; and

WHEREAS, local governing bodies adopt land use ordinances, approve building permits and grant variances not for the purpose of infringing on private property rights but to protect the rights of all community members, to protect community values, to protect the environment and to safeguard the property values of the community; and

WHEREAS, the Private Property Implementation Act of 1999 would force local governments to defend land use policies in distant and expensive federal courts and thereby constitute a costly unfunded federal mandate.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth, Minnesota, a city of the first class, opposes the passage of H.R. 2372, the Private Property Implementation Act of 1999, and any other federal legislation that would have a similar effect on local governments.

RESOLVED FURTHER, the city clerk is hereby directed to send a certified copy of this resolution to Congressman James L. Oberstar.

Resolution 00-0151 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0001, reversing the decision of the building appeal board to deny a request allowing reinstatement of temporary rental license at 1905-07 East Superior Street, Duluth, Minnesota; and Resolution 00-0002, affirming the decision of the building appeal board to deny a request allowing reinstatement of temporary rental license at 1905-07 East Superior Street, Duluth, Minnesota, by President Gilbert, were introduced for discussion.

Councilors noting their support for Resolution 00-0002 stated that because of poor performance in keeping this building up, the rights of the tenants have been violated and the apartments have to be habitable.

Resolution 00-0002 was adopted as follows:

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, Kent Hilman has appealed to the city council the decision of the building appeal board to deny a request to reinstate a temporary rental license at 1905-07 East Superior Street; and

WHEREAS, the city council has considered this appeal and determined that the required findings for the granting of an appeal to reinstate the temporary rental license cannot be made in this case, based upon the fact that the building appeal board also noted repairs have not been made to bring the dwelling into compliance with Housing Code requirements (and a recent reinspection noted many repairs still remaining to be completed).

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the building appeal board's decision of November 10, 1999, is hereby affirmed by the city council and the appeal is denied.

Resolution 00-0002 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

- - -

Motion was made, seconded and carried to remove Resolution 00-0001 from the agenda.

- - -

Resolution 00-0150, by President Gilbert, petitioning the McQuade public access board to terminate the joint powers agreement under which it is established, for introduced for discussion.

Councilor Eckenberg stated that because St. Louis County is a participant in this project and also his employer, he will not participate in the discussion or voting.

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

Dave Koneczny, Jeff Cook, Steve Running, Lennard Johnson, Albert Katz, Bill Beaudry, Owen Christensen, Howard Taylor and Andy Peterson opposed the resolution for the reasons of: the project has been supported by two city administrations, the corps of engineers and the environmental protection agency; everything has been done on the up and up; that the fire insurance rates will decrease if fire engines can be more easily filled up; Congressman Oberstar supports this project and has assisted with federal funding; the state of Minnesota is anticipated to fund the project; the Duluth and Lakewood townships and businesses supports this project; after eight years of planning, \$2 million in federal funds have been committed and \$4 million in state funding is pending, so this is not the time to pull out; this project is supported by the North Shore management joint powers board; individuals who use boats and fish, pay special taxes and licenses and that money should legitimately come back out in federal and state funding for the same areas where the funds were collected; the city council has previously passed resolutions authorizing the committee to continue; the land has been bought and paid for; the environmental assessment worksheet study has been done and found proper; the department of natural resources (DNR) studies show the heaviest fishing/boating pressure in the area between Duluth and Two Harbors and that the two sites in Duluth are the two heaviest used sites; this area would allow easy access for the elderly and handicapped; the records show that 70 percent of the population support this project; and this project is supported by the Duluth Chamber of Commerce.

Clyde Ritchie, Glen Maxim, Terry Brown and Will Rhodes supported this resolution, noting: a belief that the North Shore management joint powers board should be overseeing this; Congressman Oberstar's staff has stated that this is not a priority project; this was originally planned for the Brighton Beach area; the Congdon family gift of the property should not be used for this; the DNR studies show that there is no need for this; a belief that the North Shore safe harbor plan does not recognize this project; the nearly \$1 million expended should have been used elsewhere; McQuade is not one of the five designated safe harbors; the nearly \$1 million that has

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

been received represents only 10-15 percent of what the total cost will be; this project is only a desire, not a need; the Duluth Audubon Society has concerns over the sewer extensions up the shore, thus the sustainable development of the North Shore will be very complex and stepping back from the McQuade project will create the breathing space that is needed; boat harbors make sense where there are natural protections already; and this committee has had eight years to accomplish this and it has not been done.

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At this time, 11:55 p.m., motion was made, seconded and unanimously carried to suspend the rules to continue the meeting until 12:30 a.m.

- - -

Councilors supporting the resolution noted the reasons of: this has more of a symbolic meaning than a significant change, given that if this passed, the other parties would have to agree to dissolve the agreement; that while Dick Larson, public works and utilities department director, has noted that the city will not have maintenance costs, there is an uncertainty regarding this issue; that prior resolutions only addressed the issues of the "receipt" of the final report for the recommendations of a safe harbor boat access and of being the physical agents for the pass-through of funding dollars, but no resolutions have addressed the specific question of whether the city council formally is committed to this project; the actions of prior councils are not binding on this council; the length of time to implement this project has taken a direct toll towards it; this project was taken off the council's legislative agenda so that it could specifically be addressed as a separate issue; this comes down to the issue of what one wants to "see" along the North Shore, that is, is this project an asset or a detriment; while this is a symbolic action, that is a divided issue, the subsequent council action for approval of lease for the land will decide where the council falls on this issue and a stand needs to be made here to show leadership, to direct the discussion, to reexamine the issue, possibly revise the joint powers agreement, clarify all of the parties' roles or even move it up the shore.

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At this time, 12:25 a.m., motion was made, seconded and unanimously carried to suspend the rules to extend the meeting until 1:00 a.m.

- - -

Councilors opposing the resolution: questioned why it is in front of the council, and what has changed to affect this action; stated that it sends a message to other townships that we might have joint powers agreements with in the future that we might pull out of agreements; stated that the city should be more creative in how to "do projects" than "not to do projects"; stated that this is a citizen driven project that has support and has involved the public and affected agencies with many public meetings; stated that the symbolism of passing this resolution shows legislative bodies that have funded this that Duluth was not serious and may adversely affect future funding requests; stated that this is a strategic political tactic and not whether this project is a legislative priority or that there are concerns with something like maintenance; stated that the question is whether this project harms the citizens of Duluth, to which the answer is no; stated that these actions are arbitrary and without findings of fact and that a finding that, "it reasonably appears that the project cannot be completed," is as far away as possible, from where it is, right now.

City Attorney Brown discussed the aspects of the standards of "arbitrary and capricious" and contract obligations in the joint powers agreement regarding the condition precedent that "it appears that the project cannot be completed" and at what point in time a factual finding would have to be made.

Motion was made, seconded and unanimously carried to call the question on the resolution.

Resolution 00-0150 was adopted upon the following vote:

Yeas: Councilors Fena, Hogg, Stewart, Stover and President Gilbert -- 5

Nays: Councilors Edwards, Ness and Stenberg -- 3

Abstention: Councilor Eckenberg -- 1

[Editor's note: This resolution was vetoed by Mayor Doty (Public Document No. 00-0306-04).]

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BY COUNCILOR STENBERG:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established on both sides of the following streets:

Sixth Street from Piedmont Avenue to 20th Avenue West;
Fifth Street from Piedmont Frontage Road to 19th Avenue West;
Piedmont Frontage Road from 330 feet north of Fourth Street to Fifth Street;
Fourth Street from Piedmont Avenue to 18th Avenue West;
19-1/2 Avenue West from Piedmont Frontage Road to Fifth Street;
19th Avenue West from Piedmont Avenue to Fourth Street;
18-1/2 Avenue West from Fourth Street to dead end;
25th Avenue East from Fourth Street to Sixth Street;
27th Avenue East from Fifth Street to Sixth Street.

Resolution 00-0062 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a \$50,000 gift from a source who wishes to remain anonymous to be used for the city of Duluth fire department's purchase of thermal imaging cameras.

RESOLVED FURTHER, that the gift accepted pursuant to this resolution shall be deposited into Fund 210, Agency 030, Org. 2180.

Resolution 00-0128 was unanimously adopted.

Approved February 29, 2000

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT GILBERT

00-006 - AN ORDINANCE GRANTING ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER EAST FIRST STREET BETWEEN NINTH AND TENTH AVENUES EAST.

- - -

BY COUNCILOR FENA

00-007 - AN ORDINANCE PROHIBITING THE COMMERCIAL RETAIL SALE OF FEVER AND BASAL THERMOMETERS CONTAINING MERCURY; ADDING A NEW ARTICLE VI TO CHAPTER 28, DULUTH CITY CODE, 1959, AS AMENDED.

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The meeting was adjourned at 12:55 a.m.

JEFFREY J. COX, City Clerk

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OFFICIAL PROCEEDINGS

Joint meeting of the Duluth City Council, town of Duluth Board of Supervisors and town of Lakewood Board of Supervisors held on Monday, March 2, 2000, 5:45 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call:

Town of Duluth Board of Supervisors:

Present: Supervisor Jeffrey Cook and Chair Daniel P. Connolly -- 2

Absent: Supervisor Bruce Aho -- 1

Town of Lakewood Board of Supervisors:

Present: Supervisors Lennart Johnson and Jeff Tweten -- 2

Absent: Chair Bernard Pistner -- 1

Duluth City Council

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

Absent: None -- 0

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MOTIONS AND RESOLUTIONS

President Gilbert introduced Resolution 00-0153, electing the board of managers of the Duluth/North Shore Sanitary District pursuant to Minnesota Statutes Section 115.23, Subdivision 7.

Mary Francis Skala, attorney, explained the process that has taken place since the city of Duluth and towns of Duluth and Lakewood petitioned the Minnesota pollution control agency to create the Duluth/North Shore Sanitary District. She noted that this resolution appoints members to the board of managers, but is referred to as an election in the resolution because that is how the state statute reads. Ms. Skala continued by saying that once this resolution is adopted, the board will be constituted and will hold its first meeting on Tuesday, March 7, 2000, at 10:00 a.m. at the Western Lake Superior Sanitary District (WLSSD) office.

Responding to Councilor Stewart, Ms. Skala and Councilor Edwards stated: that the North Shore joint powers wastewater board composed of members of the Duluth City Council, members of the board of supervisors of the towns of Duluth and Lakewood and other individuals formed a nominating committee to identify individuals to be on the board of managers; that the state statute requires members be voting residents of the new district and that an add soliciting applications was placed within the townships and a local newspaper.

Resolution 00-0153 was adopted as follows:

BY PRESIDENT GILBERT:

BE IT RESOLVED, by the governing bodies of the city of Duluth, Minnesota (the city), the town of Duluth, Minnesota (the town of Duluth) and the town of Lakewood, Minnesota (the town of Lakewood), meeting in joint session, as follows:

Section 1. Recitals.

1.01 The city, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, have 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, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 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 MPCA has designated the city as the central related governing body under the act.

1.05 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.

1.06 Pursuant to Section 115.23, subdivision 4, of the act, the city clerk has given at least ten days' notice of this meeting by mail to the clerks of the town of Duluth and the town of Lakewood, who transmitted such notice to all the members of each of their governing bodies.

Section 2. Findings.

2.01 It is in the best interests of the municipalities and of the sanitary district that the board of managers be composed of two members who are voting residents of the city, two members who are voting residents of the town of Duluth, and one member who is a voting resident of the town of Lakewood, each of whom must reside in the area of the sanitary district.

2.02 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) Nelson Thomas of the city, whose term shall expire on the first business day of January, 2003;

(b) Rick Certano of the city, whose term shall expire on the first business day of January, 2002;

(c) Mary Ann Sironen of the town of Duluth, whose term shall expire on the first business day of January, 2002;

(d) Lars Fladmark of the town of Duluth, whose term shall expire on the first business day of January, 2003; and

(e) Kevin Bovee of the town of Lakewood, whose term shall expire on the first business day of January, 2004.

Section 3. Election of board of managers.

3.01 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.

3.02 The city council president and the city clerk are authorized and directed to certify the results of this election to the secretary of the MPCA, to the county auditor of St. Louis County and to the clerks of the town of Duluth and the town of Lakewood and make and transmit to each board member elected a certificate of the board member's election.

Section 4. Appointment of temporary chair. This body hereby consents to the designation by the city council president of Nelson Thomas, duly elected member of the board of managers and chair of the North Shore wastewater joint powers board, to serve as temporary chair for the purposes of initial organization of the board of managers. The city clerk is directed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

to include written notice thereof to all the board members with their certificates of election as set forth in Section 3.02 above.

Resolution 00-0153 was unanimously adopted.

Approved March 2, 2000

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:56 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 6, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on November 8 and 18, 1999, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0306-14 Department of the army, Detroit District, corps of engineers, submitting finding of no significant impact for McQuade Road public access project. -- Received

00-0306-15 Kay Lewis submitting outline of several topics she addressed to the council. -- Received

00-0306-05 Western Lake Superior Sanitary District submitting letter supporting the ban of mercury fever and basal thermometers (00-007-O). -- Received

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REPORTS OF OFFICERS

00-0306-04 Mayor Doty submitting veto of Resolution 00-0150 petitioning the McQuade public access board to terminate the joint powers agreement under which it is established. -- Received

00-0306-01 Assessor submitting assessment roll levied to defray the assessable portion of Contract No. 5321 for Bayhill Drive (total assessable \$68,689.11). -- Clerk

00-0306-02 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Holy Family Catholic Church (raffle) on September 9, 2000; (b) Order of AHEPA No. 267 (bingo) on April 9 and November 12, 2000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0306-03 Special assessment board minutes of February 16, 2000, meeting. -- Received

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REPORTS OF COUNCIL COMMITTEES

Councilor Stewart reported that the personnel committee met with the mayor's appointments committee on March 2 to come up with some new recommendations that will make it easier for individuals to apply for positions on the various city boards and commissions.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jack Grams stated that, as a resident of King Manor, he has experienced difficulty in resolving problems that need to be addressed by the housing and redevelopment authority (HRA). He further stated that he has been denied public information by the director of the HRA and urged councilors to follow through with the investigation of the HRA that was promised during the election process.

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Kay Lewis spoke (Public Document No. 00-0306-15) on the following issues: the slowing down of fast traffic on city streets; an accident at the intersection of East First Street at Fourth Avenue East; inclusion of boating and swimming improvements in addressing erosion problems on Park Point; bus service to the Miller Hill Mall; historical concrete streets & sewers versus sewage; the MEI lockout; vandalism of signs on the Lakewalk.

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Barb Koth spoke regarding the redesign for the improvement of Wallace Avenue; the integration of Sixth and Seventh Streets into Wallace Avenue; the width of Wallace Avenue and how it will affect the neighborhood; the city's ability to negotiate with St. Louis County regarding these issues; and keeping the neighborhood informed throughout the process.

Councilors and Administrative Assistant Winson discussed at length: the rehabilitation of Sixth and Seventh Streets and some of the technical issues involved with the redesign of them and Wallace Avenue; that although the city needs to approve the plans developed by St. Louis County, it cannot dictate what the standards of the street shall be because it is classified as a minor arterial street and it is the county's responsibility to build the road to meet traffic safety criteria; how the neighborhoods can be better informed; and the eventual turn back of roads to the city by St. Louis County.

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RESOLUTION TABLED

Councilor Stover moved to remove Resolution 00-0088, setting rates for erosion and sediment control permits, from the table, which motion was seconded and unanimously carried.

Councilor Ness moved to amend Resolution 00-0088 by adding the words "not to exceed \$200" after the fee text as it relates to single family dwelling construction on parcels of less than 10,000 square feet where permit required due to special conditions and single family dwelling construction on parcels of 10,000 square feet or greater. He explained that this language places a cap on the fee that may be charged to single family dwelling construction so that the fee will never be an amount greater than the fee of \$200 that commercial, industrial and multi-family construction is limited to.

Councilor Ness' amendment was seconded and carried upon a unanimous vote.

Resolution 00-0088, as amended, was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 18-4(c) of the Duluth City Code, 1959, as amended, the city council hereby establishes the following fees for erosion and sediment control permits and investigations:

Single family dwelling construction No fee.
on parcels less than 10,000 square
feet where no permit is required by
engineer.

Single family dwelling construction on parcels of less than 10,000 square feet where permit required due to special conditions.	\$75 for first 3,000 square feet of building footprint and \$25 for each additional 1,000 square feet, not to exceed \$200.
Single family dwelling construction on parcels of 10,000 square feet or greater.	\$75 for first 3,000 square feet of building footprint and \$25 for each additional 1,000 square feet, not to exceed \$200.
Commercial, industrial and multi-family construction or demolition on parcels of 10,000 square feet or greater.	\$200.
Fee for reviewing project plans on parcels greater than 10,000 square feet but less than one acre where the engineer waives the permit.	\$50.
Fee for grading permits where no structure is being built.	\$50.
Fee for accessory building with footprint of 1,000 square feet or less where erosion control permit is required.	\$50.
Fee for reinspections (permit fee includes one inspection).	\$30 per reinspection.

Resolution 00-0088, as amended, was unanimously adopted.
Approved March 6, 2000
GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS
CONSENT AGENDA

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR EDWARDS:

RESOLVED, that Schroer Manufacturing Company be and hereby is awarded a contract for furnishing and delivering animal shelter equipment for the Duluth animal shelter in accordance with specifications on its low specification bid of \$26,078.53, terms net 30, FOB shipping point, payable out of Capital Fund 450, Dept./Agency 015, Organization 1999, Object C913.

Resolution 00-0154 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Mark Winson, Director of Administrative Services, is hereby designated as the responsible authority for data practices as defined by Section 13.02, Subdivision 16, of Minnesota Statutes 1994.

BE IT FURTHER RESOLVED, that Resolution 98-0770 adopted August 24, 1998, naming Robert Hartl as responsible authority for the city of Duluth be rescinded.

Resolution 00-0156 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, the city of Duluth desires to commence alterations at the #6 firehall located in Lakeside; and

WHEREAS, the city desires to hire a consulting engineer to provide the professional mechanical and electrical engineering and architectural services required to provide alterations to the firehall; and

WHEREAS, Foster, Jacobs and Johnson, Inc., has submitted a proposal for professional engineering/design 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 Foster, Jacobs and Johnson, Inc., to provide the city with such engineering/design services.

BE IT FURTHER RESOLVED, that the cost of said professional services, estimated at \$7,500, will be payable from the Capital Improvement Fund 450, Dept./Agency 015, Organization 1999, Object C901.

Resolution 00-0163 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Election Systems and Software be and hereby is awarded a contract for furnishing and delivering voting equipment and software for the city clerk division in accordance with specifications on its low specification bid of \$191,167.50, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, Object E956.

Resolution 00-0166 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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, 2000, through December 31, 2000, at an estimated annual cost of approximately \$54,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5404.

Resolution 00-0167 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an extension of the existing software license rental agreement with International Business Machines Corporation covering operating software for the IBM 9221 mainframe for a one year period beginning January 1, 2000, through December 31, 2000, at an estimated annual cost of \$46,956, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 00-0168 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental agreement with MAR Computer Services for the continued provision of professional training and emergency software services as needed for the M.I.S. division, at a rate of \$50 per hour at a total annual cost of approximately \$15,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 00-0169 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

Resolution 00-0171 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of collection system maintenance worker, which were approved by the civil service board on February 1, 2000, and which are filed with the city clerk as Public Document No. 00-0306-06,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, and the pay range shall remain the same, pay range 28, \$2,643 to \$3,129 per month.

Resolution 00-0115 was unanimously adopted.
Approved March 6, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 18142 with Life House, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0306-07, clarifying the number of units which must comply with federal HOME program provisions.

Resolution 00-0152 was unanimously adopted.
Approved March 6, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the city of Duluth established certain 1996, 1997, 1998, 1999 and 2000 CDBG accounts; and

WHEREAS, the citywide citizen's advisory committee (CCAC) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to allocate \$49,000 in additional 2000 CDBG funds for FY 2000 projects as follows:

<u>Project#</u>	<u>Project</u>	<u>Previous budget</u>	<u>Revised budget</u>	<u>Difference</u>
6301	HRA property rehabilitation	\$690,000	\$720,000	+\$30,000
6335	Contingency	\$ 14,000	\$ 33,000	+\$19,000

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-1996, 1997, 1998, 1999 and 2000 HUD-funded CDBG accounts as set forth below:

<u>Project#</u>	<u>Project</u>	<u>Previous Budget</u>	<u>Revised Budget</u>	<u>Difference</u>
6908 (96)	Grant recreation center	\$ 47,000	\$ 46,000	-\$ 1,000
6015 (97)	Portland Square trees	\$ 9,275	\$ 8,275	-\$ 1,000
6143 (98)	22nd Ave. West emerg. sewer	\$ 32,000	\$ 36,000	+\$ 4,000
6129 (98)	Discovery Center	\$ 15,250	\$ 13,372	-\$ 1,877
6142 (98)	Contingency	\$ 26,315	\$ 26,192	-\$ 123
6218 (99)	Alakef Commercial Imp.	\$105,000	\$ 70,000	-\$35,000
6317 (00)	Community job fund	\$200,000	\$235,000	+\$35,000

Resolution 00-0155 was unanimously adopted.
Approved March 6, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officials are authorized to execute a contract (Public Document No. 00-0306-08) with the governing board of the Arrowhead Library System, under which the Duluth public library will provide reference services to the libraries belonging to the seven county Arrowhead Library System during the period April 1, 2000, through December 31, 2000, payments thereunder in the estimated amount of \$25,700 to be deposited in the Library General Fund 100-300-1702-4403 and in the estimated amount of \$3,500 for reference materials to be deposited in 100-300-1702-4400.

Resolution 00-0160 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering 776 cases/bags of various zoo animal food for the Lake Superior zoo in accordance with specifications for approximately \$16,000, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 400, Organization 1814, Object 5245.

Resolution 00-0172 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a modification of City Contract No. 18541 with the Minnesota department of economic security for the federal and state welfare-to-work programs by extending the contract through June 30, 2002. A copy of this modification shall be on file in the city clerk's office as Public Document No. 00-0306-09.

Resolution 00-0139 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 00-0306-10 with Duluth Ford Limited Liability Company for the installation of a new water service near a building formerly known as the Wards automotive building in the Miller Hill Mall complex.

Resolution 00-0159 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Chesley Freightliner, Inc., be and hereby is awarded a contract for furnishing and delivering three freightliner cab and chassis with dump bodies for the water, gas, sanitary sewer and storm sewer division in accordance with specifications on its low specification bid of \$340,046.28, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580; Gas Fund 520, Dept./Agency 900, Organization 0505,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Object 5580; Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580; Stormwater Utility Fund 535, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 00-0173 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Northwestern Power Equipment, Incorporated, be and hereby is awarded a contract for furnishing and delivering filter media for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$27,861.84, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0176 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the city is hereby authorized to accept a \$10,000 grant from the Western Lake Superior Sanitary District to fund the purchase of recycled content recycling containers to be used in city parks. The containers shall be purchased and used in accordance with the letter setting forth the terms of the grant, on file in the office of the city clerk as Public Document No. 00-0306-11. All funds are to be deposited in General Fund 100, Agency 500, Org. 1920 (park maintenance).

Resolution 00-0082 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Lakehead Electric Company, Inc., be and hereby is awarded a contract for furnishing and installing traffic signals at 40th Avenue East and Superior Street and 40th Avenue East and London Road, and for installing intersection and driving lane pavement markings for the engineering division in accordance with specifications on its low specification bid of \$372,258.38, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2128, Object 5530.

Resolution 00-0161 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized and directed to execute and accept a construction permit from the Minnesota department of transportation authorizing the use of state highway right of way for the realignment of Michigan Street in the Lincoln Park business district, said permit filed as Public Document No. 00-0306-12.

Resolution 00-0164 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the city of Duluth desires construction engineering services for Como Avenue;
and

WHEREAS, the city desires to hire a consulting engineer to provide the professional engineering services required for construction survey/layout and construction inspection for Como Avenue; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for professional engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Salo Engineering, Inc., to provide the city with such professional engineering services.

BE IT FURTHER RESOLVED, that the cost of said professional engineering services, estimated at \$43,800, will be payable from the Special Assessment Fund 811, Dept./Agency 038, Organization 5326, Object 5530.

Resolution 00-0165 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that E/S Support Services be and hereby is awarded a contract for furnishing computer hardware and software maintenance for a one year period beginning January 1, 2000, through December 31, 2000, for the police department in accordance with specifications on its proposal of \$15,600, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 00-0170 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

The following resolution was also considered:

Resolution 00-0190, by Councilor Ness, supporting state legislation for a \$225,000 transit demonstration grant to the University of Minnesota, Duluth (UMD), for a bus pass program, was introduced for discussion.

Councilors discussed the benefits that this program will have on the parking situation at UMD and suggested that such a program be established for high school students who drive to school as well.

Resolution 00-0190 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the Duluth City Council supports the use of mass transit wherever feasible to minimize the environmental consequences of heavy vehicular traffic; and

WHEREAS, the Duluth City Council has been informed that legislation is about to be introduced for the Minnesota State Legislature appropriating \$225,000 for use by the University of Minnesota, Duluth, to establish a transit demonstration bus pass program at the university hub;
and

WHEREAS, the Duluth City Council finds that increased use of mass transit in the university area would have the effect of decreasing traffic and parking problems in and around the campus area;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for legislation funding a demonstration bus pass program for the University of Minnesota, Duluth, to alleviate parking and traffic congestion problems both on the campus and in the surrounding neighborhood.

RESOLVED FURTHER, that the Duluth City Clerk is directed to send a certified copy of this resolution to the Duluth delegation to the legislature.

Resolution 00-0190 was unanimously adopted.

Approved March 6, 2000

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY PRESIDENT GILBERT

00-006 (9440) - AN ORDINANCE GRANTING ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER EAST FIRST STREET BETWEEN NINTH AND TENTH AVENUES EAST.

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

- - -

BY COUNCILOR FENA

00-007 (9441) - AN ORDINANCE PROHIBITING THE COMMERCIAL RETAIL SALE OF FEVER AND BASAL THERMOMETERS CONTAINING MERCURY; ADDING A NEW ARTICLE VI TO CHAPTER 28, DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Fena 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. 9440

BY PRESIDENT GILBERT:

AN ORDINANCE GRANTING ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER EAST FIRST STREET BETWEEN NINTH AND TENTH AVENUES EAST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to St. Luke's Hospital, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk in that part of East First Street as the same was dedicated to the use of the public and the plat of Duluth Proper First

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 part of platted First Street lying between blocks 20 and 35 of the recorded plat of Portland Division of Duluth described as follows:

Commencing at the most northerly corner of Lot 16, Block 20, Portland Division of Duluth, thence southwesterly along the northwesterly line of said Block 20 a distance of 25.00 feet to the point of beginning; thence deflect 90°-00'-00" to the right in a northwesterly direction a distance of 66.00 feet to the southeasterly line of said Block 35; thence deflect 90°-00'-00" to the left in a southwesterly direction along said block line a distance of 14.00 feet; thence deflect 90°-00'-00" to the left a distance of 66.00 feet to said northwesterly line of Block 20; thence deflect 90°-00'-00" to the left in a northeasterly direction along said block line a distance of 14.00 feet to the point of beginning and there terminating.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

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

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk 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 First Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said East First Street.

Section 6. That the construction of the skywalk be limited to and in substantial compliance with the plans submitted by Damberg, Scott, Gerzina, Wagner Architects, entitled "Skywalk Elevation, Sheet A8.2, St. Luke's Medical Office Building Ambulatory Surgery Center," dated 1/6/00, revised 1/14/00, and survey by Salo Engineering, Inc., entitled "Proposed Easement Between Blocks 20 & 35, Portland Division," and on file in the office of the city clerk as Public Document No. 00-0306-13.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 16, 2000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 6, 2000
Approved March 6, 2000
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9441

BY COUNCILOR FENA:

AN ORDINANCE PROHIBITING THE COMMERCIAL RETAIL SALE OF FEVER AND BASAL THERMOMETERS CONTAINING MERCURY; ADDING A NEW ARTICLE VI TO CHAPTER 28, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article VI entitled "Mercury" be added to Chapter 28 of the Duluth city code, 1959, as amended, and shall read as follows:

Article VI. Mercury.

Sec. 28-60. Findings of fact and statement of purpose.

The Duluth City Council finds that it is in the public interest to protect persons in the area from toxic mercury pollution. It further finds that the elimination of mercury containing devices such as small thermometers which may enter the solid waste stream is in the public interest. It also finds that enactment of an ordinance prohibiting the sale of mercury fever and basal thermometers in Duluth is consistent with the state policy on mercury expressed in Minnesota Statutes Section 116.92.

Sec. 28-61. Sale of mercury fever or basal thermometers prohibited.

No person shall sell at retail or offer for sale at retail within the city any fever thermometer or basal thermometer containing mercury.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 16, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 6, 2000
Approved March 6, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 27, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on November 22, 1999, were unanimously adopted.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0327-01 Peter Pappas, et al. (11 signatures), submitting petition to reclassify from S suburban to R-1-b residential the southerly 84 feet of the E1/2 of the E1/2 of the NW1/4 of the NW1/4. -- Assessor

00-0327-02 Adele Yorde, et al. (22 signatures), submitting petition for the permanent improvement of Valley Drive from center of Section 12 to Oxford Street to include Lots 67-72, Hidden Valley Division, and Lots 23-38, Rearrangement of Morley Heights First Addition. -- Assessor

00-0327-15 Arrowhead Builders Association submitting letter regarding Demolition Landfill Service court ruling (99-0395R). -- Received

00-0327-16 The following submitting communications regarding issuance of a special use permit for the West Gate Townhouse project (00-0207R): (a) Bill, Scott and Joan Brennan; (b) Gloria Haaker; (c) Benedict and Connie Haller; (d) Duane Keinanen; (e) Larry and Maureen Lundberg; (f) Dick and Kathy McClarey; (g) Gloria Napoli; (h) Dave and Linda O'Connor; (i) Don and Marlene Pedersen; (j) Robert Pedersen, owner of Allyndale Motel; (k) Wallace and Shirley Pfister; (l) Allen and Mary Palusky; (m) Theodore and Clarice Stockland; (n) Sally Sturm; (o) Stanley and Marilyn Wabik. -- Received

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REPORTS OF OFFICERS

00-0327-03 Assessor submitting:

(a) Affidavit of mailing of notices of public hearings by the special assessment board as follows:

(1) March 21, 2000, at 4:30 p.m. for the proposed reassessment of costs for street and utilities in Parkwood;

(2) March 21, 2000, at 4:45 p.m. for the proposed improvement of Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East;

(3) April 5, 2000, at 4:30 p.m. and 7:00 p.m., and April 10, 2000, at 8:00 p.m. for the proposed 2001 street improvement program;

(4) April 3, 2000, at 4:30 p.m., for the continuation of hearing for the proposed improvement of street and utilities in Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East. -- Clerk

(b) Letter of sufficiency of the petition to vacate westerly 125 feet of the alley between and adjacent to Lots 1 through 5, Block 6, and Lots 1 through 5, Block 7, Harrington's Addition, and the easterly seven feet of 39th Avenue West between West Superior Street and

West Michigan Street, adjacent to Lot 1, Block 6, and Lot 1, Block 7, Harrington's Addition; and the westerly seven feet of 39th Avenue West between West Superior Street and West Michigan Street adjacent to Lot 1, Block 5, and Lot 1, Block 8, Harrington's Addition. -- Received

00-0327-04 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from St. James Church on: (a) May 1; (b) August 1; (c) November 1, 2000; (d) February 1, 2001. -- Received

00-0327-05 Community development and housing division submitting HRA housing rehabilitation report for January 2000. -- Received

00-0327-06 Engineering division submitting monthly project status report of March 1, 2000. -- Received

00-0327-29 Treasurer submitting sales tax rules and regulations. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

00-0327-07 Building appeal board minutes of February 9, 2000, meeting. -- Received

00-0327-08 Duluth transit authority minutes of: (a) December 29, 1999; (b) January 26, 2000, meetings. -- Received

00-0327-09 Heritage preservation commission minutes of: (a) November 10, 1999; (b) February 15, 2000, meetings. -- Received

00-0327-10 Parks and recreation commission minutes of: (a) December 8, 1999; (b) January 12; (c) February 9, 2000, meetings. -- Received

00-0327-11 Planning commission minutes of: (a) January 11; (b) January 26; (c) February 8; (d) February 23, 2000, meetings. -- Received

00-0327-12 Seaway Port authority of Duluth: (a) Minutes of: (1) August 31, 1999; (2) January 27, 2000, meetings; (b) Balance sheet of December 31, 1999; (c) Budget format of January 27, 2000. -- Received

00-0327-13 Spirit Mountain recreation area authority minutes of January 31, 2000, meeting. -- Received

00-0327-14 Tree commission submitting motion adopted March 14, 2000, recommending the creation of a citizen advisory committee for the comprehensive plan, to be composed of citizens of Duluth who have expertise in planning and planning related fields, including an elected representative from the tree commission. -- Received

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REPORTS OF COUNCIL COMMITTEES

Councilor Stewart reported that a personnel committee meeting was held this evening to interview C.J. Bird, Neil Glazman and Kamal Gindy for appointment to the human rights commission and that the resolution will be voted on this evening.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

K.L. Lewis spoke regarding boat safety in Canal Park and Park Point; and the lack of fire escapes on buildings on the lower side of Superior Street from Lake Avenue to First Avenue East.

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RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 00-0138, confirming appointments of C.J. Bird, Neil Glazman and Kamal Gindy to the human rights commission replacing Connie Saristo,

Russel Stover and Chau Nguyen, from the table, which motion was seconded and unanimously carried.

Resolution 00-0138 was adopted as follows:

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION

C.J. Bird for a term expiring March 1, 2003, replacing Connie Saaristo.

Neil J. Glazman for a term expiring March 1, 2003, replacing Russell Stover.

Kamal S. Gindy for a term expiring March 1, 2003, replacing Chau Nguyen.

Resolution 00-0138 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

President Gilbert moved to remove Resolution 00-0074, designating Cleveland Street from Kenwood Avenue 900 feet westerly as a resident permit parking zone; and specifying a fee for residents' parking permits, from the table for the purpose of hearing speakers, which motion was seconded and unanimously carried.

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

Chauncey and Terri Riggs and K.L. Lewis, speaking on the issue, noted that: this parking problem is caused by Peak Bagel employees who work in the Kenwood Shopping Center; the street is only 21 feet wide and has no sidewalks; when people park on the street, it is unsafe for pedestrians who must walk in the street; individuals park too close to the stop sign which forces local traffic to stop in the intersection; and suggested that speed bumps be placed on the neighboring streets to slow the traffic.

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

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of Contract #5321, Bayhill Drive (total assessable amount \$68,689.11) be and the same is hereby confirmed.

Resolution 00-0175 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Cellular One Duluth/Superior (\$63,300) and Airtouch Cellular/Bellevue (\$25,950) be and hereby are awarded a contract for furnishing and delivering cellular air time service and hardware for the various departments in accordance with specifications on their low

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

specification bids for a total amount of \$89,250, terms net 30, FOB job sites, various funds, dept./agencies, organizations and objects.

Resolution 00-0131 was unanimously adopted.
Approved March 27, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Grandma's Marathon Duluth, Inc., Morse Street and Canal Park Drive, for June 16, 17 and 18, 2000, with Scott Keenan, manager, with the music and serving ceasing at 12:30 a.m.

Hermantown Volunteer Fire Department, 4015 Airpark Boulevard, for April 15, 2000, with Todd Pelkey, manager.

Resolution 00-0192 was unanimously adopted.
Approved March 27, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license, for the period ending August 31, 2000, subject to departmental approvals, and the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

J&J Jauss, Inc. (Gary Liquors), 1431 Commonwealth Avenue, with Jeffrey Jauss, 50 percent stockholder, and Joan Jauss, 50 percent stockholder, transferred from Gary Vegas, Inc. (Buffalo Outpost), same address.

Resolution 00-0193 was unanimously adopted.
Approved March 27, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the liquor control commissioner issuing the following bottle club license renewal for the 2000-2001 license period, subject to departmental approvals and the payment of sales and property taxes:

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

Resolution 00-0195 was unanimously adopted.
Approved March 27, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas bounded by Commerce Street, the Lakeshore, Canal Park Drive and Lake Avenue during the marathon on June 17, 2000, and confined to the fenced in parking lot at night on June 16-18, 2000, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 00-0196 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1. American Red Cross	T-Bonz	March 1, 2000
2. Duluth Curling Club	RT Quinlan's Saloon	March 7, 2000
3. Duluth Softball Players Association	Charlie's Club	March 6, 2000
4. Duluth Softball Players Association	Tom's Junkyard	March 6, 2000

Resolution 00-0197 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the University of Minnesota, Duluth, establishing a work study program; the agreement to contain the terms and be in substantially the form as the agreement which is on file in the office of the city clerk as Public Document No. 00-0327-17; expenditures to be made from Fund 100, Agency 200, Org. 1620, and the term not to exceed two years.

Resolution 00-0198 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering two John Deere Model F1145 front mower with 72 inch mower deck for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

the street/park maintenance division in accordance with specifications on its low specification bid of \$32,384.52, terms net 30, FOB destination, \$14,000 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V008 and \$18,384.52 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V010.

Resolution 00-0213 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Falls Automotive, Inc., be and hereby is awarded a contract for furnishing and delivering a G.M.C. Classic Sierra one ton pickup truck with eight foot box, service body and lift gate for the facilities management maintenance shop in accordance with specifications on its low specification bid of \$30,000, terms net 30, FOB shipping point, payable out of Capital Equipment Fund 250 Dept/Agency 015, Organization RS00, Object V017.

Resolution 00-0216 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Grossman Chevrolet Company, Inc., be and hereby is awarded a contract for furnishing and delivering a 2000 Chevrolet 3500 Express cargo van, 9,500 GVWR for the facilities management maintenance shop division in accordance with specifications on its low specification bid of \$18,765.16, terms net 30, FOB shipping point, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V016.

Resolution 00-0217 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ALCOHOL, GAMBLING AND TOBACCO COMMISSION

William A. Carlson for a term expiring March 20, 2002.

Robert Hendrickson for a term expiring March 20, 2002.

Arnold C. Johnson for a term expiring March 20, 2002.

Edwin S. Levey for a term expiring March 20, 2001.

Ronald McKinnon for a term expiring March 20, 2003.

David A. Nyquist for a term expiring March 20, 2001.

Allen Willman for a term expiring March 20, 2001.

Resolution 00-0157 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STEWART:

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

ANIMAL HUMANE BOARD

Gerald Abelsen for a term expiring October 31, 2001, replacing John Bray who resigned. Resolution 00-0158 was unanimously adopted.

Approved March 27, 2000

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

Russ Stewart (city council) for a term expiring November 8, 2001, replacing Marcia Hales. Resolution 00-0162 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Joseph Perfetti (Lincoln Park) for a term expiring March 1, 2002, replacing Patricia Sobczak who resigned.

Resolution 00-0174 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of North 11th Avenue West legally described as that portion of 11th Avenue West according to the Plat of Duluth Proper Second Division, located west of a line described as follows: commencing at the southern most corner of Lot 182, Block 67, Duluth Proper Second Division; thence northerly on and along the west line of Lot 182 a distance of 30 feet; thence turning 90 degrees east to the west right-of-way line of Summit Avenue/11th Avenue West which is the point of beginning; thence continuing easterly to a point three feet east of said west right-of-way line; thence turning 90 degrees north to a point of intersection with the west right-of-way line of said Summit Avenue/11th Avenue West; thence southerly along the westerly right-of-way line of said Summit Avenue/11th Avenue West to the point of beginning and there terminating; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its June 23, 1999, meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of 11th Avenue West described above and as more particularly described on Public Document No. 99-0712-14.

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

Resolution 00-0179 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Target Corporation has submitted to the city council a request for C-5 plan approval, in accordance with Section 50-140(a) of the Code, for an addition of 25,935 square feet of floor space on property described as: all that part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ except the southerly 33 feet and easterly 33 feet reserved for road purposes, in Section 18, T50, R14, excepting the northeasterly portion dedicated for Mall Drive and located at 1902 Miller Trunk Highway; 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 compliance with the appropriate standards of the ordinance have been met.

NOW, THEREFORE, BE IT RESOLVED, that C-5 plan approval is hereby granted to Target Corporation for the addition of 25,935 square feet of floor space to the Target Store located at 1902 Miller Trunk Highway, on the condition that the addition be limited to, constructed and maintained in accordance with documents as identified as Public Document No. 00-0327-18 and the following term and condition:

That, prior to the issuance of any construction permits, a written maintenance agreement for the stormwater management pond and aggressive parking lot sweeping be filed with the planning department and the engineering division.

Resolution 00-0180 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

BE IT RESOLVED, that the city council makes the following findings of fact and conclusions supporting its issuance of a special use permit on February 29, 2000, to William Brakken and Rebecca Sieve for operation of a bed and breakfast homestay at 2617 East Third Street:

(a) William Brakken and Rebecca Sieve duly applied for a special use permit to operate a bed and breakfast homestay at 2617 East Third Street in Duluth, Minnesota;

(b) The original application was proper and was presented to the planning commission, which approved it. It was then presented to the city council. After affording all parties ample opportunity to address the issues, reviewing the applicable ordinance, receiving written reports and presentations, and conducting considerable public debate, the application was denied, by defeat of resolution 00-0005 (by vote as follows: Yeas: Fena, Stewart and Stover - 3, Nays: Eckenberg, Edwards, Hogg, Ness, Stenberg and President Gilbert - 6), and based upon

the findings reported in Resolution 00-0106 (by vote as follows: unanimous), which passed February 14, 2000;

(c) The applicants then changed their plan of design and operation for a bed and breakfast homestay at the location. A structural addition that was part of the first proposal was dropped, among other changes. They made a new application in conformance with City Code Section 5-35(d);

(d) The application was considered by the planning commission, was found to be in compliance, and was approved. All interested parties were given an opportunity to make presentations to the planning commission;

(e) The application came before the city council as Resolution 00-0116. The council received written presentations, oral communication and the record of the planning commission action. Some members visited the scene and spent over two hours talking to residents. All interested parties were given ample opportunity to present information to the council. Many written submissions were received. Many individuals appeared at the council meeting on February 29, 2000, and addressed the council, both for and against the application. Every interested party was given ample opportunity to present information to the council. The council debated and deliberated. It consulted the ordinances involved;

(f) The council determined that the premises in question is a historically and architecturally unique residential property, properly certified by the historic preservation commission; that it is a residential building which has for many years served as a residence for the prior owner and residents renting from the prior owner; that for many years the prior residents maintained and used many vehicles on the premises; that the prior owner operated his construction business from the premises; that the current proposal is significantly different than the one that was rejected; that the proposed bed and breakfast use will maintain and continue the character and quality of residential use of the property which has existed for the past many years; that the presence of bed and breakfast guests, in the proposed rooms for them, and in the proposed number of them, will present the continuing perception that the premises are a private home with house guests, just as the residence was perceived for the past many years when it was used for commercial and rental activities; that the special use permit has safeguards that protect whatever current or foreseeable comprehensive plan applies (as also found by the planning commission); that experience of the city and expert opinion indicate that the proposed use will not adversely affect property values in this neighborhood; that the proposed number of customers will not adversely change the traffic or safety of the neighborhood; that all city ordinances will be complied with by the proposed use; that the history, sequence of events, and reported plans of the applicants, who will occupy and conduct their family life on these premises where they will be domiciled, and specifically wish to be domiciled, in order to carry out a specific life goal to live in Duluth, and where they will pay taxes under a homestead classification, and other evidence, all indicate that the primary use of the premises will be as a single family dwelling of the applicants, and the bed and breakfast homestay is a subordinate use; that the operation of the bed and breakfast will contribute to the general good of the community, the tourist industry, the preservation of a significant old residence, the maintenance of the tax base and the preservation of the neighborhood from deterioration that results from the high cost of maintaining large, old, homes; that other bed and breakfast operations in this part of town have helped preserve the unique character of the area by preserving large old buildings and the same can be expected in this case;

(g) The council then concluded that the proposed use, and permit conditions, were in the best interests of the community and of the neighborhood, complied with the applicable laws, and furthered the policy of the bed and breakfast ordinance (City Code Section 50-35(d)) and approved the special use permit (by the following vote: Yeas: Eckenberg, Fena, Ness, Stewart and Stover - 5, Nays: Edwards, Hogg, Stenberg and President Gilbert - 4);

(h) This resolution, the records of the planning commission, the records of the city council, including video tapes of meetings, and the written and oral presentations of citizens and staff constitute the record of the proceedings in this matter.

Resolution 00-0189 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Duluth economic development authority has filed a sufficient petition with the city clerk requesting the vacation of portions of 39th Avenue West and the alley between 38th and 39th Avenues West between West Michigan and Superior Streets legally described as:

The westerly 125 feet of the alley between and adjacent to Lots 1 through 5, Block 6, and Lots 1 through 5, Block 7, Harrington's Addition, St. Louis County, Minnesota; and the easterly and westerly seven feet of 39th Avenue West between West Superior Street and West Michigan Street, adjacent to Lot 1, Block 5, Lot 1, Block 8, Lot 1, Block 6, and Lot 1, Block 7, Harrington's Addition, St. Louis County, Minnesota; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its March 14, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of portions of 39th Avenue West and the alley between 38th and 39th Avenues West between West Michigan and Superior Streets described above, and as more particularly described on Public Document No. 00-0327-19.

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

Resolution 00-0205 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the Western Lake Superior Sanitary District has submitted to the city council a request for a use permit in accordance with Section 50-107(k) of the Duluth City Code to conduct a food waste compost pilot project on property described as Block K, Auditors Plat No. 4, and located at 2600 Courtland Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 Western Lake Superior Sanitary District to conduct a food waste compost pilot project at the compost yard waste facility at 2600 Courtland Street subject to the following conditions:

(a) That the pilot project be limited to the study period of April through December 2000, and maintained in accordance with the project description and plans submitted by Western Lake Superior Sanitary District, entitled "Western Lake Superior Sanitary District Organic Compost Pilot Project," as identified as Public Document No. 00-0327-20;

(b) That should the pilot project create odors that reach beyond the boundaries of the property or attract vermin, the pilot project materials shall be removed from the site and properly disposed of.

Resolution 00-0206 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment substantially in the form of the copy on file in the office of the city clerk as Public Document No. 00-0327-21 to the neighborhood matching grant funds agreement with the Lower Chester Hockey Association, extending the term of the agreement for a period of six months with no change in project costs.

Resolution 00-0208 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized and directed to execute a management agreement filed as Public Document No. 00-0327-22 between the city of Duluth and Harold and Sally Ramey, husband and wife, to lease the Park Point Beach House for the 2000 season (May 15 - September 30). Lessee agrees to operate a concession at the Park Point Beach House, rent the facility to third parties in exchange for a flat fee of \$200 plus five percent of gross revenues from all concession sales and building rentals. Lessee shall also have responsibility for keeping the interior space of the beach house clean, including washroom facilities and exterior spaces adjoining the beach house building. Revenues received shall be deposited into administrative services department, facilities management division, General Fund 100, Department 015, Division 1515, Line Item 4623.

Resolution 00-0177 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that R-Z-GO Textron Corporation, Inc., be and hereby is awarded a contract for leasing approximately 80 golf carts and six utility carts for the golf division in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

specifications on its low specification bid of \$53,160, terms net 30, FOB destination, payable out of Golf Enterprise Fund 503, Dept./Agency 400, Organization 0500, Object 5415.

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

Resolution 00-0191 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

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

WHEREAS, the Duluth Transit authority has requested 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 1999 and 2000 with the understanding that a list of these grants and the dollar amounts involved will be provided to councilors when finalized.

Resolution 00-0209 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are authorized to execute a contract 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 Cooperative during the period April 1, 2000, through December 31, 2000; payments thereunder in the estimated amount of \$2,800 to be deposited in the library General Fund 100-300-1702-4403 and in the estimated amount of \$300 for reference materials to be deposited in 100-300-1702-4400.

Resolution 00-0212 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into the agreement filed as Public Document No. 00-0327-23, which agreement will provide for the Duluth Entertainment Convention Center to manage events at the Bayfront festival site for 2000, at a cost of \$17,500, payable from Fund 100, Agency 015, Org. 2500, Object 5319.

Resolution 00-0219 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of Public Document No. 00-0327-24, on file in the office of the city clerk, with the Duluth state convention center administrative board, for the organization and promotion of the FourthFest on July 4, 2000, in an amount of \$25,000, payable from Special Projects and Events Account 100-015-2030.

Resolution 00-0220 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 00-0327-25, with the Minnesota department of economic security to provide services under Title I of the Workforce Investment Act as defined in the local workforce investment plan. Contract dates run from April 1, 2000, through March 31, 2003. Program funds will be accepted upon receipt of notices of funds available and shall be deposited in Fund 268.

Resolution 00-0211 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering Class 5 gravel, bedding sand and crushed rock for the various public works and utilities department/divisions in accordance with specifications on its low specification bid of \$75,503.51, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations and objects.

Resolution 00-0178 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Cummings Chrysler Dodge, Inc., be and hereby is awarded a contract for furnishing and delivering two Dodge Ram pickup trucks for the public works and utilities department in accordance with specifications on its low specification bid of \$52,940.71, terms net 30, FOB destination, payable out of Water Fund 510 (\$21,796.64) and Gas Fund 520 (\$31,761.07), Dept./Agency 900, Organization 0505, Object 5580.

Resolution 00-0200 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Grossman Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering three Chevrolet Express cargo vans for the public works and utilities department in accordance with specifications on its low specification bid of \$58,184.72, terms net 30, FOB destination, payable out of Water Fund 510 (\$23,273.89) and Gas Fund 520 (\$34,910.83), Dept./Agency 900, Organization 0505, Object 5580.

Resolution 00-0201 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved March 27, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Falls Automotive, Inc., be and hereby is awarded a contract for furnishing and delivering a Dodge Intrepid automobile for the public works and utilities department in accordance with specifications on its low specification bid of \$17,779.43, terms net 30, FOB destination, payable out of Water Fund 510 (\$7,117.77) and Gas Fund 520 (\$10,667.66), Dept./Agency 900, Organization 0505, Object 5580.

Resolution 00-0202 was unanimously adopted.

Approved March 27, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Kerotest Manufacturing, Inc., be and hereby is awarded a contract for furnishing and delivering approximately five weld end valves, Model M-1, six inch, eight inch and ten inch, for the gas division in accordance with specifications on its low specification bid of \$20,091.22, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 00-0214 was unanimously adopted.

Approved March 27, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that St. Joseph Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering two Case Model 580SL tractor backhoe loaders for the public works and utilities department/water, gas and sewer division in accordance with specifications on its low specification bid of \$128,244.90, terms net 30, FOB destination, \$23,256.62 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580, \$38,878.67 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580 and \$66,109.61 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 00-0215 was unanimously adopted.

Approved March 27, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that St. Germain's Paint Company be and hereby is awarded a contract for furnishing and delivering 2000 annual miscellaneous paints and supplies as needed for the various public works and utilities department/divisions in accordance with specifications on its low specification bid of \$15,000, terms net 30, FOB pick up, payable out of various funds, dept./agencies, organizations and objects.

Resolution 00-0135 was unanimously adopted.

Approved March 27, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of Garfield Avenue and Port Terminal from I-535 ramp to the Duluth Harbor line for the engineering division in accordance with specifications on its low specification bid of \$418,920.12, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2140, Object 5530. Construction will be funded with 80 percent federal aid in the amount of \$335,136.10. The remaining 20 percent, in the amount of \$83,784.01, will be shared by the city of Duluth and Seaway Port authority of Duluth. The city's share of the cost for the project is \$11,143.26.

Resolution 00-0186 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0481 to Levine and Son, Inc., for construction of a sanitary sewer in 22nd Avenue West be amended to increase the amount by \$17,699, for a new total of \$43,530, payable out of Community Development Fund 262 (\$10,169) and Sewer Construction Fund 531 (\$7,520), Depts./Agencies 621 (\$10,169) and 500 (\$7,520), Objects 6144 (\$10,169) and 5532 (\$7,520).

Resolution 00-0188 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement for services with the Duluth housing and redevelopment authority relating to implementation of a federal drug elimination grant program, which documents are on file in the office of the city clerk as Public Document No. 00-0327-26. All grant funds shall be deposited in Police Grant Fund 215, Agency 200, Org. 2437.

Resolution 00-0181 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a \$10,000 grant from the Minnesota department of labor and industry and to execute the grant contracts on file with the city clerk as Public Document No. 00-0327-27, for the city of Duluth fire department's purchase of thermal imaging cameras.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into Fund 210, Agency 030, Org. 2180.

Resolution 00-0184 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the Duluth fire department is hereby authorized on behalf of the city to submit a grant proposal to the Minnesota department of public safety, state fire marshal division, division of emergency management, to continue operation of a regional hazardous materials emergency response/chemical assessment team.

RESOLVED FURTHER, that the Duluth fire chief is hereby designated as the person authorized to administer, on behalf of the city, any contract which may result from submittal of such grant proposal.

Resolution 00-0204 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 00-0187, awarding contract to Waste Management, Inc., for garbage/refuse removal, in the amount of \$103,100, was introduced for discussion.

Administrative Assistant Winson explained the reasons for making this a five year contract and the terms by which it can be terminated by either party.

Councilor Hogg stated that in making this contract renewable for five years, the council is being deprived of its right to oversee and approve future contracts. He moved to amend the resolution by deleting the entire last paragraph, which motion was seconded and unanimously carried.

Resolution 00-0187, as amended, was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that Waste Management, Inc., 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 \$103,100, terms net 30, FOB job site, payable out of various funds, dept./agency various, organization various, Object 5384.

Resolution 00-0187, as amended, was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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Resolution 00-0194, by Councilor Edwards, approving the issuance of a temporary on sale intoxicating liquor license to Marshall School, 1215 Rice Lake Road, and Northland Vietnam Veterans Association, 4015 Airpark Boulevard, was introduced for discussion.

Councilors Hogg and Stenberg stated that they will not vote against this resolution; however, they raised questions about the appropriateness of schools selling liquor to raise funds and what message it sends to its students about the consuming of alcohol.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilor Stewart stated that he prefers that the council not become overly moralistic in its issuance of liquor licenses.

Resolution 00-0194 was adopted as follows:

BY COUNCILOR EDWARDS:

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

Marshall School, 1215 Rice Lake Road, for May 4 and 5, 2000, an application fee of \$400, with Becky Lindberg, manager.

Northland Vietnam Veterans Association, 4015 Airpark Boulevard, for April 21, 2000, an application fee of \$200, with Robert Woods, manager.

Resolution 00-0194 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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At this time, 8:10 p.m., President Gilbert declared the public hearing regarding the DTA summer teen pass rate reduction would begin (Public Document No. 00-0327-28).

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At this time, 8:17 p.m., President Gilbert closed the public hearing and resumed the council meeting.

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BY COUNCILOR NESS:

WHEREAS, the Duluth transit authority in 1999, with the cooperation of the Northland Foundation and its Alliance with Youth Committee, offered a summer pass for teen riders for the first time; 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 2000; 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 rate of \$30 for the summer or \$10 per month for the months of June, July and August, 2000.

Resolution 00-0210 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of that portion of Myrtle Street legally described as: Myrtle Street adjoining Lots 1 and Lot 16, Block 32, including vacated alley, and Lots 8 and 9, Block 23, Duluth Heights Sixth Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning

commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the city planning commission unanimously approved the vacation petition at its April 13, 1999, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of Myrtle Street described above, and as more particularly described on Public Document No. 99-0510-12.

BE IT FURTHER RESOLVED, that a 30 foot wide utility easement, ten feet south of the centerline and 20 feet north of the centerline of Myrtle Street be retained.

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

Resolution 00-0185 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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Resolution 00-0207, by President Gilbert, granting a townhouse or group dwellings special use permit to Sherman Associates for property located on the east side of West Gate Boulevard at 67th Avenue West, was introduced for discussion.

Councilor Hogg stated that a committee meeting has been scheduled regarding this issue.

Responding to President Gilbert, Mr. Winson acknowledged that there is time for the council to have a committee meeting and act on the resolution before the 120 days has elapsed that would allow the permit to be granted by default.

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

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Resolution 00-0222, by Councilors Stewart and Stover, expressing concern and support for the workers of United Steel Workers of America Local 1028 and urging ME International to end the current lockout, was introduced for discussion.

Councilor Stover stated that it is important that the city support its citizens in a dispute such as this.

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

Bruce Lotti and Sam Differding, representing United Steel Workers of America Local 1028, thanked the council for its support and explained the status of the lockout in detail.

K.L. Lewis supported the resolution and offered suggestions that she said she believes will help in settlement of this dispute.

Resolution 00-0222 was adopted as follows:

BY COUNCILORS STEWART AND STOVER:

WHEREAS, Local 1028, United Steel Workers of America, is presently locked out by ME International after an unconditional offer to return to work thereby ending their six month strike over safety and working conditions; and

WHEREAS, the city council recognizes the right of employees to organize and exercise their lawful rights under the National Labor Relations Act and to engage in actions to better their working conditions through various means including strikes; and

WHEREAS, the city council recognizes that Local 1028 has unconditionally offered to return to work and was denied this option by ME International thereby imposing a lockout on the members of Local 1028;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby expresses its concern and support for the locked out members of Local 1028, United Steel Workers of America, and urges ME International to immediately end the lockout and to return to the bargaining table and negotiate a fair and equitable settlement to this dispute.

Resolution 00-0222 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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Resolution 00-0218, by Councilor Eckenberg, awarding contract to United Piping, Inc., for construction of ten inch steel high pressure gas main and related work in Airport Road from Haines Road to Rice Lake Road and in Rice Lake Road from Airport Road to Airpark Boulevard, in the amount of \$322,872.50, was introduced for discussion.

Responding to councilors, Mr. Winson stated that the purpose of this gas main is to extend service to a larger area and to increase pressure, which has been diminished, and that assessment to recover the cost of the main is not generally made in this circumstance because the city owns and is responsible for maintenance of the main.

Councilor Hogg expressed concern that the city is currently unable to recover the costs by the assessment process and requested a plan for how the city does plan to recover the costs. He moved to return the resolution back to the administration, which motion was seconded and unanimously carried.

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BY COUNCILOR STOVER:

WHEREAS, the commissioner of the department of transportation has prepared a preliminary layout for the improvement of a part of Trunk Highway No. 53, renumbered as Trunk Highway No. 204, within the corporate limits of the city of Duluth from the vicinity of Piedmont Avenue from I-35 to 24th Avenue West and seeks the approval thereof; and

WHEREAS, said preliminary layouts are on file in the office of the department of transportation, St. Paul, Minnesota, being marked, labeled and identified as Layout No. 1.

NOW, THEN, BE IT RESOLVED, that said preliminary layouts for the improvement of said trunk highway within the corporate limits be and hereby are approved.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to Mn/DOT district engineer.

Resolution 00-0182 was unanimously adopted.

Approved March 27, 2000

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT GILBERT

00-008 - AN ORDINANCE AUTHORIZING RESALE OF CERTAIN PROPERTY IN GARY-NEW DULUTH TO THE STATE FOR RESALE TO ADJACENT OWNER.

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The meeting was adjourned at 9:00 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 10, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0410-01 Lakefront Properties Partnership submitting petition to vacate the alley/utility easement of Lots 4-24 (and others) in Block 1, Langelliers Rearrangement of Block D. -- Assessor

00-0410-02 Ronald A. and Marie Weber submitting petition to vacate Industrial Avenue, an easement for highway purposes. -- Assessor

00-0410-04 Minnesota pollution control agency submitting certified copy of the findings of fact, conclusions and order in the matter of the petition to create the Duluth/North Shore sanitary district (00-0153R). -- Received

00-0410-05 Mary Barnett submitting communication regarding the proposed bed and breakfast inn at 2617 East Third Street (00-0106R). -- Received

00-0410-03 Charter Communications submitting: (a) Acceptance of terms of franchise agreement pursuant to Section 88 of the City Charter; (b) 1999 performance review. -- Received

00-0410-23 Harbor View Resident Management Corporation submitting communication regarding 2001 street improvement program (00-0247R). -- Received

00-0410-06 The following submitting communications regarding the proposed issuance of a special use permit for the West Gate Townhouse project (00-0207R): (a) Mary Ann and John J. Blasack; (b) Gitchee Gume Chapter of Trout Unlimited; (c) Raymond and Marilyn Haaker; (d) Denise and Dennis Johnson; (e) Roger H. and Helen J. Nelson; (f) Roni Seger Town. -- Received

00-0410-24 The following submitting communications regarding the proposed regulation of smoking in public places (00-009-O): (a) Forces Minnesota; (b) Mr. D's Bar and Grill. -- Received

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REPORTS OF OFFICERS

00-0410-07 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board or April 12, 2000, at 4:30 p.m., regarding the proposed improvement of Valley Drive from the center of Section 12 to Oxford Street - permanent street. -- Clerk

(b) Letters of sufficiency of petitions pertaining to the:

(1) Permanent street improvement of Valley Drive from center of Section 12 to Oxford Street;

(2) Reclassification from S suburban to R-1-B residential the southerly 840 feet of the E1/2 of the E1/2 of the NE1/4 of the NW1/4. -- Received

00-0410-25 Public works and utilities department director submitting 1999 annual report. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

- 00-0410-08 Citywide citizens advisory committee minutes of January 25, 2000, meeting. -- Received
- 00-0410-09 Civil service board minutes of February 1, 2000, meeting. -- Received
- 00-0410-10 Duluth airport authority minutes of February 15, 2000, meeting. -- Received
- 00-0410-11 Duluth housing commission and Duluth housing trust fund board minutes of: (a) January 13; (b) February 10, 2000, meetings. -- Received
- 00-0410-12 Housing and redevelopment authority: (a) Minutes of January 25, 2000, meetings: (1) Annual; (2) Regular; (b) Annual audit report for the year ended September 30, 1999. -- Received
- 00-0410-13 Special assessment board reports regarding the proposed: (a) Reinstatement of assessments on tax forfeit lots, Plat/Parcel 3754-200,340; (b) Improvement of Woodlawn Street from 48-1/2 to 52nd Avenue East. -- Received
- 00-0410-14 Spirit Mountain recreation area authority minutes of February 29, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Louise Curnow stated that this year is the 30 year anniversary of Earth Day and listed a variety of activities taking place this week in celebration of it. She encouraged councilors and the public to come out and participate in the scheduled events.

K.L. Lewis reiterated warnings regarding safety issues regarding boats and swimmers at Park Point, fire escapes, buses at Miller Mall, the intersection of East First Street at Fourth Avenue East and burned out bulbs in traffic lights in the Downtown area. She stated approval of the Bayfront presentation that was made recently.

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RESOLUTION TABLED

President Gilbert moved to remove Resolution 00-0207, granting a townhouse or group dwellings special use permit to Sherman Associates for property located on the east side of West Gate Boulevard at 67th Avenue West, from the table, which motion was seconded and unanimously carried.

Administrative Assistant Winson reviewed data (Public Document No. 00-0410-22) from: Keith Hamre, of the community development and housing division, regarding the number of handicapped accessible units required for a project like this; the Minnesota department of natural resources (DNR), regarding requirements and recommendations for DNR protected watercourses and designated trout streams as they relate to this project; City Attorney Brown, regarding the applicable laws regarding trout streams, special management areas, land improvements, shore land management, the requirements with regard to processing issues such as special use permits; and Jim Mohn, urban development division, regarding the water line that will serve this project, and a revised site plan that includes modifications as recommended by the DNR.

Councilor Hogg moved to suspend the rules to hear speakers on the resolution, which motion was seconded for discussion.

Responding to Councilor Hogg, Mr. Winson acknowledged that the site plans before the council would need to be revised to implement the DNR recommendations.

Responding to councilors, Mr. Brown stated that before the revised plan can be voted on by the council, the developer needs to resubmit it to the planning commission for approval. He

further stated that he is satisfied that the city was never notified by the state to add the trout stream headwaters being discussed to its maps, therefore, the city council technically is not obligated to adhere to the DNR recommendations.

Councilors discussed whether they should hear speakers on the issue tonight or vote the resolution down so that the revised plan can be resubmitted to the planning commission by the developer.

Councilors stated that it is their desire that the site plan include the DNR recommendations.

Councilor Hogg withdrew his motion to hear speakers.

Councilor Hogg stated that he is uncomfortable in not taking action on this resolution tonight because the deadline for action is so close. He recommended voting the resolution down and then request the developer to revise his plan so that it complies with DNR regulations.

President Gilbert urged the council not to conduct public testimony on this resolution because a new project must be submitted to the urban development division by the developer.

Councilors stated that it is unfortunate for the developer and the community that the city did not know of the protected waters' existence when this project was submitted to the urban development division and its subsequent extensive consideration by the planning commission. All councilors agreed that the resolution should be voted down before the deadline to vote is reached, not because the project is bad, but because of the process that has been followed. They encouraged the developer to move forward with another site plan that complies with DNR recommendations. Councilors requested that the issues of the snowmobile trail, wetlands and street improvements be addressed before bringing the project back to be voted on.

Councilor Ness stated that he has specific questions for the developer and believes only the developer can answer the questions raised by Mr. Brown. He stated that unless he is able to hear from the developer this evening, he cannot in good conscience vote on this resolution tonight.

Responding to statements regarding the process that was used in considering this project, Mr. Winson stated that although it is unfortunate that this tributary was unknown to the urban development division, the division and the planning commission worked diligently on this project with the resources it had available to get it presented to the council in a timely manner.

Councilor Hogg stated that the developer has had several opportunities to communicate with the council regarding this issue and that nothing the developer could say tonight could help the council in dealing with the legal issues that have been brought up. Councilor Hogg moved to call the question, which motion was seconded and passed upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Stover and President Gilbert -- 6

Nays: Councilors Ness, Stenberg and Stewart -- 3

Resolution 00-0207 failed upon the following vote (Public Document No. 00-0410-22):

Yeas: None -- 0

Nays: Councilors Eckenberg, Edwards, Fena, Hogg, Stewart, Stover and President Gilbert -- 7

Abstentions: Councilors Ness and Stenberg -- 2

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At this time President Gilbert called the public hearing regarding the year 2001 street improvement program to order.

City Engineer Brink stated that the resolution to be considered this evening orders the project in and will allow the engineering division to begin preliminary design work, surveying and

field inspections. He continued by saying that the year 2000 street improvement program rebuilds approximately four miles of city streets at a cost of approximately \$5.5 million and includes the neighborhoods of Cody North, Central Hillside, East Hillside Upper West, Hunters Park West, Lakeside Central, Woodland West Center, Congdon Park Central and Congdon Park West Lower. Mr. Brink stated that numerous neighborhood meetings have been held and that once the preliminary plans are in order, more neighborhood meetings will be held in the fall to discuss street widths, necessary utility improvements, tree removal and plantings, assessment costs and other neighborhood concerns. He explained how the process will work and how assessments for the improvements will be assessed.

Responding to Councilor Hogg, Mr. Winson stated that the cost for about six miles of street improvements was approximately \$7 million in 1999, and the cost for about five miles of street improvements was approximately \$6.5 million for the year 2000. He continued by saying that utilities are, in some cases, worse than others in the different areas, but costs do tend to rise with each year.

Responding to Councilor Hogg, Mr. Brink stated that assessments costs for the year 2000 will be \$40 per foot.

Rick Ball, representing the Housing and Redevelopment Authority (HRA), Claudia Maki, representing the Harborview Resident Management Corporation, and Barbara Tusher spoke in support of the inclusion of the 13th Street connection to Central Entrance in the 2001 street improvement program. It was stated that regardless of whether the HOPE 6 project is approved, a second entrance is necessary for safety reasons and to open up the neighborhood to the rest of the city.

Dave Jordett, representing his parents who are on a fixed income, stated that an estimated assessment for this project was received in the amount of \$2,000, which they cannot afford to pay. He noted natural conditions under the roadway that will make the project much more expensive than has already been estimated and that his parents object to the project because it will be cost prohibitive for them.

Councilors explained that the total amount for the project is averaged out and that each resident who is assessed will be assessed the same amount regardless of how much more one neighborhood costs to fix over another.

Dan Campbell and Jane Wattress expressed support for the addition of 30th Avenue East to the year 2001 street program. Safety hazards and mature trees on the boulevard were noted and it was requested that the engineering division work closely with the residents to save as many trees as possible.

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President Gilbert closed the public hearing at this time and the regular order of business was resumed.

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Councilor Stenberg moved to consider Resolution 00-0247, by Councilor Stover, ordering the improvement of the 2001 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$5,500,000, at this time, which motion was seconded and unanimously carried.

Resolution 00-0247 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. 00-0410-21 on file with the office of the city clerk; that the costs of said improvement estimated at \$5,500,000 shall be paid from the street improvement fund (Fund 440) and that 1/4 or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of one of the street improvements projects desires to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and city staff will be established to permit early involvement and public input on various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 00-0247 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that Environmental Trouble Shooters, Inc., be and hereby is awarded a continuing contract for remediation work at city of Duluth leak sites for the administrative services department in accordance with specifications on its low specification bid of \$32,411, terms net 30, FOB job site, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1651, Object 5319.

Resolution 00-0223 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering fuel for the administrative services department, in accordance with specifications on its low specification bid of \$363,150, terms net 30, FOB destination, payable out of various funds, various dept./agencies, various organizations, various objects.

Resolution 00-0238 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering four new Ford Taurus sedans for the Duluth police department in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

specifications on its low specification bid of \$59,768., terms net 30, FOB shipping point, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V004.

Resolution 00-0245 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

NEIGHBORHOOD ADVISORY COUNCIL

Chester P. Johnson (Morgan Park) and Deanne M. Westermann (West Duluth) for terms expiring March 1, 2003.

Resolution 00-0232 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

NEIGHBORHOOD ADVISORY COUNCIL

Claudia Lundquist (Lincoln Park) for a term expiring March 1, 2003, replacing Patricia Sobczak.

Resolution 00-0233 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Chester P. Johnson (Morgan Park) for a term expiring March 1, 2003.

Resolution 00-0239 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

MILLER CREEK JOINT POWERS BOARD

Edward Thamm for term expiring January 31, 2001, replacing Raoul Miller who resigned.

Resolution 00-0250 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the city of Duluth established a certain 1999 CDBG account; and
WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program passed a resolution recommending the funding change as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to reprogram \$16,575 from program income to the 1999 citywide street assessment program (Fund 262, Project #6126) for a total amount of \$201,575.

Resolution 00-0224 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 18400 with Neighborhood Housing Services of Duluth, Inc. (NHS), substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0410-15, reducing the amount of the agreement by \$81,871 and extending the term of the agreement.

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. 00-0410-15 with NHS in an amount not to exceed \$81,871, payable from 1997 program fund, Agency 620.

Resolution 00-0227 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the environmental advisory council has created the natural resources inventory committee which has developed a work plan for an environmental resources inventory for the city of Duluth in preparation for the creation of a comprehensive land use plan; and

WHEREAS, the city of Duluth is in the process of selecting a consultant to begin the process of developing the land use plan; and

WHEREAS, it is critical for natural resources information to be a basic data source for the plan; and

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 updating the wetlands inventory in the city.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application with the Minnesota department of natural resources in an amount of \$31,500 federal share funding (70 percent).

BE IT FURTHER RESOLVED, that the city of Duluth does agree, upon the offer of the grant, to obligate the \$13,500 from Fund 100, Org. 020, Obj. 1202 local share funding (30 percent) required to satisfactorily complete the proposed project and become eligible under the terms and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

conditions of the coastal management assistance grant program. Such funds shall be deposited into from Fund 100, Ag. 020, Org. 1202, Obj. 4230.

Resolution 00-0229 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

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 March 28, 2000, pursuant to DEDA Resolution No. 00D-015, a copy of which is on file in the office of the city clerk as Public Document No. 00-0410-16, is hereby approved.

Resolution 00-0230 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the city of Duluth act as the legal sponsor for a project contained in the redevelopment grant program to be submitted on April 12, 2000, and the mayor is hereby authorized to apply to the department of trade and economic development for funding of this project on behalf of the city of Duluth.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate project administration.

FURTHER RESOLVED, that the sources and amounts of the local match identified in the application, which are not coming from city of Duluth funds, are committed to the project identified.

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, that upon approval of its application by the state, the city of Duluth may enter into an agreement with the state of Minnesota for the above referenced project, and that the city of Duluth certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as are necessary to the receipt of said grant on behalf of the city.

Resolution 00-0261 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Duluth Area Family Services Collaborative to receive a time study funding grant in the amount of \$26,947.34. The grant shall be used to pay for part-time recreation staff and supplies in West Duluth neighborhoods for the period of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

January 1, 2000, through December 31, 2000. Such funds shall be deposited into Parks and Recreation Account #100-400-1812.

Resolution 00-0234 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Duluth Area Family Services Collaborative to receive a time study funding grant in the amount of \$27,000. The grant shall be used to pay for part-time recreation staff and supplies at Lower Chester/ Endion Community Centers for the period of January 1, 2000, through December 31, 2000. Such funds shall be deposited into Parks and Recreation Account #100-400-1812.

Resolution 00-0235 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Wahl's Enterprises, Inc., be and hereby is awarded a contract for furnishing and delivering a turf aerifier for the parks and recreation department in accordance with specifications on its low specification bid of \$10,822, terms net 30, FOB destination, payable out of Golf Enterprise Fund 503, Dept./Agency 400, Object 0505 and Object 5580 (\$5,000) and Special Leagues Fund 210, Dept./Agency 030, Organization 2190, and Object 5229 (\$5,822).

Resolution 00-0236 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement in substantially the form and containing the terms of the agreement on file with the city clerk as Public Document No. 00-0410-17, which agreement amends the current lease of Wade Stadium to Dukes Baseball, Inc.

Resolution 00-0237 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Turf Partners, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,400 bags of various fertilizers for the golf courses in accordance with specifications on its low specification bid of \$27,639.47, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 00-0240 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that Larson Chevrolet-Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering a one ton truck with plow, hoist and tipper for Enger golf maintenance in accordance with specifications on its low specification bid of \$40,529.46, terms net 30, FOB destination, payable out of Golf Enterprise Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 00-0243 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Swan and Associates, Inc., for the sum of not to exceed \$6,516, from Capital Fund 450, Ag. 015, Org. 1999, Obj. C901, for providing certain environmental engineering, monitoring, and abatement services to the city of Duluth in connection with demolition of the abandoned house at 5021 East Superior Street, 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. 00-0410-18.

Resolution 00-0252 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the St. Louis County board for the furnishing of meals for senior citizens for the period of January 1, 2000, through December 31, 2000. Monies collected under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6300, Revenue Source 4654.

Resolution 00-0221 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that pursuant to Minnesota Statute Section 161.36, the commissioner of transportation be appointed as agent of the city of Duluth to accept, as its agent, federal aid funds which may be made available for eligible transportation related projects.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with the commissioner of transportation filed as Public Document No. 00-0410-19, prescribing the terms and conditions of said federal aid participation as set forth and contained in Minnesota department of transportation agency Agreement No. 80133.

Resolution 00-0228 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of Public Document No. 00-0410-20, on file in the office of the city clerk, with St. Louis County, for cooperative testing of candidates for employment as police officers/deputy sheriffs, in an amount of \$15,600, payable from Fund 100, Agency 200, Org. 1610, Object 5441.

Resolution 00-0260 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction of ten inch steel high pressure gas main and related work in Airport Road from Haines Road to Rice Lake Road and in Rice Lake Road from Airport Road to Airport Boulevard for the public works and utilities department in accordance with specifications on its low specification bid of \$322,872.50. terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5532.

Resolution 00-0218 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Carlson and Kirwan be and hereby is awarded a contract for furnishing the management of the natural gas advertising program for the gas division for the year 2000 in the estimated amount of \$60,000, payable out of Gas Fund 520, Dept./Agency 900, Organization 0560, Object 5340.

Resolution 00-0241 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction of gas mains at various locations throughout the city for the public works and utilities department in accordance with specifications on its low specification bid of \$130,825, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0242 was unanimously adopted.
Approved April 10, 2000
GARY L. DOTY, Mayor

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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. 9098RS00).

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

\$575,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5329, Object 5530; that approximately \$125,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund; that approximately \$100,000 be payable from the Sanitary Sewer Utility Fund 530; that approximately \$230,000 be payable from the Water Utility Fund 510; that approximately \$20,000 be payable from the Gas Utility Fund 520; and that approximately \$100,000 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 00-0199 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a permanent street in Valley Drive from center of Section 12 to Oxford Street.

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

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

Resolution 00-0248 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay to Daryl W. Kruger the amount of \$10,484.16 in full settlement of all claims arising out of damage to his automobile caused by a collision with a city plow; payable from Self Insurance Fund 605.

Resolution 00-0251 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by the Resolution of Intent numbered 00-0023, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East, including permanent residential design street with concrete curb and gutter, bituminous surface, storm sewer, sanitary sewer, water main and gas main (City Job No. 9214RS00); 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 \$472,600, payable from the Special Assessment Fund 810, Agency 038, Organization 5330, Object 5530; that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited, which land and premises are described in the report of the special assessment board, and which report is on file in the office of the city clerk as Public Document No. 00-0410-13(b), and which description is hereby incorporated herein by reference to Public Document No. 00-0410-13(b); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 00-0253 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97.9 of the Duluth City Code, 1959, as amended, the following no stopping or standing zone is hereby established:

lower Michigan Street between 22nd Avenue West and 15th Avenue West and Michigan Street between 15th Avenue West and Superior Street (13th Avenue West).

Resolution 00-0225 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

BE IT RESOLVED, that in accordance with the provisions of the Section 33-17 of the Duluth City Code, 1959, as amended, the following segments of Michigan Street are no longer one way streets:

Michigan Street between 27th Avenue West and 22nd Avenue West;.

Michigan Street between 15th Avenue West and Superior Street (13th Avenue West).

BE IT FURTHER RESOLVED, this resolution to become effective only after construction of lower Michigan Street and said streets have been posted with proper signs indicating the change in designation.

Resolution 00-0226 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 1010-1/2 East Sixth Street;
front of 2724 West Third Street, "A";
front of 311 South 69th Avenue West;
front of 2811 Jefferson Street;
front of 124 West Seventh Street.

Resolution 00-0244 was unanimously adopted.

Approved April 10, 2000

GARY L. DOTY, Mayor

- - -

The following resolution was also considered:

Resolution 00-0246, by Councilor Fena, authorizing the city to lease antenna space on the Woodland water tower to the state of Minnesota for a consideration of \$135 per year, was introduced for discussion.

Councilor Hogg questioned why the state is not being charged the same fees for these services that private entities are charged. He noted that private entities are charged \$300 to \$400 per month for contracts such as this, and since the state owns numerous parcels of city land that have assessments attached for public improvements that the state does not pay for, he sees no reason to give the state a break.

Mr. Winson responded by stating that the city often utilizes the same services owned by the state for a nominal cost and this contract is an attempt to cover the city's cost for billing and maintenance.

Councilor Hogg requested that the administration provide documentation of the city's use of other governmental facilities such as this before voting on the resolution.

Councilor Fena 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 PRESIDENT GILBERT

00-010 - AN ORDINANCE AUTHORIZING CONVEYANCE OF NO-BUILD EASEMENT TO ST. LOUIS COUNTY FOR TRAIN MUSEUM REPAIR FACILITY.

- - -

BY PRESIDENT GILBERT AND COUNCILOR ECKENBERG

00-009 - AN ORDINANCE PERTAINING TO THE REGULATION OF SMOKING IN PUBLIC PLACES; ADDING A NEW ARTICLE VII TO CHAPTER 28, DULUTH CITY CODE, 1959, AS AMENDED.

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

K.L. Lewis stated that while she agrees with the theory of this ordinance, she is concerned of over legislation on matters such as this. She stated that more study on this issue is needed to determine what alternatives are available to taking measures such as this legislation to protect the public.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

The following entitled ordinance was read for the second time:
BY PRESIDENT GILBERT
00-008 (9442) - AN ORDINANCE AUTHORIZING RESALE OF CERTAIN PROPERTY IN GARY-
NEW DULUTH TO THE STATE FOR RESALE TO ADJACENT OWNER.

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

- - -

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9442

BY PRESIDENT GILBERT:

AN ORDINANCE AUTHORIZING RESALE OF CERTAIN PROPERTY
IN GARY-NEW DULUTH TO THE STATE FOR RESALE TO
ADJACENT OWNER.

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 the state of
Minnesota to allow resale to an adjacent property owner and execute all documents necessary
with regard to said conveyance:

Lots 1 and 2 and Lots 23 and 24, Block 9, Pittsburgh Addition.

Section 2. This ordinance shall take effect 30 days from and after its passage and
publication. (Effective date: May 14, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 10, 2000
Approved April 10, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 24, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of council meetings held December 6 and 20, 1999, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0424-01 Lakefront Properties Partnership submitting further petition (six signatures) to vacate the alley/utility easement of Lots 4-24 (and others) in Block 1, Langelliers Rearrangement of Block D. -- Assessor

00-0424-02 Dan Thompson, et al. (five signatures), submitting petition to reclassify from R-1-A to C-5 parcels in Township 49 North of Range 15 West of the Fourth Principal Meridian as follows: westerly 17 feet of the W1/2 of the E1/2 of the NW1/4 of the SW1/4 of Section 15; W1/2 of the W1/2 of the W1/2 of the NW1/4 of the SW1/4 Section 14; E1/2 of the W1/2 of the NW1/4 of the NW1/4 of the SW1/4 of Section 14 (9211 West Skyline Parkway). -- Assessor

00-0424-14 Minnesota department of natural resources submitting memo regarding West Gate Townhouse project (00-0207R). -- Received

00-0424-15 Sherman Associates submitting letter requesting reconsideration of Resolution 00-0207 for approval of a special use permit to construct Westgate Townhouse project. -- Received

00-0424-03 The following submitting communications regarding the proposed ordinance pertaining to smoking regulations in public places (00-009-O): (a) David Greenslit; (b) Ron and Diane Holmes; (c) Warren Klass; (d) Jack Little; (e) Larry Sundberg; (f) Debra Hannu; (g) Mayor of Madison, Wisconsin; (h) St. Luke's Hospital; (i) Sister Theresa Spinler OSB. -- Received

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REPORTS OF OFFICERS

00-0424-04 Assessor submitting letters of sufficiency of petitions to vacate:

(a) Alley/utility easement of Lots 4-24 (and others) in Block 1, Langelliers Rearrangement of Block D;

(b) Industrial Avenue (easement for highway purposes). -- Received

00-0424-05 Building official submitting appeal by Susan Headley Keller, Clayton Keller, Rod Johnson and Connie Johnson of the board of zoning appeals decision to reduce the minimum front yard setback from Lake Avenue South (double frontage) from 25 feet to six feet three inches for the construction of a new 26 feet by 84 feet dwelling, as per plans submitted by William Burns. -- Committee 2 (planning)

00-0424-06 Community development and housing division submitting HRA housing rehabilitation report for February, 2000. -- Received

00-0424-07 Engineering division submitting monthly project status report of April 1, 2000. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

00-0424-08 Building appeal board minutes of March 8, 2000, meeting. -- Received

00-0424-09 Duluth housing commission and Duluth housing trust fund board minutes of March 9, 2000, meeting. -- Received

00-0424-10 Duluth transit authority minutes of March 1, 2000, meeting. -- Received

00-0424-11 Parking commission minutes of: (a) February 8; (b) March 7, 2000, meetings. -- Received

00-0424-12 Parks and recreation commission minutes of March 8, 2000, meeting. -- Received

00-0424-13 Special assessment board: (a) Minutes of March 21, 2000, meeting continued on April 3, 2000; (b) Continuance of report, findings and recommendations regarding proposed improvement of Woodlawn Street from 48-1/2 to 52nd Avenue East. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis presented her concerns regarding traffic controls at First Street and Fourth Avenue East.

- - -

Tom Allnew noted his concern over the force of the government, citing the example of the way a Cuban youth was removed from his relatives.

- - -

Chauncey and Teresa Riggs expressed their concern over the parking situation on Cleveland Street and suggested two hour parking or no parking from the alley to Kenwood Avenue.

Councilor Hogg stated that he is working on a location where Peak Bagel employees can park so the use of legislation to resolve the issue would not be needed.

- - -

George Sherman, developer of the West Gate Townhouses, noted that: the development process has been going on for 14 months; he has attended seven public hearings; there was a public hearing on the issuance of tax credits for this development in 1999; the Duluth housing commission and city council approved the issuance of tax credits; on April 10, 2000, the department of natural resources (DNR) just made recommendations on the project, not requirements, because the DNR has no regulatory authority in this case; those DNR recommendations could be accomplished with just a change in grading to the retention ponds, with no change to the site plan; the developer and DNR representatives were in attendance at the April 10, 2000, meeting and had they been allowed to address the council, the matters could have been clarified at that time.

Mr. Sherman expanded upon issues of his letter of April 24 (Public Document No. 00-0424-15).

- - -

Tom Klenz and Paul Sandholm voiced their concerns that Wallace Avenue needs to be done this year, citing the water runoff problems, the parking issue, the increase in traffic with the 26th Avenue East improvements, the safety without a sidewalk and assessment costs if this is not done this year.

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RESOLUTION TABLED

Councilor Fena moved to remove Resolution 00-0246, authorizing the city to lease antenna space on the Woodland water tower to the state of Minnesota for a consideration of \$135 per year, from the table, which motion was seconded and unanimously carried.

Resolution 00-0246 was adopted as follows:

BY COUNCILOR FENA:

RESOLVED, that the proper city officers are authorized to enter into an agreement, substantially in the form of the agreement filed as Public Document No. 00-0424-16, leasing to the state of Minnesota a space on the Woodland water tower and space in an adjacent pump house for installation of communications antennas and equipment for a consideration of \$135 per year, said money to be deposited in Water Fund No. 510.

Resolution 00-0246 was unanimously adopted.
Approved April 24, 2000
GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

President Gilbert 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, 2000, to April 30, 2001, in the amount of \$3,452,373 for the Spirit Mountain recreation area authority is hereby approved.

Resolution 00-0262 was unanimously adopted.
Approved April 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the on sale intoxicating liquor license and approves an on sale Sunday license, for the period ending August 31, 2000, subject to departmental approvals:

Grandma's Restaurant Company (Grandma's Steak & Seafood), 375 Minnesota Avenue, with Michael Paulucci, chairman, 90 percent stockholder, Andy Borg, CEO, ten percent stockholder, Donald Bleau, president, and Brian Dougherty, vice president/marketing, transferred from Casa de Roma, 610 East Fourth Street.

Resolution 00-0271 was unanimously adopted.
Approved April 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license, for the period beginning May 1, 2000, and ending April 30, 2001, subject to departmental approvals, and further subject to approval of the liquor control commissioner:

Paul Schintz, Inc. (Lester Park Golf Course), 1860 Lester River Road, with Paul Schintz, 100 percent owner.

Resolution 00-0272 was unanimously adopted.
Approved April 24, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the off sale intoxicating liquor license, for the period ending August 31, 2000, subject to departmental approvals, and further subject to the approval of the liquor control commissioner:

JnC Liquors, Inc. (Wild West Liquor), 318 North Central Avenue, with Jeff Flynn, president, 100 shares, and Caillin Flynn, secretary, 100 shares, transferred from West Duluth Liquor, Inc. (Wild West Liquor), same address.

Resolution 00-0273 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

College of St. Scholastica, 1200 Kenwood Avenue, for May 3 and 5, 2000, with Clint Carlson, manager.

Resolution 00-0275 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 2000, and ending April 30, 2001, 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. 00-0424-17.

Resolution 00-0276 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 2000, and ending April 30, 2001, 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. 00-0424-18.

Resolution 00-0277 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, the Arrowhead Chapter MN #633, Pheasants Forever, has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Chapter MN #633, Pheasants Forever, 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 00-0278 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
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Moose Lodge #1478	411 North 57th Avenue West	April 10, 2000
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CLIMB, Inc.	Shotz Bar	March 27, 2000
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Resolution 00-0279 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, the National Ruffed Grouse Society 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 National Ruffed Grouse Society and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 00-0280 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

MILLER CREEK JOINT POWERS BOARD

John LaVasseur for a term expiring January 31, 2003.

Resolution 00-0203 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of housing inspector, which were approved by the civil service board on April 2, 2000, which are filed with the city clerk as Public Document No. 00-0424-19, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range shall remain the same Pay Range 29, \$2,753 to \$3,266/month.

Resolution 00-0256 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of personnel analyst, which are approved by the civil service board on April 2, 2000, which are filed with the city clerk as Public Document No. 00-0424-20, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range shall remain the same Pay Range 131, \$2,766 to \$3,269/month.

Resolution 00-0257 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of public information coordinator, which were approved by the civil service board on April 4, 2000, which are filed with the city clerk as Public Document No. 00-0424-21, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range shall remain the same Pay Range 135, \$3,269 to \$3,831/month.

Resolution 00-0258 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior planner, which were approved by the civil service board on April 4, 2000, which are filed with the city clerk as Public Document No. 00-0424-22, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range shall remain the same Pay Range 134, \$3,138 to \$3,736/month.

Resolution 00-0259 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES

Kenneth Cayo for a term expiring November 1, 2002, replacing Janet Evans.

Resolution 00-0264 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

NEIGHBORHOOD ADVISORY COUNCIL

Cruz Mendoza (Central Hillside) for a term expiring March 1, 2001, replacing Bruce Wyman who resigned.

Resolution 00-0265 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Shirley Graham for a term expiring March 30, 2003.

Resolution 00-0266 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

BUILDING APPEAL BOARD

James A. Walters (building trade union) for a term expiring February 1, 2003, replacing Claire Strandlie.

Resolution 00-0267 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

TECHNICAL DESIGN ADVISORY COMMITTEE

Karl C. Wasson (planning commission) for a term expiring May 31, 2001, replacing Robert Baeumler who resigned.

Resolution 00-0287 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

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

WHEREAS, the city of Duluth desires financial assistance under the coastal management assistance grant program;

NOW, THEREFORE, BE IT RESOLVED, as follows:

(a) That the Duluth City Council approves of and supports the city administration in filing an application to Minnesota's Lake Superior coastal management program for financial assistance toward the purchase of the former U.S. Naval Reserve property on Park Point;

(b) That the proper city officers 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 as required to become eligible for possible funding assistance;

(c) That the city of Duluth does agree to obligate the funds required to satisfactorily complete the proposed land acquisition and become eligible for reimbursement under the terms and conditions of the coastal management assistance grant program. Matching funds to come from the city's Capital Improvement Fund 450.

Resolution 00-0231 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

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 2000 in the city's self insurance fund for purposes of general liability, workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 00-0424-23 on file in the office of the city clerk.

Resolution 00-0300 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

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 2000 in the city's self insurance fund for purposes of general liability, workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 00-0424-24 on file in the office of the city clerk.

Resolution 00-0301 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, an additional \$4,000 from the Minnesota department of economic security to operate the Title V senior community service

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

employment program from July 1, 1999, through June 30, 2000. A copy of funds available notice shall be on file in the city clerk's office as Public Document No. 00-0424-25.

FURTHER RESOLVED, that amounts received will be deposited in Fund No. 271, Budget Item No. 6329.

Resolution 00-0268 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, an additional \$38,748 in National Senior Citizens Education and Research Center, Inc., grant funds for the period July 1, 1999, through June 30, 2000. A copy of the modification documents shall be on file in the city clerk's office as Public Document No. 00-0424-26.

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6328.

Resolution 00-0298 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 00-0424-27); and

WHEREAS, the private parties have executed application agreements in accordance with Article VII, Division 2, Section 45 of the Duluth City Code; and

WHEREAS, the various parties desire to dedicate to the city of Duluth the constructed water and gas mains; and

WHEREAS, the public works and utilities department performed the inspection of the construction of said water and gas mains, plans of which are on file in the utility engineer's office of the public works and utilities department, and now finds the construction to be wholly acceptable.

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the director of the public works and utilities department, the privately constructed water and gas mains as listed in Exhibit A are hereby accepted and he be authorized to include such water and gas mains as part of the water and gas system of the city of Duluth.

Resolution 00-0254 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to acquire a utility easement hereinafter described from the Seaway Port authority of Duluth for a consideration of \$500, payable from Fund 520, Agency 900, Org. 0500, Object 5419GAS:

A permanent easement for utility purposes over, under and across that part of Out-lot A, Airpark Division, lying within 25 feet of Airpark Boulevard and 130 feet of Rice Lake Road.

Resolution 00-0263 was unanimously adopted.

Approved April 24, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the stormwater utility has developed a work plan for a pilot watershed study of Oregon Creek as part of the development of a surface water management plan for the city of Duluth; and

WHEREAS, the city of Duluth is in the process of selecting a consultant for developing the surface water management plan; and

WHEREAS the pilot watershed study is an essential review component for developing policy and procedures for the plan; and

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 performing the watershed study of Oregon Creek.

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 \$43,000 for a 50 percent federal share of funding for the Oregon Creek watershed study.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to execute any and all grant agreements necessary for the implementation of said grant and that the city of Duluth does agree to provide local matching funds of \$43,000 from Fund 535, Org. 0585, Obj. 5303 if the grant is awarded. Such funds shall be deposited into Fund 535, Balance Sheet 2740.

Resolution 00-0281 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Dresser Measurement be and hereby is awarded a contract for furnishing and delivering 58 Roots temperature compensated natural gas meters for the gas division in accordance with specifications on its low specification bid of \$53,250, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 00-0289 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Dakota Pipelining Systems, Inc., be and hereby is awarded a contract for cleaning and relining of 36 inch cast iron and 42inch steel water mains for water and gas distribution in accordance with specifications on its low specification bid of \$444,786, terms net 30, FOB jobsite, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0302 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement (Public Document No. 00-0424-28) to acquire a utility and roadway easement hereinafter described from Beatrice A. Brune for a consideration of \$2,000, payable from Fund 531, Agency 500, Object 5532:

An easement for road and utility purposes over, under and across that part of Government Lot 2, Section 9, Township 48 North, Range 15 West, city of Duluth, St. Louis County, MN. The centerline of said easement is described as follows:

Commencing at the northwest corner of said Lot 2; thence south 89 degrees 47 minutes 15 seconds east, assumed bearing, along the north line of said Lot 2 a distance of 900.00 feet; thence south 00 degrees 09 minutes 03 seconds east, parallel with the east line of said Lot 2 a distance of 104.39 feet to the point of beginning; thence south 57 degrees 55 minutes 38 seconds east 153.30 feet, said easement being 25.00 feet right and 15.00 feet left of the last described line; thence south 63 degrees 10 minutes 16 seconds east 45.00 feet, said easement being 60.00 feet right and 15.00 feet left of the last described line; thence continuing South 63 degrees 10 minutes 16 seconds east 211.01 feet to a point on a line parallel with and distance 300.00 feet southerly of the north line of said Lot 2 and there terminating, said easement being 25.00 feet right and 15.00 feet left of the last described line. The side lines of said easement shall be shortened or prolonged to terminate on said east line and on the south lines of said parcel; and

An easement for road and utility purposes over, under and across that part of Government Lot 2, Section 9, Township 48 North, Range 15 West, city of Duluth, St. Louis County, MN, described as follows:

Beginning at a point on the east line of said Lot 2 distant 300.00 feet southerly of the northeast corner of said Lot 2, said east line having an assumed bearing of south 00 degrees 09 minutes 03 seconds east; thence continuing south 00 degrees 09 minutes 03 seconds along said east line 52.81 feet; thence north 63 degrees 10 minutes 16 seconds west 117.88 feet; thence south 89 degrees 47 minutes 15 seconds east 105.05 feet to the point of beginning.

Resolution 00-0282 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay \$14,768.82 to St. Paul Companies in settlement of all claims arising out of a sewer backup on July 5, 1999, at the premises of its insured, David Ferrin; payment to be made from self insurance fund.

Resolution 00-0283 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Son, Inc., be and hereby is awarded a contract for furnishing the construction of 2000 street improvement project, Denfeld West, for the city engineering division in accordance with specifications on its low specification bid of \$456,977, terms net 30, FOB job site, payable out of SIP Fund 440, Dept./Agency 038, Organization 0003, Object 5530.

Resolution 00-0290 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction 2000 street improvement project, Central Lakeside East for the city engineering division in accordance with specifications on its low specification bid of \$920,854.35, terms net 30, FOB job site, payable out of Street Improvement Project Fund 440, Dept./Agency 038, Organization 001, Object 5530.

Resolution 00-0291 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety, Minnesota auto theft prevention program, to reimburse the police department for the salary and benefits of one police officer and equipment in the grant period from July 1, 2000, to June 30, 2001.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenues to be deposited in Fund 215, Agency 200, Org. 2459, Revenue Source 4230.

Resolution 00-0249 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a grant from the U.S. department of justice in the amount of \$175,000 for project year July 1, 1999, to June 30, 2000, for the operation of the Central Hillside weed and seed project. All grant funds will be deposited in Fund 215, Agency 200, Org. 2441, Revenue Source 4210.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department.

Resolution 00-0293 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth desires to establish a community family art program and a family support program; and

WHEREAS, the city desires to hire an agency/organization to provide the services required to design, implement and run both the family art program, the family support program and the employment support program; and

WHEREAS, Family Services Collaborative has submitted a proposal for the program services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement (Public Document No. 00-0424-29) with Family Services Collaborative to provide the city with such complete program services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$28,240, will be payable from the Police Grant Programs Fund 215, Agency 200, Org. 2441.

Resolution 00-0294 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth desires to establish a youth program focusing on being safe in the community in which they live; and

WHEREAS, the city desires to hire an organization to provide the services required to design, implement and run the community youth Safe on the Hillside program; and

WHEREAS, Fond du Lac Indian Reservation, human services division, has submitted a proposal for the program services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement (Public Document No. 00-0424-30) with Fond du Lac Indian Reservation, human services division, to provide the city with such complete program services.

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$11,300, will be payable from the Police Grant Programs Fund 215, Agency 200, Org. 2441.

Resolution 00-0295 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth desires to establish a community youth diversion program and a cultural arts program; and

WHEREAS, the city desires to hire an agency/organization to provide the services required to design, implement and run both the youth diversion program and the cultural arts program; and

WHEREAS, Woodland Hills has submitted a proposal for the program services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement (Public Document No. 00-0424-31) with Woodland Hills to provide the city with such complete program services.

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$34,945, will be payable from the Police Grant Programs Fund 215, Agency 200, Org. 2441.

Resolution 00-0296 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth desires to establish a community truancy action project; and

WHEREAS, the city desires to hire an agency/organization to provide the services required to design, implement and run the truancy action project; and

WHEREAS, Lutheran Social Services has submitted a proposal for the program services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement (Public Document No. 00-0424-32) with Lutheran Social Services to provide the city with such complete program services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$31,345, will be payable from the Police Grant Programs Fund 215, Agency 200, Org. 2441.

Resolution 00-0297 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 00-0274, by Councilor Edwards, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license of Chel, Inc. (Congress Bar & Grill), 1334 Commonwealth Avenue, to G.W. Peterson Ent., Inc. (Congress Bar & Grill), same address, was introduced for discussion.

President Gilbert stated that because he is representing one of the parties to this transaction that he will not participate in the discussion or the vote.

Resolution 00-0274 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2000, subject to departmental approvals:

G.W. Peterson Ent., Inc. (Congress Bar & Grill), 1334 Commonwealth Avenue, with Cynthia Peterson, president, 75 percent stockholder, and Gary Peterson, secretary, 25 percent stockholder, transferred from Chel, Inc. (Congress Bar & Grill), same address.

Resolution 00-0274 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 8

Nays: None -- 0

Abstention: President Gilbert -- 1

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the week of April 24 - April 28, 2000, has been designated as National Community Development Week; and

WHEREAS, the city of Duluth is a participant in the community development block grant program which funds a myriad of social service, economic development and housing programs within the city; and

WHEREAS, in the city of Duluth and in communities throughout the nation, 25 years of community development block grant program funding has developed a strong network of relationships between the city of Duluth, residents of the city and the many nonprofit agencies that provide services and help make possible the city's commitment to those neighborhoods; and

WHEREAS, the city of Duluth recognizes that the community development block grant program is a partnership of federal, state and local government, business, nonprofit and community efforts, and that services funded by the federal community development block grant program, administered by local governments and often delivered by local nonprofit organizations, rely heavily on the dedication of and good will of our combined efforts.

NOW, THEREFORE, BE IT RESOLVED, that during National Community Development Week 2000, the city of Duluth will give special thanks and recognition to all participants whose

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

hard work and devotion to the community and its low and moderate income residents help insure the quality and effectiveness of the community development block grant program.

BE IT FURTHER RESOLVED, that the city of Duluth hereby petitions the U.S. Congress and administration to recognize the outstanding work being done locally and nationally by the community development block grant program and its vital importance to the community and to the people who live in its lower income neighborhoods.

BE IT FURTHER RESOLVED, that city staff convey copies of this resolution to the appropriate elected and appointed officials of the federal government and that the city of Duluth be added to the roll of those committed to the preservation and full funding of the community development block grant program and maintenance of its essential features during the next session of Congress.

Resolution 00-0269 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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Resolution 00-0270, by President Gilbert, approving 2001 low-income housing tax credit qualified allocation plan, was introduced for discussion.

President Gilbert moved to amend the tax credit allocation plan (Public Document No. 00-0424-33) by substituting pages 10 and 11 with the replacements received this evening, which motion was seconded and unanimously carried.

Resolution 00-0270, as amended, was adopted as follows:

BY PRESIDENT 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 2001 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 2001; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 2001 (the plan) setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the plan was made available for review and written comments by the general public and a public hearing was held on April 6, 2000; and

WHEREAS, the Duluth housing commission met on April 13, 2000, and recommended approval of the plan to the city council.

NOW, THEREFORE, BE IT RESOLVED, that the 2001 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 00-0424-33, is hereby approved.

Resolution 00-0270, as amended, was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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Resolution 00-0286, by President Gilbert, vacating a portion of Industrial Avenue between Viewcrest Street and Gogebic Street (Weber), was introduced for discussion.

Councilor Stover expressed the concern of residents in this neighborhood that, with this vacation, there is no other westerly exit out of Riverside. He felt that in the future if the Western Waterfront Trail could be expanded it would address this concern.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilor Eckenberg stated that a representative of the planning commission was expected to be here this evening to discuss this issue, but has not arrived. He moved to table resolution, which motion was seconded and unanimously carried.

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Resolution 00-0299, by President Gilbert, making findings and conclusions related to denial of Resolution 00-0207, application by Sherman Associates for a special use permit, was introduced for discussion.

City Attorney Brown noted the parts of the resolution that could be changed to reflect the comments previously made by Mr. Sherman.

Councilors discussed: aspects of Mr. Brown's comments; the perceived accuracy of the statements mentioned in the first paragraph, points (d) and (e); the city's reaction to the DNR memo given the city's attempt to determine if it received prior information from that agency; to what degree of change the council could have approved without prior approval of the planning commission; and possible changes to this resolution that could reflect their concerns.

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

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BY COUNCILOR NESS:

RESOLVED, that the city hereby accepts a gift in the amount of \$50,000 from Lois Paulucci to be used for expenses related to the creation of a new Bayfront Festival Park, which gift shall be deposited in the Capital Improvements Fund 450-015-1999-4690.

Resolution 00-0292 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0255, by Councilor Eckenberg, to accept privately constructed water and gas mains with provisions for reimbursement in various locations in the city of Duluth during the year 1999, was introduced for discussion.

Councilor Fena stated that she will not participate in any discussion or vote on this resolution because of her husband's employment.

Resolution 00-0255 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 00-0424-34); and

WHEREAS, the private parties have executed application agreements in accordance with Article VII, Division 2, Section 45 of the Duluth City Code; and

WHEREAS, the various parties desire to dedicate to the city of Duluth the constructed water and gas mains; and

WHEREAS, the public works and utilities department performed the inspection of the construction of said water and gas mains, plans of which are on file in the utility engineer's office of the public works and utilities department, and now finds the construction to be wholly acceptable.

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the director of the public works and utilities department, the privately constructed water and gas mains as listed in Exhibit A are hereby accepted and he be authorized to include such water and gas mains as part of the water and gas system of the city of Duluth.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

ALSO RESOLVED, that the city council ratifies and approves the execution of the following water and gas main extension agreements and approves the granting of payment to the developer any connection charges which the city may receive from third party service connections, under Section 48-222 of the City Code within ten years of the date indicated on Exhibit A.

Resolution 00-0255 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Abstention: Councilor Fena -- 1

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

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 established: both sides of Wallace Avenue between East Fourth Street and Bruce Street.

Resolution 00-0183 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that Public Safety Equipment Company be and hereby is awarded a contract for furnishing and delivering six hand held thermal imaging camera systems for the Duluth fire department in accordance with specifications on its low specification bid of \$101,670, terms net 30, FOB shipping point, payable out of Special Projects Fund 210, Dept./Agency 030, Organization 2180, Object 5580.

Resolution 00-0288 was unanimously adopted.

Approved April 24, 2000

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT GILBERT

00-012 - 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 OF 88 ACRES OF LAND, LOCATED NORTH OF ARROWHEAD ROAD, EAST OF RICE LAKE ROAD AND WEST OF SAWYER AVENUE EXTENDED, FROM R-1-b RESIDENTIAL AND S SUBURBAN TO IT INDUSTRIAL TECHNOLOGY (MINNESOTA POWER).

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BY PRESIDENT GILBERT

00-013 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 19 AND 20, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF SIX ACRES OF LAND FROM S SUBURBAN TO R-1-b RESIDENTIAL (PAPPAS).

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The following entitled ordinances were read for the second time:
BY PRESIDENT GILBERT AND COUNCILOR ECKENBERG
00-009 - AN ORDINANCE PERTAINING TO THE REGULATION OF SMOKING IN PUBLIC PLACES; ADDING A NEW ARTICLE VII TO CHAPTER 28, DULUTH CITY CODE, 1959, AS AMENDED.

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

Kay L. Lewis recommended that: new establishments would have to create clearly separate sections and that existing restaurants, which have separate areas, with minimal adverse effect, be grandfathered in; working in a smoking area be voluntary and proprietors should not allow a concentration of smokers at entrances.

Kenn Rockler, representing the Bowlers Proprietor Association of Minnesota, stated that: the council should slow down and review the outcome that this ordinance would create; local bowling centers have tried to run no smoking leagues or nights, but there is not the demand for it; during youth events alcohol and smoking is not allowed in the bowling area; the market should be allowed to determine this; if this passes, leagues that sign year long contracts are considering moving from Duluth to Superior or Proctor; and the effects of this are far worse, when one city passes this type ordinance versus a whole state, because the business will just move to a neighboring community.

Councilor Eckenberg moved to table the ordinance for a committee meeting, which motion was seconded and unanimously carried

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BY PRESIDENT GILBERT
00-010 (9443) - AN ORDINANCE AUTHORIZING CONVEYANCE OF NO-BUILD EASEMENT TO ST. LOUIS COUNTY FOR TRAIN MUSEUM REPAIR FACILITY.

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

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9443

BY PRESIDENT GILBERT:
AN ORDINANCE AUTHORIZING CONVEYANCE OF NO-BUILD EASEMENT TO ST. LOUIS COUNTY FOR TRAIN MUSEUM REPAIR FACILITY.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to convey at no cost a no-build easement over the property in St. Louis County, Minnesota, described on Public Document No. 00-0424-35, on file in the office of the city clerk, to St. Louis County for the benefit of the Lake Superior Museum of Transportation, and to execute all documents necessary with regard to said conveyance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: June 4, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 24, 2000
Approved April 24, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 8, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on January 3, 10 (special and regular), 20 and 24, 2000 were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0508-01 Richard Mannelin, et al. (six signatures), submitting petition to vacate the alley between Blocks 94 and 95 in Crosley park Addition. -- Assessor

00-0508-02 Dan Thompson, submitting further petition (three signatures) to reclassify from R-1-A to C-5 parcels in Township 49 North of Range 15 West of the Fourth Principal Meridian as follows: westerly 17 feet of the W1/2 of the E1/2 of the NW1/4 of the NW1/4 of the SW1/4 of Section 15; W1/2 of the W1/2 of the W1/2 of the NW1/4 of the SW1/4 Section 14; E1/2 of the W1/2 of the NW1/4 of the NW1/4 of the SW1/4 of Section 14. -- Assessor

00-0508-27 Sherman Associates, Inc., submitting communication regarding application of special use permit by Sherman Associates, Inc. (00-0299R). -- Received

00-0508-28 Sivertson Gallery submitting communication regarding the proposed vending agreement to Crabby Bill's Lake Superior Fishing Company in the Canal Park business district (00-0322R). -- Received

00-0508-29 The following submitting communications regarding the proposed special use permit to Demolition Landfill Services, LLC (00-0336R): (a) Citizens Coalition of Gary-New Duluth, Inc.; (b) Demolition Landfill Services, LLC, by Jack Y. Perry, attorney; (c) Patrick John Stojevich. -- Received

00-0508-03 The following submitting communications regarding the proposed ordinance pertaining to smoking regulations in public places (00-009-O): (a) Bob Bryan; (b) Dick Clark; (c) George E. Gates; (d) Rebecka George; (e) R. A. Gilbertson; (f) Jim's Hamburger; (g) Warren Klass; (h) Soren Larsen-Ravenfeather; (i) Jack Little; (j) Earl Longstreet; (k) Pickwick, Inc.; (l) Round-Up Bar and Grill; (m) R.T. Quinlan's Saloon; (n) St. Luke's Hospital; (o) St. Mary's/Duluth Clinic; (p) Smokers Fighting Discrimination, Inc.; (q) G.P. Spencer; (r) Sam Stewart; (s) Lora Sweezy; (t) Eben Wilson; (u) Catherine Winter. -- Received

00-0508-30 The following submitting communications regarding the proposed reduction of a front yard setback at 3330 Minnesota Avenue (00-0284R and 00-0285R): (a) William M. and Patricia Burns; (b) Rod Johnson. -- Received

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REPORTS OF OFFICERS

00-0508-04 Assessor submitting letters of sufficiency to:

(a) Reclassify from R-1-A to C-5 parcels in Township 49 North of Range 15 West of the Fourth Principal Meridian as follows: westerly 17 feet of the W1/2 of the E1/2 of the NW1/4 of the NW1/4 of the SW1/4 of Section 15; W1/2 of the W1/2 of the W1/2 of the NW1/4 of the SW1/4 Section 14; E1/2 of the W1/2 of the NW1/4 of the NW1/4 of the SW1/4 of Section 14;

(b) Vacate the alley between Blocks 94 and 95, in Crosley Park Addition. -- Received

00-0508-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffles) from the Minnesota Senior Federation on October 4, 2000. -- Received

00-0508-06 Community development and housing division submitting HRA housing rehabilitation report for March, 2000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0508-07 Board of zoning appeals minutes of March 28, 2000, meeting. -- Received

00-0508-08 Civil service board minutes of March 10, 2000, meeting. -- Received

00-0508-09 Commission on disabilities minutes of: (a) September 1; (b) October 13; (c) November 3, 1999; (d) January 5; (e) February 2; (f) February 17; (g) March 1; (h) March 21; (i) April 5, 2000, meetings. -- Received

00-0508-10 Duluth airport authority:

(a) Minutes of March 21, 2000, meeting;

(b) Balance sheet for the two months ending February 29, 2000. -- Received

00-0508-11 Housing and redevelopment authority of Duluth minutes of March 21, 2000, meeting. -- Received

00-0508-12 Seaway Port authority of Duluth minutes of: (a) February 24; (b) March 31, 2000, meetings. -- Received

00-0508-13 Special assessment board: (a) Minutes of April 12, 2000, meeting; (b) Report regarding proposed improvement of Valley Drive from the center of Section 12 to Oxford Street. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Carl Hammerberg stated that he is rural homeowner with a septic system and well and he questioned why he is getting a stormwater utility bill when the mayor has stated that the city will not charge rural homeowners this fee. Mr. Hammerberg urged councilors to quit appointing task forces to make decisions they were elected to make themselves.

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Elijah voiced his concern that the city of Duluth sanctions the use of alcohol and tobacco by issuing liquor and tobacco licenses.

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Kay L. Lewis stated that the proposed smoking ordinance in its present form is unworkable and requested that councilors start from scratch with a new one.

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Chauncey Riggs requested an update on the tabled resolution regarding parking on Cleveland Street.

In response, Councilor Hogg stated that he and President Gilbert are each working on different suggestions in trying to resolve this issue without having to use legislation.

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Vickie Haugland voiced concern that the food and beverage industry will not be adequately represented on the mayor's proposed task force regarding the ordinance on smoking in public places. She continued by saying that this proposed ordinance affects a variety of establishments and the smoking ban will negatively affect each business. Ms. Haugland suggested that businesses have a uniform sign program that is visible from the road to indicate if the business is smoke free.

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RESOLUTIONS TABLED

President Gilbert moved to remove Resolution 00-0286, vacating a portion of Industrial Avenue between Viewcrest Street and Gogebic Street (Weber), from the table, which motion was seconded and unanimously carried.

Resolution 00-0286 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Industrial Avenue legally described as that portion of Industrial Avenue as dedicated by Document No. 152189 on August 27, 1940, across Outlot 1, Riverside 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 recommended approval of the vacation petition at its April 11, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Industrial Avenue described above and as more particularly described on Public Document No. 00-0508-14.

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

Resolution 00-0286 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

- - -

President Gilbert moved to remove Resolution 00-0299, making findings and conclusions related to denial of Resolution 00-0207, application by Sherman Associates for a special use permit, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution by striking the word "recommendations" from the second paragraph, subsection (a), which motion was seconded and unanimously carried.

Resolution 00-0299, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

BE IT RESOLVED, that the city council makes the following findings of fact and conclusions supporting the denial of a special use permit to Sherman Associates to build townhouses or group dwellings at 6700-6800 West Gate Boulevard:

(a) Sherman Associates properly applied for a special use permit, submitting an application containing a detailed site plan dated December 15, 1999;

(b) The application was reviewed by staff and submitted to the planning commission. The planning commission made a study and report, held a public hearing, and reported its approval to the city council;

(c) The city council addressed the matter at an agenda session, a special committee meeting, and its regular meeting on April 10, 2000;

(d) On April 3, 2000, at a public meeting, the council was informed by a citizen that a stream on the proposed property site could be a tributary to a designated trout stream;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(e) The city shoreland ordinance does not identify the existence of the stream. The city staff tried to confirm whether the stream had been identified by Minnesota department of natural resources (DNR) and classified;

(f) The city must comply with and enforce the shoreland management criteria of the DNR;

(g) Citizens had raised the issues of the effect of the proposed use on a snowmobile trail that crosses the proposed site, and drainage patterns, and adequacy of the road;

(h) Resolution 00-0207 was on the agenda for the regularly scheduled meeting of the city council on April 10, 2000. That resolution would have granted the special use permit for the proposed West Gate Townhouse or group dwelling development;

(i) On April 10, 2000, the DNR confirmed to the city that the stream on the proposed site was a tributary to a designated trout stream. By correspondence from DNR, a copy of which is on file with the clerk as Public Document No. 00-0508-26, which is a part of this resolution, the city learned that a 50 foot setback, grading, cover, and shade trees would be recommended by DNR in order to protect the stream. This could not be accomplished within the December 15, 1999, site plan dimensions. At least one building significantly encroached upon the protected stream area;

(j) Operation of M.S.A. §15.99 would grant the special use permit by default before the next city council meeting;

(k) City staff prepared a new site plan that showed the location of the stream set back lines, but no new plan was offered to the city council;

(l) City Code Sections 50-32.1 and 50-32.2 require the planning commission to process applications and site plans;

(m) No councilor had knowledge of what, if any, site plan would be appropriate, in compliance with law, and acceptable to the applicant.

The council then made the following conclusions:

(a) The application containing the site plan was not suitable for a special use permit because of issues of non compliance with DNR recommendations and city shoreland protection regulations;

(b) If the applicant wishes to modify the proposed configuration, that proposal should be processed as set out in the ordinance;

(c) The ordinance, Chapter 50, requires a new submission to the planning commission in order to accommodate the recommended 50 foot set back;

(d) The issues of the drainage, snowmobile trail, and street need to be addressed;

(e) The Resolution 00-0207 was defeated by a vote of 7-0, Councilors Stenberg and Ness abstaining;

(f) This resolution, the records of the city council, the records of the planning commission, the records of the planning department constitute the record in this matter.

Resolution 00-0299, as amended, was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that Tension Envelope Corporation, Inc., be and hereby is awarded a contract for furnishing and delivering the annual amount of approximately 500,000 billing envelopes for the billing operations division in accordance with specifications on its low specification bid of \$16,683.23, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5203.

Resolution 00-0303 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Sonju Motors, Inc., be and hereby is awarded a contract for furnishing and delivering a cab and chassis for the traffic engineering division in accordance with specifications on its low specification bid of \$26,442.27, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V015.

Resolution 00-0321 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Metafile Information Systems, Inc., be and hereby is awarded a contract for furnishing, installing and maintaining computer output to laser disk (COLD) storage system for the M.I.S. division in accordance with specifications on its low specification proposal of \$43,995, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2109, Object E908.

Resolution 00-0330 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license subject to departmental approvals with any specific restrictions:

St. Michael's Church, 4901 East Superior Street, for May 19, 2000, with Amy Flaig, manager.

Resolution 00-0331 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STEWART:

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

ANIMAL HUMANE BOARD

Jane Aynesworth for a term expiring October 31, 2004, replacing Marcia Opie who resigned.

Resolution 00-0311 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Deede Westermann (at large) for a term expiring March 1, 2003, replacing Larry Sundberg.

Bevan Schraw (at large) for a term expiring March 1, 2002, replacing Gary Eckenberg who resigned.

Charles Thompson (at large) for a term expiring March 1, 2001, replacing Paul Caldwell who resigned.

Lorna Mangan (at large) for a term expiring March 1, 2002, replacing Shirley Haagensen who resigned.

Resolution 00-0312 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

LIBRARY BOARD

Catherine Andree and Carol Bacig for terms expiring June 1, 2005.

Resolution 00-0313 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the Downtown Waterfront Mixed Use-Design Review District

Jay Bergman (at large) and Michael Bowes (at large) for terms expiring May 31, 2003.

Resolution 00-0314 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Timothy Wiklund for a term expiring March 30, 2002, replacing Allen Gummert.

Resolution 00-0315 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Gary Eckenberg (city councilor) for a term expiring March 30, 2001, replacing Isobel Rapaich.

Resolution 00-0316 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to accept \$125,000 in emergency shelter grant program funds from the U.S. department of housing and urban development (HUD) and execute all necessary documents in connection therewith.

FURTHER RESOLVED, that the city council authorizes an amount not to exceed \$5,000 for program administration, payable from 2000 Federal Program Fund 262, Agency 623, Object 5434.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into emergency shelter grant program agreements, contingent upon receipt of funding from HUD for same, with the service providers listed below in the amounts set forth with regard thereto, said agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0508-15, payable from 2000 Federal Program Fund 262, Agency 623, Object 5434.

<u>Service provider</u>	<u>Amount</u>
Churches United in Ministry	\$18,000
Churches United in Ministry	\$12,000
Women's Transitional Housing	\$18,746
Life House, Inc.	\$15,000
The Salvation Army	\$21,000
Women's Coalition, Inc.	\$15,000
American Indian Community Housing Organization	\$ 8,100
American Indian Community Housing Organization	\$ 7,300

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Veterans Outreach North

\$ 4,854

Resolution 00-0304 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program CHDO affordable housing development grant agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0508-16, with Northern Communities Land Trust for its homeland program in an amount not to exceed \$100,000 payable from 2000 Federal HOME Program Fund 260, Agency 020, Organization 2602, Object H009.

Resolution 00-0305 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the property city officials are hereby authorized to enter into a HOME program grant agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0508-17, with the housing and redevelopment authority of Duluth, Minnesota (HRA), for the homeowner property rehabilitation project in an amount not to exceed \$372,000 payable from 2000 HOME Fund 260, Agency 020, Organization 2601, Object H003.

Resolution 00-0306 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into HOME program CHDO organizational support grant agreements, substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0508-18, with Women's Transitional Housing Corporation (WHTC) in an amount not to exceed \$13,000 and Northern Communities Land Trust (NCLT) in an amount not to exceed \$9,000, both agreements payable from 2000 HOME CHDO Fund 260, Agency 020, Organization 2602, Object H003.

Resolution 00-0307 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program administration agreement for tenant-based rental assistance, substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0508-19, with housing and redevelopment authority of Duluth, Minnesota (HRA), in an amount not to exceed \$70,000,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

payable from the 2000 Federal Home Program Fund 260, Agency 020, Organization 2601, Object H005.

Resolution 00-0308 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to City Council Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Lotus Realty Services and Talle and Associates, Inc., in the amount of 350,000 as approved by the DEDA board at its meeting of April 25, 2000, pursuant to DEDA Resolution No. 00D-22, a copy of which is on file in the office of the city clerk as Public Document No. 00-0508-20, is hereby approved.

Resolution 00-0310 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to apply to the Minnesota housing finance agency for an allocation pursuant to the community activity set aside program for \$1,000,000, 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 community activity set aside 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. 00-0508-21.

Resolution 00-0317 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the city of Duluth established certain 2000 CDBG accounts; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program passed a resolution recommending the funding change as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to reprogram \$58,425 from program income to FY2000 projects as follows:

<u>Project #</u>	<u>Project</u>	<u>Previous Budget</u>	<u>Revised Budget</u>	<u>Differences</u>
6312	West Duluth sidewalk safety	\$ 1,000	\$ 29,425	\$28,425
6317	Community job fund	\$235,000	\$265,000	\$30,000

Resolution 00-0318 was unanimously adopted.
Approved May 8, 2000
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY PRESIDENT GILBERT:

WHEREAS, pursuant to the Rural Development Act, local governing units are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Harfel, LLC; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase the tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Harfel, LLC.

Resolution 00-0326 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, pursuant to the Rural Development Act, local governing units are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Sinex Aviation Technologies Corporation; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase the tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Sinex Aviation Technologies Corporation.

Resolution 00-0327 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, the proper city officers are hereby authorized to accept a grant in the amount of \$26,000 from the Lincoln Park Youth Collaborative for youth recreational activities set forth in the communications on Exhibit A and filed as Public Document No. 00-0508-22. These monies shall be expended as provided in Exhibit A during the period of January 1, 2000, through December 31, 2000. Such funds shall be deposited into Parks and Recreation Account No. 100-400-1812.

Resolution 00-0325 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are authorized and directed to execute the lease filed as Public Document No. 00-0508-23 leasing a 60 foot wide right-of-way over, under and across the west half of the north half of the south half of the southwest quarter of the northeast quarter (W½ of N½ of S½ of S½ of SW¼ of NE¼), Section 19, Township 50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

North, Range 14 West of the Fourth Principal Meridian, for a consideration of \$100 to be paid from the Miller Creek improvement account, General Fund 100, Agency 015, Org. 2020.

Resolution 00-0335 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of the 2000 street improvement project located on Lower Michigan Street for the engineering division in accordance with specifications on its low specification bid of \$1,280,197.78, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2165, Object 5530.

Resolution 00-0319 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 98-1054 to Klassic Constructors, Inc., for reconstruction of the Sanitary Sewer Lift Station #26 on Jean Duluth Road, be amended to increase the amount by \$23,240.17 for a new total of \$110,284.87, payable out of Sewer Fund 531, Dept./Agency 500, Object 5532.

Resolution 00-0320 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0557 to L.H.B. Engineers and Architects for furnishing engineering services required for landscape architect, historian services and redesign of historic concrete streets for the Year 2000 street improvement project for UMD/Lower Chester area Phase 2, be amended to increase the amount by \$51,696 for a new total of \$171,875, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0005, Object 5530.

Resolution 00-0323 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0556 to R.R.E.M./M.S.A. Division for furnishing professional engineering services required for construction engineering survey and layout, inspection and testing of Year 2000 street improvement project for Denfeld West area Phase 2, be amended to increase the amount by \$68,214 for a new total of \$152,374, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0003, Object 5530.

Resolution 00-0324 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Blotti and Sons Contracting be and hereby is awarded contract for furnishing grass cutting services for the public works and utilities department/divisions in accordance with specifications on their low specification bids for a total of \$36,435.32, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations and objects.

Resolution 00-0329 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 00-0337, by Councilor Stewart, in support of low power FM broadcasting, was introduced for discussion.

Councilor Stewart explained that this resolution supports the federal communications commission legalizing low power FM stations and issuing licenses to nonprofit organizations for public service.

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

Scott Lunt urged the council to support this resolution so that low power FM stations can operate in Duluth as community radio is a benefit to the whole city.

Resolution 00-0337 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, the federal communications commission (FCC) has adopted rules allowing for the licensing of low power FM radio service; and

WHEREAS, said licensing of low power FM radio service is restricted to noncommercial groups with educational purposes; and

WHEREAS, such groups would provide valuable community services of great benefit to the localities from which they broadcast; and

WHEREAS, strong evidence indicates that low power broadcasting as proposed by FCC regulations would not interfere with commercial broadcasting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth, Minnesota, a city of the first class, supports the licensing of low power radio as set forth in the FCC recommendations and opposes any attempt to alter or eliminate the standards proposed by the FCC, or to delay their implementation.

BE IT FURTHER RESOLVED, that the Duluth City Council specifically opposes the "Radio Broadcasting Preservation Act," S. 2068 and H.R. 3439.

RESOLVED FURTHER, that the city clerk is hereby directed to send a certified copy of this resolution to Congressman James L. Oberstar and to Senators Paul Wellstone and Rod Grams.

Resolution 00-0337 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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Resolutions 00-0284 and 00-0285, by President Gilbert, affirming and reversing, respectively, the decision of the board of zoning appeals to approve the reduction of a front yard setback from 25 feet to six feet three inches for the construction of a 26 foot by 84 foot dwelling, were introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilor Hogg moved to table the resolutions so that committee meeting on the issue can be held, which motion was seconded and unanimously carried.

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BY PRESIDENT GILBERT:

WHEREAS, May 14-20, 2000, is National Historic Preservation Week; and

WHEREAS, the theme of this year's preservation week is "Taking America's Past in the Future"; and

WHEREAS, Duluth has an abundance of architecturally and historically significant structures and properties worthy of preservation; and

WHEREAS, many Duluthians have shown their personal commitment to preservation through investments of time and money in their properties; and

WHEREAS, preservation of the community's historic properties contributes to Duluth's uniqueness, attractiveness, livability and economic strength; and

WHEREAS, preservation of Duluth's heritage serves to enhance our community through connecting to the past and investing in irreplaceable community resource.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the week of May 14 through May 20, 2000, is hereby declared Duluth Historic Preservation week.

Resolution 00-0309 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0333, by President Gilbert, adopting criteria that apply to a business that requests a business subsidy from the city, was introduced for discussion.

Councilor Fena moved to table the resolution so that a committee meeting can be held on the issue, which motion was seconded and unanimously carried.

- - -

Resolution 00-0334, by President Gilbert, adopting a form that shall be used by city officials to administer a request for a business subsidy, was introduced for discussion.

Councilor Fena moved to table the resolution so that a committee meeting can be held on the issue, which motion was seconded and unanimously carried.

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Resolution 00-0336, by President Gilbert, granting a special use permit to Demolition Landfill Services, LLC, for a demolition debris land disposal facility for property located at 1100 West Gary Street, was introduced for discussion.

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

Helen Sever, Bill Spehar, Rick Stoyanoff, Joseph Balach and Bob Olbin spoke against the resolution for the following reasons: there is no way to know what is really being dumped in the landfill unless there are inspections made by the city and that the administrative assistant has stated that the city does not have staff to make inspections; the city has deferred their authority of the landfill to the Minnesota pollution control agency and Western Lake Superior Sanitary District (WLSSD), which do not enforce city rules; Gary-New Duluth is surrounded by pollution from an already closed landfill site, the closed steel plant and the polluted waters of the St. Louis River; this landfill will be at the back door of an elementary school; five years ago the Gary-New Duluth community requested a plan review of the area to change the zoning in order to eliminate the possibility of another landfill; this facility does not conform to the pattern of development of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

surrounding community or the community plan for future development; this facility will have a negative fiscal impact on the surrounding property values in the area; and this facility will have a negative impact on the present polluted environmental condition of the site and surrounding area.

Sandra Timm spoke in favor of a regulated landfill and she stated the money that is now being expended to fight the landfill should be used to clean up the old landfill site and Sargent's Creek.

Jack Perry, representing Demolition Landfill, stated that it is important for Demolition Landfill to build respect and trust with the neighborhood; that Demolition Landfill now has a challenge to prove that this landfill will be managed better than the previous landfill; and that inspections will be welcome at any time to show they are doing a good job.

Councilor Fena expressed concern that an artesian well, which is located near Sargent's Creek, is now polluted and that the proposed landfill will have a lasting impact on the area. She continued by saying that pollution is already there, and that by passing this resolution, the council is choosing to further contribute to a variety of pollution issues that surround this community. Councilor Fena voiced concern about who has authority to oversee the inspections and the fact that the city has no funding or knowledgeable staff to conduct inspections of the landfill.

Resolution 00-0336 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, the district court has ordered that the Duluth City Council process the request by Demolition Landfill Services, LLC, for a special use permit for a demolition debris land disposal facility, in accordance with Section 50-35(y) of the Duluth City Code, on property described as follows:

The north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) of Section Four (4), T48N, R15W, except that part of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) described as follows:

Commencing at the northeast corner of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$); thence traveling west along the north line a distance of 370 feet to a point which is the point of beginning; thence continuing west along said north line of north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) a distance of 1,030 feet to a point; thence traveling south along a line parallel with the east line of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) a distance of 305 feet to a point; thence traveling east along a line parallel with the north line of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) a distance of 420 feet to a point; thence traveling south along a line parallel with east line of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) a distance of 175 feet to a point; thence traveling east along a line parallel with the north line of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) a distance of 610 feet to a point; thence traveling north along a line parallel with the east line of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) a distance of 480 feet to the point of beginning.

And also except that part of said north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) south of the following described line:

Commencing at the southeast corner of the north one-half of the southeast one-quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$); thence north 87 degrees 34 minutes 56 seconds west, assumed bearing, along the south line of said north one-half of the southeast quarter 159.74 feet; thence north 34 degrees 18 minutes 48 seconds west 86.22 feet; thence north 57 degrees 44 minutes 34 seconds west 87.16 feet; thence south 88 degrees 16 minutes 38 seconds west 122.93 feet; thence south

28 degrees 59 minutes 03 seconds west 115.82 feet to said south line of the north one-half of the southeast quarter; thence north 87 degrees 34 minutes 56 seconds west along said south line of the north one-half of the southeast quarter 415.60 feet; thence north 55 degrees 03 minutes 41 seconds west 195.78 feet; thence south 66 degrees 33 minutes 51 seconds west 117.81 feet; thence south 2 degrees 25 minutes 04 seconds west 54.35 feet to said south line of the north one-half of the southeast quarter; thence north 87 degrees 34 minutes 56 seconds west along said south line of the north one-half of the southeast quarter 434.22 feet; thence north 2 degrees 25 minutes 04 seconds east 114.18 feet; thence north 63 degrees 27 minutes 48 seconds east 127.49 feet; thence north 8 degrees 33 minutes 18 seconds east 113 feet; thence north 79 degrees 36 minutes 32 seconds west 133.05 feet; thence north 41 degrees 41 minutes 18 seconds west 176.95 feet; thence south 77 degrees 56 minutes 39 seconds west 97.45 feet; thence south 57 degrees 38 minutes seconds west 107.03 feet; thence south 56 degrees 16 minutes 44 seconds west 60.35 feet; thence south 32 degrees 49 minutes 11 seconds west 100.04 feet; thence south 2 degrees 25 minutes 04 seconds west 226.80 feet to said south line of the north one-half of the southeast quarter and there ending; (The areas described in the state of Minnesota consent decree as filed May 13, 1998, are excluded from this property description. RE: Sixth Judicial District Court File No. CO-91-600831.) and located at 1100 West Gary Street; and

WHEREAS, this approval is made because it has been so ordered by the district court, and not because the city council finds that appropriate safeguards will exist to protect the comprehensive plan and to conserve and protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Demolition Landfill Services, LLC, to allow for the operation of a demolition debris land disposal facility at 1100 West Gary Street, on the condition that the facility be limited to, operated, and maintained in accordance with plans as identified as Public Document No. 00-0508-24 and the following terms and conditions:

(a) That a certified land survey of the above described property be filed with the St. Louis County registrar of titles and the city of Duluth engineering division and the boundary corners of the property be identified with permanent survey monuments so as to provide definitive reference points to monitor the limits of the fill and cover site for compliance with this permit and the requirements of Section 50-35(y) of the Duluth City Code (DCC);

(b) That there be no land disturbing activities and the existing landscaping, including ground cover, trees and shrubs, within 150 feet of the residential and suburban zoning boundaries be maintained so as to provide a visual buffer from the adjacent residentially zoned properties and adjacent roadways;

(c) That the materials to be placed in the facility be limited to those defined as demolition debris and construction debris pursuant to Sections 50-1.14 and 50-1.16 of the Duluth City Code and select industrial waste as listed in the application;

(d) That copies of the annual reports required by the Minnesota pollution control agency (MPCA) be submitted to the city of Duluth department of planning and development (planning department) within 15 days;

(e) That dust control measures identified in the application and as required by DCC 50-35(y)2)l) be implemented and enforced by the applicant;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(f) That copies of all MPCA inspection reports be submitted to the planning department within 15 days;

(g) That the applicant obtain and maintain compliance with all provision of MPCA and Western Lake Superior Sanitary District permits as required by DCC 50-35(y)3(B);

(h) That applicant maintain adequate permanent fencing at least four feet high of welded wire mesh or rail construction of the site perimeter;

(i) Should the state permitting agency (MPCA) fail to require adequate compliance funding requirements, then the permittee shall furnish to the city a security bond, or other form of security, as set out in City Code Section 50-35(y)3(O), to secure compliance and site closure, in the amount specified therein, but not to be less than \$20,000;

(j) That the special use permit is issued for a period of five years from the effective date of this resolution.

Resolution 00-0336 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg and Stewart -- 6

Nays: Councilors Fena, Stover and President Gilbert -- 3

Approved May 8, 2000

GARY L. DOTY, Mayor

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Councilor Hogg moved to consider Resolution 00-0332, by Councilor Stover, to appeal the decision of the district court in Demolition Landfill Services v. city of Duluth, at this time, which motion was seconded and unanimously carried.

Responding to Councilor Hogg, Administrative Assistant Winson reviewed that this decision by the courts on April 25 has far reaching implications for the city of Duluth and other municipalities in the state. He stated that he has talked with attorneys at the League of Minnesota Cities and it is hoped that the appeal will rectify the wording at the level of the courts. But if not, legislation to clean up the wording of the state's rules on permit requests in land use situations will be pursued.

Resolution 00-0332 was adopted as follows:

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials do the acts necessary to appeal to the supreme court the decision of the court of appeals dated April 25, 2000, in the case of Demolition Landfill Services, LLC v. city of Duluth, Court File No. C1-99-601259.

Resolution 00-0332 was unanimously adopted.

Approved May 8, 2000

GARY L. DOTY, Mayor

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Resolution 00-0322, by Councilor Ness, approving a vending agreement to Crabby Bill's Lake Superior Fishing Company in the Canal Park business district near the Duluth Convention and Visitor's Bureau, was introduced for discussion.

Councilor Ness stated that he may introduce an amendment which would replace the words "Duluth Convention and Visitors Bureau" with "Canal Park parking lot."

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

Nick Patronas, owner of the Burger King in the Canal Park area, opposed the resolution and stated the following: the food market in Canal Park has reached the point of saturation and adding any additional vendors will only duplicate services that are already there and take profits

from existing businesses; the proposed location for this vender is too close to his place of business; when Canal Park was renovated, the city required property owners to give up easements adjacent to the lake so that the view of the lake would not be obstructed and now the city is proposing to lease space to a competitor to put a stationary, permanent structure on property that was to be preserved; it is not fair for the city to allow seasonal vendors who do not pay taxes or have the overhead and maintenance costs that permanent business owners have; substantial property taxes are paid by existing business owners to repay the city for the renovation that has been done in Canal Park in the past; several years ago, when allowing Hoovie's Popcorn Wagon to be a vendor was being considered, it was decided that it would be the only vendor that would be allowed in the Canal Park area; the city did a poor job in negotiating this lease, which requires payment of only five percent of gross receipts when other vendors who cook outside at various events must pay 20 to 35 percent. He suggested that the private property owners should be the ones deciding to lease their property to interested vendors for uses such as this, and that the city should stop the practice of leasing city property to seasonal vendors.

Councilor Hogg stated that there are over a million people who visit Canal Park every year and that he does not believe that seasonal vendors will impact the permanent businesses in the area.

Responding to councilors, Mr. Winson stated that the Crabby Bill's will pay five percent in the first year and that all subsequent years will be at ten percent of gross.

Scott Miller, representing the Canal Park Business Association, stated that he is on the committee, which includes a number of other city staff people, that struggled through the process of determining what location would be best for this vendor. He continued by saying that, although the Canal Park Business Association is not supportive of adding more vendors in Canal Park, some feel that they can support the committee's recommendation; that the association favors placing Hoovie's Popcorn Wagon back in the Marine Museum lot and adding Crabby Bill's in front of Endion Station is an excellent compromise for reluctant business owners who do not want seasonal vendors down there competing against year round, taxpaying businesses; that new businesses are welcome; and that the association feels that the new vendors should negotiate space with private land owners and not the city of Duluth. Mr. Miller further stated, regarding the agreement, that Item No. 3, the selling of popcorn, should not be permitted because it duplicates already existing products and services and that the decision regarding Item No. 4, other products that can be sold, should be made by the association and the city council, not the property manager. Regarding a memo sent to the council by Mr. McShane, city property manager, regarding a new location for Crabby Bill's and Hoovie's Popcorn Wagon, Mr. Miller stated that the association does not support placing Crabby Bill's near competing businesses and that it is not fair to Hoovie's Popcorn Wagon to relocate from its present location because the commitment has already been made that their present location is acceptable and because none of the other vendors being considered fits in that particular spot. He stated other association recommendations and concerns regarding the collection and disbursement of vendor fees to the Canal Park Business Association, the approval of new vendor contracts and locations and approval of the Hoovie's Popcorn Wagon contract, specifically.

Councilors, Mr. Winson and Mr. Miller discussed the sites proposed by the amendment and the resolution, if the boat can be easily moved, whether the sites are on city property or Duluth economic development authority (DEDA) property and why they are not acceptable to the association.

Bill Huberty, proprietor of Crabby Bill's, answered councilor questions as to how the boat will be secured, the products that will be sold from it and why "Site A" has been chosen as the most favorable.

Bill Burns, attorney for Crabby Bill's, noted that the process that has been followed is a good one and he urged the council not to change it by inserting itself at this time.

Karen Hoover, owner and operator of Hoovie's Popcorn Wagon, stated that she presently leases space in the parking lot from DEDA and was just informed this evening that a proposal would be made to change her location. She questioned how changes can be made to the contract without notice to the Canal Park businesses that will be affected. Ms. Hoover noted that she has completed the vendor bidding process three times in the last eight years, and that her present location was chosen by the planning division when pay parking was established. She continued by saying that the area between the lake and the Lakewalk or sidewalk has never been deemed appropriate for vendors and at no time has the planning commission ever considered allowing a vendor to obstruct the view by taking up residence there. Regarding the selling of popcorn, Ms. Hoover stated that the process has always held bidders to sell only the products listed in their bids in order to avoid duplication and she encouraged the council to not change the process for this case. She urged the council to find an alternative spot for Crabby Bill's to allow her to continue her business as her lease provides for.

Councilors discussed the process that is in place with regard to vendor agreements in Canal Park and whether the council should be involved in it, whether vendors should be allowed in Canal Park at all; the past tradition to not allow vendors to obstruct the view of the lake; future planning for a site in the area that does provide for vendors; the appropriateness of the sites suggested; and the affect that this permanent vending structure will have on the area.

Resolution 00-0322 failed upon the following vote (Public Document No. 00-0508-25):

Yeas: Councilor Ness and President Gilbert -- 2

Nays: Councilors Eckenberg, Edwards, Fena, Hogg, Stenberg, Stewart and Stover -- 7

[Editor's Note: Resolution 00-0322 was reconsidered and adopted, as amended, on May 22, 2000.]

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Resolution 00-0345, by Councilor Ness, forming a task force to address nonlegislative options and solutions for indoor clean air in Duluth's public places, was introduced for discussion.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

00-015 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2000 INCREASING THE BUDGET FOR THE GAS UTILITY SALES PROMOTION DIVISION AND TO PAY FOR SUCH INCREASE FROM GAS SALES.

- - -

BY COUNCILOR EDWARDS

00-011 - AN ORDINANCE PERTAINING TO LICENSES AND APPLICATIONS WHEREIN VETERINARY HOSPITALS WILL NOT NEED TO PROVIDE A CORPORATE SURETY BOND; AMENDING SECTION 6-83 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STENBERG

00-016 - AN ORDINANCE PERTAINING TO TOWING REGULATIONS; AMENDING SECTIONS 33-248, 33-256 AND 33-259 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT GILBERT

00-012 (9444) - 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 OF 88 ACRES OF LAND, LOCATED NORTH OF ARROWHEAD ROAD, EAST OF RICE LAKE ROAD AND WEST OF SAWYER AVENUE EXTENDED, FROM R-1-b RESIDENTIAL AND S SUBURBAN TO IT INDUSTRIAL TECHNOLOGY (MINNESOTA POWER).

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: Councilor Stewart -- 1

- - -

BY PRESIDENT GILBERT

00-013 (9445) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 19 AND 20, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF SIX ACRES OF LAND FROM S SUBURBAN TO R-1-b RESIDENTIAL (PAPPAS).

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

- - -

The meeting was adjourned at 11:00 p.m.

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

- - -

ORDINANCE NO. 9444

BY PRESIDENT GILBERT:

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 OF 88 ACRES OF LAND, LOCATED NORTH OF ARROWHEAD ROAD, EAST OF RICE LAKE ROAD AND WEST OF SAWYER AVENUE EXTENDED, FROM R-1-b RESIDENTIAL AND S SUBURBAN TO IT INDUSTRIAL TECHNOLOGY (MINNESOTA POWER).

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 194)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 18, 2000)

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: Councilor Stewart -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 8, 2000
Approved May 8, 2000
GARY L. DOTY, Mayor

ORDINANCE NO. 9445

BY PRESIDENT GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 19 AND 20, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF SIX ACRES OF LAND FROM S SUBURBAN TO R-1-b RESIDENTIAL (PAPPAS).

The city of Duluth does ordain:

Section 1. That Plate Nos. 19 and 20 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 195 and 196)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 18, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 8, 2000
Approved May 8, 2000
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 22, 2000, 7:30 p.m. in the council chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on February 14 and 29, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0522-01 Peter L. Boman, et al. (four signatures) submitting:

(a) Petition to construct a six inch ductile iron water main in West Sixth Street from 36 feet east of centerline of Sixth Avenue West to 183 feet west of centerline Sixth Avenue West. -- Assessor

(b) Waiver agreements regarding construction of six inch water main in West Sixth Street from 36 feet east of centerline of Sixth Avenue West to 183 feet of centerline Sixth Avenue West. -- Engineering

00-0522-02 Jon Helstrom submitting petition to vacate Elon Avenue at 235 Fairmount Avenue. -- Assessor

00-0522-03 Larry Varhalla, et al. (four signatures) submitting petition to vacate Francis Street which joins Lot 19, Block 5, Riverside Park, Second Addition. -- Assessor

00-0522-04 St. Luke's Hospital submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9440 on March 6, 2000. -- Received

00-0522-05 SNM Development Company, et al., by William M. Burns, attorney, submitting appeal in connection with order to repair common connection to city sewer system. -- Committee 3 (public works)

00-0522-06 The following submitting communications regarding business subsidies from the city (00-0333R and 00-0334R): (a) Duluth Coalition for a Living Wage; (b) Michael J. Talarico. -- Received

00-0522-28 The following submitting communications regarding the proposed ordinance pertaining to smoking regulations in public places (00-009-O): (a) Renee Hofstad; (b) Douglas W. Kuehl; (c) Dorette W. Larson; (d) Minnesota Smoke Free Coalition; (e) Rosemarie, Lisa and Dennis P. Mitchell. -- Received

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REPORTS OF OFFICERS

00-0522-29 Community development and housing division submitting HUD-funded CD program quarterly status report for January - March, 2000. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

00-0522-07 Building appeal board minutes of April 12, 2000, meeting. -- Received

00-0522-08 Citywide citizens advisory committee minutes of: (a) February 29; (b) March 28, 2000, meetings. -- Received

00-0522-09 Commission on disabilities minutes of May 3, 2000, meeting. -- Received

00-0522-10 Parking commission minutes of April 4, 2000, meeting. -- Received

00-0522-11 Planning commission minutes of: (a) March 14; (b) March 22; (c) April 11; (d) April 26, 2000, meetings. -- Received

00-0522-12 Spirit Mountain recreation area authority minutes of March 27, 2000, meeting. -- Received

00-0522-13 Tree commission minutes of April 11, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis noted concerns relative to various areas such as, the safety of swimmers especially with jet skis and power boats and her support for the Bayfront Park proposal.

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David Kelligher, student at East High School, spoke on behalf of a group of students, teachers, parents and neighbors of the high school, who are concerned over the number of students that are using tobacco near the school. He recommended that a no smoking boundary of within 300 feet be enforced, that smoking prevention programs be funded, that the number of police officers there be increased, that the number of students at the school be reduced and that if these actions do not help, that the school become a closed campus.

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Elijah expressed his concerns that at traffic lights there is only a seven second "walk" timeframe and of the traffic blockage at First Street and Tenth Avenue East with the construction that is going on.

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Chauncey and Theresa Riggs noted that the parking issue on Cleveland Street is still not resolved and would like to know the intent of the council relative making some kind of change to the existing parking problem.

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Dorine Tyler, Bob Niedringhaus and Mary Boylan spoke in support of the smoking ordinance, citing: the adverse health aspects of second hand smoke; that this is a public health issue versus big tobacco companies; that the council needs to take leadership on this issue; this is an issue of making health a right for the public in general, not an infringement upon one's personal rights; and that youth should see that there is nothing good about smoking.

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At this time, 8:00 p.m., the public hearing on the proposed adoption of business subsidy criteria began (Public Document No. 00-0522-30).

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At this time, 8:35 p.m., the public hearing ended.

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At this time a motion was made, seconded and unanimously carried to remove Resolution 00-0333, by President Gilbert and Councilors Fena, Ness, Stover and Stewart, adopting criteria that apply to a business that requests a business subsidy from the city; and Resolution 00-0334, by President Gilbert, adopting a form that shall be used by city officials to administer a request for a business subsidy, from the table.

Also at this time, a motion was made, seconded and unanimously carried to suspend the rules to also consider Resolution 00-0376, by Councilor Stenberg, adopting policy and criteria for utilizing business subsidies in compliance with Minnesota law.

Councilor Ness moved to split Resolution 99-0333 to consider the section entitled, "proprietary interest protection," separately, which motion was seconded and unanimously carried.

Councilors Stenberg and Edwards voiced preference for Resolution 00-0376, noting that: putting more restrictions than the state requires is a risky move because the state restrictions are untested; passing anything other than this could cost the city many jobs; the city cannot afford to be wrong with this; if the city is going to be more restrictive than other cities, then it will be definitely at a competitive disadvantage; and by passing Resolution 00-0376 it is intended to be a cautious stop gap measure to have something in place.

Councilors Hogg, Ness, Fena, Stewart and Stover noted support for Resolution 00-0333(a), which excludes the proprietary interest protection section, because: there is nothing in that resolution that should scare off any realistic developer or employer; if job retention is what is promoted, there has to be some guarantees as to what the benefits would be; there would not be any risks by passing this; this is a matter of accountability for businesses that receive public funds; the questions asked show up front what the concerns of the council will be; the mayor supports this resolution as separated; the high standards set in Minnesota have paid off with increases in the number of good paying jobs; the per capita personal income increase is higher than the national average and there would be more higher paying jobs in Duluth to keep younger people here.

Councilor Hogg moved to call the question on Resolutions 00-0333(a) and (b), which motion was seconded and unanimously carried.

Resolution 00-0333(a) was adopted as follows:

BY PRESIDENT GILBERT AND COUNCILORS FENA, NESS, STOVER AND STEWART:

WHEREAS, Minnesota Statutes §116J.993-§116J.995 requires the city to develop criteria before awarding certain businesses a business subsidy in order to ensure the project meets a public purpose with measurable, specific and tangible goals related to that public purpose; and

WHEREAS, the city requires city council approval of all Duluth economic development authority expenditures of \$25,000, or more;

BE IT RESOLVED, that the Duluth City Council adopts the following mandatory and preferential criteria for businesses receiving assistance from the city of \$25,000 or more:

Mandatory criteria. All projects receiving assistance of \$25,000, or more, must satisfy the following seven criteria.

(a) Public purpose criteria. The project must meet two of the following five public purpose criteria:

(1) High quality jobs. If the project results in the creation of new jobs, then the jobs must be predominantly full-time jobs that pay at least a living wage (as defined by Duluth's Living Wage Ordinance) and provide health insurance and other benefits;

(2) Job retention. If the recipient can demonstrate that job loss is imminent without a business subsidy, then the recipient must present a plan which shows that a significant number of the existing jobs will be retained for at least five years after completion of the subsidy;

(3) Economic diversity. The project must contribute to the economic diversity of the city by reducing dependency upon declining industries, participating in fast growing industries, or supporting existing industries of manufacturing, education, health care, retail sales, tourism, and service and technology;

(4) Quality of life. The project must enhance the quality of life of the city's residents by investing in neglected neighborhoods or business areas, utilizing in-fill areas rather than contributing to urban sprawl, benefitting the environment, or redeveloping blighted or polluted areas;

(5) Tax base. The city must realize a reasonable rate of return on its public investment in the project in the form of an increase in tax base or other monetary return;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(b) Specific goals. The project will have measurable, specific and tangible goals as they relate to the stated public purpose;

(c) Equal opportunity. The recipient will abide by all local, state and federal laws prohibiting discriminatory hiring and employment practices and agree to affirmatively seek out participation in the project by members of protected classes;

(d) Project feasibility and disclosure. The recipient must demonstrate to the satisfaction of the city that it has adequate financing for the project and that the project will be completed in a timely fashion;

(e) Wage policy. If the project results in the creation of any job, the wage for each part-time and full-time job created must be in compliance with Duluth's Living Wage Ordinance and at least equal to the prevailing wage for like or similar projects within the area or such greater amount as required by the city for a specific project;

(f) Report to the council. At the time the city council reviews a project development agreement calling for assistance of \$25,000 or more, a report shall be submitted to councilors summarizing the information necessary for them to exercise their due diligence, as determined by the city council;

(g) Applicable laws. The recipient will agree to satisfy all requirements of Minnesota's business subsidy law as defined in Minnesota Statutes §116J.993-§116J.995 and Duluth's Living Wage Ordinance, as amended, in Article 26, Chapter 2 of the Duluth City Code.

Preferential criteria. Businesses that meet any or all of the following criteria shall be given preference for receiving assistance over other businesses that meet the mandatory criteria but not any of the preferential criteria:

(a) Locally owned businesses. Preference shall be given to locally owned businesses or to projects that make extensive use of local businesses for support;

(b) Hiring low-income people. Preference shall be given to businesses with a commitment and plan to hire people earning at or below 200% of the poverty line;

(c) Protected class business owners. Preference shall be given to businesses owned in whole or in part by members of protected classes;

(d) Quality of Life Businesses. Preference shall be given to businesses that are environmentally responsible and enhance the overall quality of life in the city.

Resolution 00-0333(a) was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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Regarding Resolution 00-0333(b), dealing with proprietary interest protection, Councilors Hogg, Edwards, Stenberg and Eckenberg felt that: it would be very advantageous for a developer to consider this point, but to require it in the criteria would seriously cost the city; state legislation does not include these points; locally owned businesses are not restricted from doing city projects; the quality of the Duluth work force can be better addressed by not making it a criteria of a development agreement.

Councilors Fena and Stewart supported the resolution because: there is something gained and given by both the employer and union in this; this aspect is just as important as the previous criteria that was adopted; and Duluth could be a leader by passing this.

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

Yeas: Councilors Eckenberg, Edwards, Hogg and Stenberg -- 4

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0333(b) was adopted upon the following vote:

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

Nays: Councilor Eckenbreg, Edwards, Hogg and Stenberg -- 4

[Editor's Note: Resolution 00-0333(b) was vetoed by Mayor Doty on May 23, 2000 (Public Document No. 00-0612-08).]

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Regarding Resolution 00-0334, Councilor Hogg moved to amend the resolution by changing the title to read: "RESOLUTION ADOPTING CRITERIA BY WHICH THE CITY COUNCIL WILL REVIEW AND EVALUATE BUSINESS SUBSIDY AND TAX INCREMENT FINANCING PROPOSALS WHICH REQUIRE COUNCIL APPROVAL," which motion was seconded and unanimously carried.

Councilor Hogg also moved to amend the resolution body to read as follows:

"BE IT RESOLVED, that the city council hereby adopts the criteria entitled: Application for Business Subsidy - City of Duluth, a copy of which is on file with the clerk as Public Document No. _____, as the instrument the council will use to review business subsidy and tax increment financing proposals and to exercise due diligence prior to approval of any such proposal.

BE IT FURTHER RESOLVED, that proposals accompanied by incomplete information shall be accompanied by an explanation explaining why the information submitted is incomplete and approval of such proposals may be delayed or denied until the missing information is provided.

BE IT FURTHER RESOLVED, that approval of proposals accompanied by incomplete information may be delayed or denied until the missing information is provided," which motion was seconded and unanimously carried.

Councilor Hogg also moved to amend the statement of purpose to read as follows: "This resolution sets out the criteria the council will use to review and evaluate business subsidy and tax increment financing proposals and specifies information which must be submitted prior to council consideration or approval," which motion was seconded and unanimously carried.

Resolution 00-0334, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

BE IT RESOLVED, that the city council hereby adopts the criteria entitled: Application for Business Subsidy - City of Duluth, a copy of which is on file with the clerk as Public Document No. 00-0522-14, as the instrument the council will use to review business subsidy and tax increment financing proposals and to exercise due diligence prior to approval of any such proposal.

BE IT FURTHER RESOLVED, that proposals accompanied by incomplete information shall be accompanied by an explanation explaining why the information submitted is incomplete and approval of such proposals may be delayed or denied until the missing information is provided.

BE IT FURTHER RESOLVED, that approval of proposals accompanied by incomplete information may be delayed or denied until the missing information is provided.

Resolution 00-0334, as amended, was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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Councilor Stenberg moved to withdraw Resolution 00-0376 from the agenda, which motion was seconded and unanimously carried.

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RESOLUTION FOR RECONSIDERATION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilor Hogg moved to reconsider Resolution 00-0322, approving a vending agreement to Crabby Bill's Lake Superior Fishing Company in the Canal Park business district near the Duluth Convention and Visitors Bureau, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: Councilor Stewart -- 1

Councilor Hogg reviewed that at the prior meeting an amendment was discussed and there were concerns about taking action without further consideration and that is why he voted for it with the intention of moving for reconsideration and making further amendments to it. He moved that the title, body and statement of purpose of the resolution be amended by deleting the words, "Duluth Convention and Visitors Bureau," and replacing them with the words, "site A north of Canal Park parking lot," and to add the following sentence after the first sentence in the fourth paragraph: "The location shall be subject to approval by the city's technical design advisory review committee," which motion was seconded and discussed.

Councilor Stewart felt that this area is too precious to commercialize.

Councilor Stenberg reviewed the issues from the last meeting regarding the limited types of food and beverages that would be allowed. He also noted the need to have an overall plan for retail activity by the Lakewalk.

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

Bill Huberty, representing Crabby Bill's, noted that he met with Nick Patronas, representing his business and others, and that they came to an agreement in not having competing products, and thus Crabby Bill's would have root beer, diet sodas, juices, coffee, lemonade and water.

Scott Miller, representing the Canal Park Business Association Vending Selection Committee, noted that the committee never had the opportunity to consider this site. He felt that this committee should be allowed to review and comment on this site and the issues relating to the overall extent of vending on the Lakewalk.

Mary George, representing Hoovie's Popcorn Wagon, expressed her concern over the limited amount of green space, especially in the area of the parking area, that is available for the large amount of individuals who visit the Canal Park area. She suggested that the amount of commercialization should not infringe on the beauty of Canal Park.

William Burns, attorney representing Crabby Bill's, noted that: there was a request for proposals process for soliciting ideas; a site was selected; it was felt it would be exposed much less and would be a positive attraction.

Councilor Hogg move to amend his amendment to also change Section 4, concession, of the agreement by deleting the word "popcorn" and add in its place the words "to consist of coffee, lemonade, diet soda, 1919 Root Beer, juices and water," which motion was seconded and carried as follows:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: Councilor Stewart -- 1

Councilor Stewart noted that, while this is not a permanent structure, it is quite large and it is better to say no now and that, up until now, there has been no commercial activity of this nature on the public Lakewalk area.

Resolution 00-0322, as amended, was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the city recognizes that vending of appropriate products or services adds color and liveliness to the Canal Park area by attracting additional visitors; and

WHEREAS, such vending of products and services can provide a Duluth ambassadorship function as vendors are able to offer information about the Canal Park area; and

WHEREAS, such vending operations will not detract from the image that is unique to the Canal Park area.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute a vending agreement filed as Public Document No. 00-0522-26 between the city of Duluth and Crabby Bill's Lake Superior Fishing Company for the placement and subsequent operation of a stationary vending unit within the Canal Park area near the Lakewalk in close proximity to the site A north of Canal Park parking lot. The location shall be subject to approval by the city's technical design advisory committee. The vendor shall pay a percentage of gross receipts for all items sold pursuant to the agreement. Revenues received shall be deposited into administrative services department, facilities management division, General Fund 100, Agency 015, Org 1515, Revenue Source 4623.

Resolution 00-0322, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: Councilor Stewart -- 1

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

RESOLUTIONS TABLED

President Gilbert moved to remove Resolution 00-0284 and Resolution 00-0285, affirming and reversing, respectively, the decision of the board of zoning appeals to approve the reduction of a front yard setback from 25 feet to six feet three inches, from the table, which motion was seconded and carried upon a unanimous vote.

Councilors noted the communication from the city attorney's office relative to this issue and how this was handled by the board of zoning appeals.

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

Rob and Connie Johnson spoke in support of Resolution 00-0285, by citing sections of Chapter 51 of the City Code where they felt that: Park Point property could not be subdivided if there was erosion potential; that vegetation cannot be removed where it is not sufficient to screen a house; by moving a house back, you are removing vegetation and making that house visible to the water; there is a requirement to have 75 feet of water frontage to subdivide a lot, where this lot has only 50 feet; the maximum total area allowed to be covered by impervious surfaces is 30 percent, where this plan is 37 percent; and variances are not allowed unless there is a hardship case that is unique to the property, not an economic issue created by the owner.

Marlene Bach, building inspection division, stated that: this property is just under 30 percent impervious surface; this property is not waterfront property, it is landlocked and therefore does not have to be 75 feet in width; and this property is in compliance with Chapter 51.

Robert Asleson, assistant city attorney, stated that the issue before the council is a side yard variance under Chapter 50.

Susan Headley-Keller, also in support of Resolution 00-0285, expressed her opinion that under the conditions of granting a variance: there must be special circumstances that are peculiar to the property; it must be necessary for the prevention of substantial property rights and shall not unreasonably diminish established property values; and none of those conditions have been met.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Bill and Pat Burns, applicants, voiced support for Resolution 00-0284, noting that the planning staff and the board of zoning appeals, with only one dissenting vote, recommended approval of the variance. They felt that this would be no different than if a garage was built or having trees planted and that this is an issue of accepting change and they would regret the cutting down of some trees if this resolution does not pass.

Councilor Hogg pointed out that without a variance the applicant could take down the trees and the house could be built closer to the neighbor's house.

Councilors Stewart, Fena, Edwards, Eckenberg and Stover felt that the three conditions of the variance have not been met, especially that a hardships exists, and that allowing this setback variance change will adversely affect the neighbors.

Resolution 00-0284 failed upon the following vote (Public Document No. 00-0522-15):

Yeas: Councilor Hogg -- 1

Nays: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

- - -

Resolution 00-0285 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, William Burns applied to the board of zoning appeals for a variance to construct a new 26' x 84' dwelling on property located behind 3330 Minnesota Avenue and legally described as: SLY ½ OF LOT 294 AND ALL OF LOTS 296 AND 298 INC SLY ½ OF LOT 293 AND ALL OF LOTS 295 AND 297 LOWER DULUTH LAKE AVE EX BEG AT NW COR OF THE ABOVE DESCRIBED PARCEL; THENCE SLY ALONG W LINE 50' THENCE 19° 21' 47" TO THE LEFT 25.10 FT THENCE 60° 52' 47" TO THE LEFT 72.73; THENCE N ON A LINE PARALLEL AND 14' DISTANCE FROM S LINE OF LOTS 297 & 298 43.91 THENCE 90° LEFT 86' TO N LINE OF SAID PARCEL THENCE 90° LEFT 123.82' TO PT OF BEG, and to decrease the front yard setback from Lake Avenue from 25' to 6'3"; and

WHEREAS, the board of zoning appeals granted the variance to construct the dwelling with a reduced front yard setback; and

WHEREAS, Susan Headley Keller, Clayton Keller, Rod Johnson & Connie Johnson have appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and determined that the facts of this case do not justify a reduction in the front yard setback from Lake Avenue from 25' to 6'3" because no physical characteristic peculiar to the property prevented the owner from exercising a substantial property right, and granting a variance would result in negative impacts on the surrounding neighborhood;

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of March 28, 2000.

Resolution 00-0285 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Hogg -- 1

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

Councilor Fena moved to remove Resolution 00-0345, by Councilor Ness, forming a task force to address nonlegislative options and solutions for indoor clean air in Duluth's public places, from the table, which motion was seconded and failed unanimously.

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At this time, Councilor Hogg moved to suspend the rules to consider Ordinance 00-009-O, pertaining to the regulations of smoking in public places; adding a new Article VII to Chapter 28, Duluth City Code, 1959, as amended, which was seconded and unanimously carried.

At this time, Councilor Hogg moved to remove the ordinance from the table, which was seconded and failed upon the following vote:

Yeas: Councilor Edwards -- 1

Nays: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

- - -

At this time, 10:58 p.m., Councilor Hogg moved to suspend the rules to extend the council meeting to 11:20 p.m. , which motion was seconded and unanimously carried.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Greek Orthodox Church (Twelve Holy Apostles), 632 East Second Street, for June 24 and 25, 2000, Nick Petrangelo, manager.

Mr. D's Men's and Women's Softball Team, Wheeler Field, for June 10 and 11, 2000, with Alan Terwey, manager.

Western Softball Tournament (Early Bird Tournament), Wheeler Field, for June 3 and 4, 2000, with Darrell Eckenberg, manager.

Resolution 00-0355 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license, on sale Sunday license, and on sale dancing license for the period ending August 31, 2000, subject to departmental approvals and the payment of sales and property taxes:

JM & JK, Inc. (Red Lion Bar), 220 East Superior Street, with John Messina, 95 percent stockholder, and Kellyjo Messina, five percent stockholder, transferred from Diamond's M & W Corp. (Red Lion), same address.

Resolution 00-0356 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

WHEREAS, the Duluth City Council has received 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 following organizations and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Licensee	Date Application Filed
1. Park Point Music Festival	May 3, 2000
2. Women's Transitional Housing Coalition	April 20, 2000
3. Duluth Superior Area Educational TV	April 13, 2000
4. Boys & Girls Club of Duluth	May 4, 2000

Resolution 00-0357 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Grandma's Inc. (Grandma's Saloon & Grill), 522 Lake Avenue South, for June 17, 2000, 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 17, 2000, with the serving ceasing at 12:30 a.m.

Resolution 00-0358 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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	Players Grandstand	April 6, 2000
	Sneaker's Sport Bar and Grill	April 6, 2000

Resolution 00-0360 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Eggebrecht Chevrolet be and hereby is awarded a contract for furnishing and delivering one 2000 Chevrolet K3500 4 X 4 pickup for the street maintenance district four tool house in accordance with specifications on its low specification bid of \$26,984.15, terms net 30, FOB job site, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V015.

Resolution 00-0363 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH AIRPORT AUTHORITY

Gary Gange for a term expiring July 1, 2003.

Resolution 00-0350 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Gary Kelleher for a term expiring June 30, 2003.

Resolution 00-0351 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

DULUTH TRANSIT AUTHORITY

Guy E. Sederski (District 1) for a term expiring June 30, 2003.

Resolution 00-0352 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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BY COUNCILOR STEWART:

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

DULUTH TRANSIT AUTHORITY

Harold Brown (Superior, WI, representative) for a term expiring June 30, 2003, replacing Mary Jacobson.

Resolution 00-0353 was unanimously adopted.

Approved May 22, 2000

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

Wayne Whitmore for a term expiring November 1, 2002, replacing Judy Snow.

Resolution 00-0375 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to withhold from sale for the public interest and to classify as conservation lands the following parcels from the county auditor's list of properties which have been declared tax-forfeited and title thereto vested in the state:

Legal Description	Location	Reason
Lot 17, Block 012 Coffin Warner Jones Addition Duluth (010-0610-02490)	north side of 22nd Street West of 24th Avenue West (Piedmont Heights)	for Piedmont recreation area
Lot 18, Block 012 Coffin Warner Jones Addition Duluth (010-0610-02500)	north side of 22nd Street West of 24th Avenue West (Piedmont Heights)	for Piedmont recreation area
Lot 19, Block 012 Coffin Warner Jones Addition Duluth (010-0610-02510)	north side of 22nd Street West of 24th Avenue West (Piedmont Heights)	for Piedmont recreation area
Lot 20, Block 012 Coffin Warner Jones Addition Duluth (010-0610-02520)	north side of 22nd Street West of 24th Avenue West (Piedmont Heights)	for Piedmont recreation area
Lot 21, Block 012 Coffin Warner Jones Addition Duluth (010-0610-02530)	north side of 22nd Street West of 24th Avenue West (Piedmont Heights)	for Piedmont recreation area

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Legal Description	Location	Reason
Lot 0001, Block 005 Edgebrock Division of Duluth (010-1390-00760)	northeast corner of Ivanhoe Street and Lawrence Avenue (Lester Park)	land packaging
Lot 0009, Block 001 Endion Division of Duluth (010-1440-00170)	south side of South Street between 25th and 26th Avenues East (Endion)	Lakewalk East
Sect: 05 TWP:049.0 Range: 14 Beg 240 feet west of southeast corner of northwest ¼ of northeast ¼ of northwest ¼ running thence west 200 feet thence north 300 feet thence east 300 feet thence south 50 feet thence west 100 feet thence south 250 feet to point of beg (010-2700-00020)	south of Batavia Street and west of Wicklow Street (Lincoln Park)	memorial forest
Sect: 18 TWP: 050.0 Rang: 14 southwest ¼ of northwest ¼ of northwest ¼ lying north of Sundby Road(10-2710-04460)	north side of Sundby Road and east of Haines Road (Duluth Heights)	wetland
Lot 0038, Block 002, Lakeview Manor Duluth (010-2800-00780)	west side of 74th Avenue East and north of Avondale Street (North Shore)	lack of utilities
Lot 09, Block 014, except ry R of W Minnie Wakan Addition to Duluth (010- 3270-01000)	west side of DM&IR tracks, Lenroot and Beaudry Streets (Lower Smithville)	Western Waterfront Trail
Lot 10, Block 014, except ry R of W Minnie Wakan Addition to Duluth (010- 3270-01010)	west side of DM&IR tracks, Lenroot and Beaudry Streets (Lower Smithville)	Western Waterfront Trail
Lot 11, Block 015, except ry R of W Minnie Wakan Addition to Duluth (010- 3270-01130)	west side of DM&IR tracks, Lenroot and Beaudry Streets (Lower Smithville)	Western Waterfront Trail
Lot 12, Block 015, except ry R of W Minnie Wakan Addition to Duluth (010- 3270-01140)	west side of DM&IR tracks, Lenroot and Beaudry Streets (Lower Smithville)	Western Waterfront Trail

Resolution 00-0328 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract with the law firm of Maki and Overom, containing the terms and in the form of that on file with the clerk as Public Document No. 00-0522-16, for the provision of legal services in the appeal of the Lake Superior Paper Industries' tax challenge, for a cost not to exceed \$15,000, payable from Fund 358.

Resolution 00-0341 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Shelley Rost has submitted to the city council a request for a special use permit for a home beauty salon on property located at 211 West Locust Street described as: Lots 21 thru 24, Block 9, 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 Shelley Rost to allow for the operation of a home beauty salon at 211 West Locust Street, 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. 00-0522-17;
- (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 00-0342 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Shockley Communications Corporation has submitted to the city council a request for a special use permit for the construction and operation of a 1,000 foot communication tower and equipment building located on the south side of West 13th Street at Fourth Avenue West, said property being legally described as: Blocks 2, 3 and 4, Summit Park Division and Blocks 174 & 178, Duluth Proper Third 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 recommendation for 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 granted to Shockley Communications Corporation for erection of a 1,000 foot communication tower and equipment building, located on the above described property subject to the following conditions:

- (a) That the tower be constructed and maintained in accordance with plans identified as Public Document No. 00-0522-18 as:

- (1) A painted structure (orange and white per FAA/FCC rules for daytime and aviation red lighting at night); or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(2) A galvanized structure with strobe lighting for daytime and aviation red lighting at night as provided in Section 50-35(z);

(b) That the necessary federal aviation administration permits be obtained; and

(c) That the necessary building permits be obtained.

Resolution 00-0343 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements with the service providers listed below in the amounts set forth with regard thereto, said agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0522-19, payable from 2000 Federal Program Fund 262.

Public Service Projects

Acct#	Amount	Project
6318	\$29,700	Youth Avenues for Success - Copeland Community Center
6319	\$60,000	Primary health care for low income persons - Lake Superior Community Health Clinic
6320	\$20,000	Housing Access Center
6321	\$12,000	Veteran's Outreach North
6322	\$28,000	Family transitional housing - Salvation Army
6323	\$35,000	Woman's Transitional Housing Coalition
6324	\$20,000	Little Treasurers child care services - HDC
6325	\$25,000	YMCA community services
6326	\$25,000	Life House Youth Center
6327	\$80,000	Duluth Hunger project - CHUM
6328	\$14,000	Transitional housing - AICHO
6329	\$50,000	Lincoln Park youth program - Boys' & Girls' Club
6330	\$50,000	YWCA youth programs
6331	<u>\$30,000</u>	Washington activity center - Neighborhood Youth Services
	\$478,700	

Resolution 00-0349 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to city council Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Soft Center Duluth in an amount not to exceed \$125,000, as approved by the DEDA board at its meeting of May 9, 2000, pursuant to DEDA Resolution No. 00D-24, a copy of which is on file in the office of the city clerk as Public Document No. 00-0522-20, is hereby approved.

Resolution 00-0359 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements with the service providers listed below in the amounts set forth below with regard thereto, said agreements substantially in the form of those on file in the office of the city clerk as Public Document No. 00-0522-21, payable from 2000 Federal Program Fund 262, Agency 623.

Account	Amount	Housing development project
6304	\$185,000	SVCNDA-West Duluth revitalization Phase II and HRA-Duluth
6301	\$720,000	HRA-Duluth property rehabilitation program
6303	\$208,000	AEOA weatherization (regular)

Resolution 00-0361 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Change Order No. 1 be authorized to Contract No. 18594 with Western Waterproofing Company, Inc., for repairs to four municipal parking ramps, in an amount of \$79,800, thereby increasing the contract amount to \$260,887.05, payable from Capital Fund 450, Dept. 015, Org. 1999, Obj. C918.

Resolution 00-0344 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Goodin Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 108 water valves for the public works and utilities department in accordance with specifications on its low specification bid of \$32,726.71, terms 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 00-0354 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Hallett Dock Company be and hereby is awarded a contract for furnishing and delivering approximately 6,000 cubic yards of Class 5 gravel for the water and gas divisions in accordance with specifications on its low specification bid of \$45,496.80, terms net 30, FOB destination, \$22,748.40 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$22,748.40 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 00-0365 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that Co-op Services, Inc., be and hereby is awarded a sales order for the sale of 12 30,000 gallon propane tanks from the gas division in accordance with specifications on its high bid of \$109,320, terms net 30, FOB on site, to be reimbursed to Gas Fund 520, Dept./Agency 900, Revenue Source 4641.

Resolution 00-0366 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that United Truck Body Company, Inc., be and hereby is awarded a contract for furnishing and delivering dump truck bodies for the public works and utilities department in accordance with specifications on its low specification bid of \$53,195.46, terms net 30, FOB destination, \$8,865.91 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580, \$8,865.91 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580, \$17,731.82 payable out of Sanitary Fund 530, Dept./Agency 500, Organization 0505, Object 5580 and \$17,731.82 payable out of Storm Water Fund 535, Dept./Agency 0500, Organization 0505, Object 5580.

Resolution 00-0377 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution 99-0309, the city council established the 2000 street improvement program by ordering the construction of certain street; and

WHEREAS, the city administration has requested that a street preservation component be added to the 2000 street improvement program by designating certain streets for improvement through crack sealing and bituminous overlay.

NOW, THEREFORE, BE IT RESOLVED, that the 2000 street improvement program is hereby amended by adding to such program the improvement by crack sealing and bituminous overlay of the streets listed on the document on file in the office of the city clerk as Public Document No. 00-0522-22, at an estimated cost of \$300,000.

Resolution 00-0338 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0766 to Natural Resource Research Institute for conducting a natural resource/forest inventory, be amended to increase the amount by \$9,000 for a new total of \$18,298, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 00-0339 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement (Public Document No. 00-0522-23) to acquire a utility easement hereinafter described from the state of Minnesota, higher education board, for the consideration set forth in said agreement:

A 50 foot wide easement for utility purposes over, under and across that part of the Northwest Quarter of the Northeast Quarter, Section 9, Township 48 North, Range 15 West, City of Duluth, St. Louis County MN. The centerline of said easement is described as follows:

Commencing at the northwest corner of said Northwest Quarter of the Northeast Quarter; thence south 00 degrees 09 minutes 03 seconds east, assumed bearing, along the west line of said Northwest Quarter of the Northeast Quarter 325.64 feet to the point of beginning; thence south 62 degrees 21 minutes 29 seconds east 318.27 feet; thence southerly 230.95 feet along a curve concave to the east and not tangent with the last described line, said curve has a radius of 500 feet, a central angle of 26 degrees 27 minutes 55 seconds, and the chord of said curve bears south 05 degrees 13 minutes 37 seconds west; thence south 08 degrees 00 minutes 21 seconds east 440.16 feet; thence south 89 degrees 55 minutes 56 seconds east 342.27 feet; thence south 44 degrees 55 minutes 55 seconds east 56.69 feet; thence south 89 degrees 52 minutes 21 seconds east 628.28 feet to a point on the east line of said Northwest Quarter of the Northeast Quarter distant 128.46 northerly of the southeast corner of said Northwest Quarter of the Northeast Quarter and there terminating. Sidelines of said easement shall be shortened or prolonged to terminate on said west and east lines of said Northwest Quarter of the Northeast Quarter.

Resolution 00-0346 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of year 2000 street improvement at Upper Woodland Avenue West for the engineering division in accordance with specifications on its low specification bid of \$338,264.71, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0006, Object 5530.

Resolution 00-0367 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of year 2000 street improvement project at Cody Street Southwest for the engineering division in accordance with specifications on its low specification bid of \$524,753.50, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0002, Object 5530.

Resolution 00-0368 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officers are authorized to purchase the tract of land described below to be used for storm sewer purposes from F.I. Salter Co., Inc., for a purchase price of \$4,800 to be paid from Fund 535, Agency 500, Object 0570:

The easterly 20 feet of Lot 9, Block 27, Plat of Rearrangement of Part of East Duluth and of First Addition to East Duluth.

Resolution 00-0370 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Billman Construction, Inc., be and hereby is awarded a contract for construction of year 2000 street improvement project at Lower Congdon East for the engineering division in accordance with specifications on its low specification bid of \$1,071,245.80, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0004, Object 5530.

Resolution 00-0372 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of street improvement at 33rd Avenue West between Superior Street and Michigan Street for the engineering division in accordance with specifications on its low specification bid of \$122,256.53, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5324, Object 5530.

Resolution 00-0373 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcels of property, grounds of condemnation being the buildings are structurally unsound, open to trespass, and a menace to the neighborhood; and

WHEREAS, notices of condemnation were served as follows:

Parcel 1-118-1/2 Park Avenue, aka North. 28x80 feet including five feet of vacated avenue adjoining Lot 4, Block 70 Myers Rear Block 70 Duluth Proper Second Division by certified mail on Donald D. Soderlund, 118-1/2 Park Ave., Duluth, MN 55806, returned marked moved, left no address and by legal notice in the Duluth News Tribune to Donald D. Soderlund on March 9 and 10, 2000; and

Parcel 2-119 Park Avenue, aka S 30x80 feet including 5 feet of vacated avenue adjoining Lot 8, Block 70, Myers Rear Blk 70 Duluth Proper Second Division, by certified mail on John Adams, Park Point Manor, 1601 St. Louis Ave., Duluth, MN 55802, signed by John Adams as an illegible signature witnessed by John Wakefield, LPN, and Elsie M. Norman, LPN, and received by building inspection February 28, 2000; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Parcel 3-211 South 16th Avenue East, aka Sly 30 feet of Lots 7 and 8, Block 39, Endion Division by certified mail on Todd Judnick, 1632 East Fourth Street, Duluth, MN 55812, signed by T. Judnick on December 10, 1999, and by legal notice in the Duluth News-Tribune to Doris J. Erkenbrack and David J. Roper, address unknown, on December 16 and 17, 1999; and

Parcel 4-5812 Elinor Street, aka Ely 27' of Lots 1 and 2, Block 72, West Duluth Sixth Division, by certified mail on Scott Occhino, Land Staff Appraiser, 607 Government Services Center, 320 West Second Street, Duluth, MN 55802, signed by an illegible signature, mail room, on March 28, 2000; and

Parcel 5-114 East Seventh Street aka West Half of Lot 24, Duluth Proper First Division East Seventh Street, by hand delivery to Scott Occhino, Land Staff Appraiser, 607 Government Services Center, 320 West Second St., Duluth, MN 55802, signed by Kim Hofmockel on May 16, 2000; and

Parcel 6-2706-08 West Third Street- GARAGE ONLY -aka East 38 feet of Lot 436, Block 84, Duluth Proper Second Division, by certified mail on William C. Drake and Joann Stevens, 2708 West Third Street, Duluth, MN 55806, signed by William C. Drake on December 17, 1998; and

Parcel 7-23 East Seventh Street - GARAGE ONLY -aka Lot 11, Duluth Proper First Division East Seventh Street, by certified mail on Edward and Katherine Kale, 23 East Seventh Street, Duluth, MN 55805, signed by E. Kale on December 22, 1998.

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 00-0362 was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 00-0364, by Councilor Edwards, awarding contract to Chesley Freightliner Duluth for five freightliner cab and chassis in the amount of \$ 335,497.55, was introduced for discussion.

Councilor Hogg stated that he had questions regarding the need for this and moved to table the resolution, which motion was seconded and unanimously carried.

- - -

Resolution 00-0369 by Councilors Stewart, Hogg and Ness, creating a citizen's advisory committee for comprehensive planning, was introduced for discussion.

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

Jerry Kimball, representing the Duluth Public Policy Alliance, noted the alliance's support for this resolution in that this is a good use of citizens with a broad planning interest and background, and that the citizen involvement will go beyond the limitations of the city's staff and the planning commission backgrounds.

Councilor Hogg moved to amend the resolution by adding the following language to the third paragraph: "and that the city council requests that the administration assist the committee in its work by providing staff support to help the committee gather information and schedule

meetings with staff and community groups and by providing clerical assistance to the committee in taking, preparing and distributing minutes and/or other reports," which motion was seconded and unanimously carried.

Resolution 00-0369, as amended, was adopted as follows:

BY COUNCILORS STEWART, HOGG AND NESS:

WHEREAS, the city of Duluth is currently initiating a comprehensive planning process; and

WHEREAS, the city council of Duluth wishes to create a citizen's advisory committee for comprehensive planning to advise the council on matters of city wide concern as they relate to the comprehensive planning process.

NOW, THEREFORE, BE IT RESOLVED, that the following committee be established: the citizen's advisory committee for comprehensive planning (hereinafter referred to as the committee, and that the city council requests that the administration assist the committee in its work by providing staff support to help the committee gather information and schedule meetings with staff and community groups and by providing clerical assistance to the committee in taking, preparing and distributing minutes and/or other reports.

BE IT FURTHER RESOLVED, that said committee shall conform to the following structure:

Purpose: The citizen's advisory committee for comprehensive planning will advise the council on all aspects of the comprehensive plan. Members will review plan elements, suggest initiatives, respond to council inquiries, cooperate with other persons and groups involved in the planning process, and provide comprehensive oversight to the planning process. The committee will primarily concern itself with issues of city wide significance in an attempt to maintain a consistent and cohesive vision for the city as a whole. Recommendations regarding these matters will be made to the council. The committee should not duplicate functions already served by existing committees and it should not usurp the role of neighborhood committees or workgroups. The committee will serve in an advisory role to the council only. Under no circumstances will the committee have any supervisory or regulatory role in the planning process.

Membership: The committee will consist of nine to 13 members to be selected by the city council. It is recommended that members be selected according to the following criteria:

(a) Expertise: Members should have skills in planning, recreation, housing, business development, environmental assessment, historic resources or some other area of expertise of direct relevance to the comprehensive planning process;

(b) Geographic balance: Members should be selected to insure representation from all geographic regions of the city;

(c) Diversity: Members should be selected to insure representation from communities of color. Gender balance should also be sought.

Structure of committee: The committee will select a chair and a co-chair. It is recommended that the chair convene meetings at least once per month. Meetings may be held with greater frequency if necessary. The committee will discuss all issues that come before it and make recommendations to the council. The recommendations may take either of two forms:

Consensus recommendation: This is a recommendation reached by consensus or unanimous agreement.

Nonconsensus recommendation: This recommendation will be made when the committee cannot reach consensus. In such cases, a majority report and minority report will be presented to the council.

Duration: The committee will endure until it is dissolved by council resolution. It is recommended that such dissolution occur upon completion of the comprehensive planning process.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED FURTHER, that interested parties may apply to this committee by the same process that is used for other city boards, committees and commissions. Applicants are encouraged to attach brief resumes to the city's standard application form. The deadline for application will be 21 days from the date of approval of this resolution.

Members will be selected from the pool of qualified applicants according to the following procedure: Each councilor will receive 11 votes. As many as three votes may be applied to a single applicant. The council will review the results of the first ballot and may at this point decide to interview nine to 13 of the candidates. In the event that the first round of ballots fail to sufficiently narrow the field of candidates, the council may opt to vote a second time on a smaller field of candidates as determined by the council's review of the first round of voting. Procedures for such subsequent voting shall be flexible and determined by the council as needed. Nine to 13 candidates will be interviewed by the council. Successful candidates will be approved by council resolution. In the event that one or more candidates are not approved, the next highest vote-getters may proceed through the established process in order to reach a committee with a membership of at least nine.

In the event that a member of the committee is at any time unable or unwilling to continue to serve on the committee, replacements will be selected according to the above process. Applicants will be kept on file in a manner consistent with past practice.

Resolution 00-0369, as amended, was unanimously adopted.

Approved May 22, 2000

GARY L. DOTY, Mayor

[Editor's Note: This resolution was amended by Resolution 00-0433 on June 12, 2000.]

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At this time, 11:19 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

- - -

Resolution 00-0348, by President Gilbert, 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.

President Gilbert moved to split the resolution to consider File Nos. 00031 and 00033 separately from File No. 00038, which motion was seconded and discussed.

President Gilbert stated that he wishes to hold up acting on the resolution dealing with File No. 00038 because it is in the area of the Northwest study plan, which the administration will be giving the council a presentation on.

The motion to separate the resolution carried unanimously.

Resolution 00-0348(a), pertaining to File Nos. 00031 and 00033, was adopted as follows:
BY PRESIDENT GILBERT:

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

File #	Applicant Name	Legal Description	Location
00031	Chris Johnston	Lots 30-32, Block 34, Hunter and Markell's Grassy Point Addition (10-2420-7710)	south side of Thompson Street, west of 72nd Avenue West (Indian Point/West Duluth)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

File #	Applicant Name	Legal Description	Location
00033	James Barry	Lots 5-8, Block 22, Zenith Park Addition (10-4750-2610)	south side of Gilbert Street and east of Duluth Avenue (West Duluth/Wheeler Field)

Resolution 00-0348(a) was unanimously adopted.
 Approved May 22, 2000
 GARY L. DOTY, Mayor

- - -

President Gilbert moved to table Resolution 00-0348(b), pertaining to File No. 00038, which motion was seconded and unanimously carried.

- - -

Resolution 00-0371, by President Gilbert, authorizing community development block grant community job partnership fund agreements in the amount of \$210,000, was introduced for discussion.

Councilor Hogg reviewed the issue that was discussed at length at the agenda session regarding two companies that were led to believe that they were qualified and would be included in the process and are not listed in the replacement resolution based on a decision that they did not qualify. He felt that there was a failure in the process and moved to amend the title of the resolution by replacing the dollar amount of "\$210,000" with "\$235,000," and adding to the body of the resolution the following companies and amounts:

\$10,000	House of Technology
\$15,000	Saturn Systems,"

which motion was seconded and unanimously carried.

Resolution 00-0371, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements for the community job partnership program with the entities listed below in the amounts set forth below with regard thereto, said agreements substantially in the form of those on file in the office of the city clerk as Public Document No. 00-0522-27, payable from 2000 Federal Program Fund 262, Agency 623, Account 6317:

Amount	Entity
\$50,000	Aero Design & Manufacturing
\$20,000	Brigham Upholstery
\$10,000	CHUM Works
\$10,000	Coco's to Geaux
\$10,000	Duluth Dental Arts
\$10,000	Harbor View Economic Development Corporation
\$10,000	House of Technology
\$5,000	Housing Access Center
\$40,000	Metal Service, Inc.
\$5,000	New Moon Publishing
\$30,000	Northstar Machine and Tool Company

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

\$10,000 Residential Services, Inc.
\$15,000 Saturn Systems
\$10,000 Women's Coalition

Resolution 00-0371, as amended, was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

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. 00-0522-24 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 00-0340 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a \$4,975 grant from the Miller-Dwan Foundation and to execute the grant agreement (Public Document No. 00-0522-25), for the city of Duluth fire department's purchase of a hazard house educational simulator.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into Fund 210.

Resolution 00-0347 was unanimously adopted.
Approved May 22, 2000
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the second time:

BY COUNCILOR HOGG

00-015 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2000 INCREASING THE BUDGET FOR THE GAS UTILITY SALES PROMOTION DIVISION AND TO PAY FOR SUCH INCREASE FROM GAS SALES.

Councilor Hogg moved to table the ordinance so that it could be discussed further at a later date, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR EDWARDS

00-011 (9446) - AN ORDINANCE PERTAINING TO LICENSES AND APPLICATIONS WHEREIN VETERINARY HOSPITALS WILL NOT NEED TO PROVIDE A CORPORATE SURETY BOND; AMENDING SECTION 6-83 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR STENBERG

00-016 (9447) - AN ORDINANCE PERTAINING TO TOWING REGULATIONS; AMENDING SECTIONS 33-248, 33-256 AND 33-259 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

At this time, 11:30 p.m., Councilor Fena moved to suspend the rules to extend the meeting until 11:33 p.m., which motion was seconded and unanimously carried.

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COUNCILOR QUESTIONS AND COMMENTS

Councilors discussed the aspect that, given the other major items on the agenda, a disservice was done to the public since the council did not get to the issue of smoking in public places tonight.

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The meeting was adjourned at 11:33 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9446

BY COUNCILOR EDWARDS:

AN ORDINANCE PERTAINING TO LICENSES AND APPLICATIONS WHEREIN VETERINARY HOSPITALS WILL NOT NEED TO PROVIDE A CORPORATE SURETY BOND; AMENDING SECTION 6-83 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 6-83 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 6-83. License; application.

No person shall establish, operate or maintain a pet shop, grooming shop, dog or cat breeding kennel, boarding kennel, animal shelter, veterinary hospital or nuisance wildlife removal business without first obtaining an annual license therefor. Licenses shall be applied for at the office of the city clerk on forms provided by the clerk's office. Each application shall be accompanied by an annual license fee as set by the city council by resolution.

Applications for license renewals shall be made at least 30 days before the license term expires. In addition, any license application or renewal thereof, except any for a veterinary hospital, shall be accompanied by a corporate surety bond to the city of Duluth in the amount of \$3,000, which shall be maintained in that amount throughout the license period to ensure payment of veterinary or other care for animals ordered by the animal control officer and to ensure the licensee's compliance with all laws pertaining to its operation. Pet shops shall also file with the city clerk a commercial general liability insurance policy covering applicant's pet shop operations in the amount of \$300,000 for bodily injury in any year and \$50,000 for property damage in any year.

Prior to the issuance of any first time license thereof under this Article, the animal control authority shall conduct an inspection of the licensee to determine compliance with this Article. Prior to the issuance of any license renewal thereof

under this Article, the animal control authority may conduct an inspection of the licensee to determine compliance with this Article. The animal control authority, for all application of license and renewal of license, shall make a written report of such investigation to the animal humane board. A license shall not be issued or renewed without full compliance with the terms of this Article. License issued under this Article shall expire one year from the date of issuance, unless earlier suspended or revoked as provided in this Article. Each license issued under this Article shall be prominently displayed at all times in the establishment for which it is issued. A licensee shall be responsible for all actions and conduct of any employee or agent of the licensee and any violation of this Article by an employee or agent shall be deemed to be the actions and conduct of the licensee.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 30, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 22, 2000
Approved May 22, 2000
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9447

BY COUNCILOR STENBERG:

AN ORDINANCE PERTAINING TO TOWING REGULATIONS;
AMENDING SECTIONS 33-248, 33-256 AND 33-259 OF THE
DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-248 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-248. Fees; issuance; investigation.

(a) Each application shall be referred by the city clerk to the chief of police for investigation of the applicant, the applicant's equipment, and the applicant's garage and storage facilities. After completion of the investigation, the chief of police shall report to the city clerk whether the applicant and the applicant's equipment and storage facilities are appropriate for the conduct of an emergency wrecker service business;

(b) The city clerk shall issue a license to all qualified applicants which shall expire on June 30 of each year. No license shall be assignable or transferable. No license shall be issued unless the requirements of this Article are met;

(c) The annual fee for emergency wrecker service license shall be \$350 for each business;

(d) Each applicant shall accompany its application with current inspection certificates required by the state of Minnesota certifying that all wreckers to be used are in good operating condition;

(e) The fees specified are payable at the time of application and no refund of fees shall be made except that the annual license fee for the wrecker service shall be refunded if a license application or renewal application is rejected. No proration of fees shall be made.

Section 2. That Section 33-256 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-256. Vehicle storage facilities, vehicle retention.

All wrecker services shall provide sufficient off street parking in a secure lot to accommodate all vehicles to which they render and intend to render service. No wrecker service shall permit vehicles to which they render or intend to render service to be parked on any street. Each wrecker service shall store vehicles at one storage lot only and that storage lot shall be located in the city of Duluth. No storage lot shall be used by more than one wrecker service. All storage lots shall provide reasonable security for vehicles, shall be maintained in an orderly manner and kept free of unnecessary debris, and shall be designed and surfaced for proper drainage so that the storage area is reasonably free of mud. If requested by the police, a vehicle shall be stored in an enclosed building with heat, electricity and a concrete or paved floor.

Section 3. That Section 33-259 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-259. Emergency wrecker service.

An emergency wrecker service shall provide the following minimum services:

(a) Such service shall provide services with a wrecker or wreckers which meet the requirements of sections 33-257(a) and (c) and, where relevant, Section 33-257(b) of this Article;

(b) Such service shall provide 24 hour a day, seven day a week service;

(c) Such service shall come at all times when summoned by the chief of police to remove a disabled vehicle and, when summoned, shall remove such vehicle on all occasions;

(d) Such service's vehicles shall arrive at the scene of a disabled vehicle when summoned by the chief of police within a reasonable time after being summoned, such time not to exceed 20 minutes;

(e) Such services shall, upon the request of any peace officer, store any vehicle inside a building which is reasonably weatherproof and secure for as long as is necessary to complete any police investigation of such vehicle;

(f) If the chief of police directs that any vehicle be towed to any location other than a storage location normally used by the wrecker service providing such service, such wrecker service shall deposit such vehicle as directed; provided that if services provided pursuant to such direction would justify additional charges under this Article, the chief of police shall pay such charges;

(g) When summoned by the chief of police, the maximum fee for services rendered shall be as follows:

(1) \$70 for all towing of disabled vehicles from one location in the city to another, or to a lot maintained outside the city by the service;

(2) \$20 additional when the vehicle requires dollying or a flat bed wrecker or when a flat bed wrecker is requested by the police;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(3) \$60 per hour for towing a vehicle which requires heavy duty wrecker equipment from one location in the city to another, or to the service's lot maintained outside of the city;

(4) \$12 per each 24 hours for storage of towed vehicles;

(5) If the vehicle to be towed is off of the roadway and requires more than 20 feet of winching, \$17.50 for each 15 minutes that the wrecker's winch is in operation:

(h) Licensee shall, if requested, return disabled vehicles to their rightful claimants 24 hours per day, seven days per week on at least an on-call basis;

(i) No fees shall be charged if a licensee tows a vehicle from one location to another for its own purposes;

(j) In the event that the chief of police deems it reasonably necessary in his sole discretion to use more than one wrecker vehicle to safely provide required emergency wrecker service to a disabled vehicle, he may authorize said use in which case the effected service may charge up to the maximum rates set forth above for each authorized wrecker vehicle used.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 7, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 22, 2000
Approved May 22, 2000
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 12, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held March 2, 6 and 27, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0612-01 Robert M. Fryberger Trust B, by Steven C. Overom, attorney, submitting petition for an easement vacation on Keith Street from Melrose Avenue to Dunedin Avenue. -- Assessor

00-0612-02 Menard, Inc., petitioning to vacate portions of alleys, streets and easements in Blocks 170, 171, 173, 176 and 178, West Duluth Seventh Division, Block 58, Oneota Division, and part of 48th Avenue West lying southerly of the centerline of Second Street and westerly of the easterly right-of-way line of Superior Street, Oneota Industrial Division, First Addition. -- Assessor

00-0612-03 Jack Shapiro, et al. (21 signatures), submitting petition to reclassify from R-4 to C-1 property described as Lots 25, 27, 29 and 31, Duluth Proper First Division, West Third Street. -- Assessor

00-0612-04 Summit Management, Inc., submitting petition to vacate Kenwood Avenue at Lover's Lane. -- Assessor

00-0612-05 Minnesota state auditor submitting Duluth transit authority audit report for the year ended December 31, 1999. -- Received

00-0612-06 Hillside Management, by William Burns, attorney, submitting letter pertaining to Jennifer Huntley and Brownstone sewer line replacement appeal (00-0421R and 00-0422R). -- Received

00-0612-28 Rhonda Rutford submitting communication requesting the amendment of the year 2000 street improvement program to include East Sixth and East Seventh Streets (supported by 22 signatures) (00-0078R). -- Received

00-0612-07 The following submitting communications regarding the proposed ordinance pertaining to smoking regulations in public places (00-009-O): (a) A.F.S.C.M.E., Council 96; (b) David Ahrens; (c) AnnoMarie; (d) B. Bakke; (e) Jim Barschdorf; (f) Rachel Carroll; (g) Dennis Christensen, Jim's Hamburgers; (h) Duluth Hospitality Association; (i) Joseph Elder; (j) Vickie Haugland; (k) Honeywell, Inc.; (l) Lawrence LeTourneau; (m) Alex Nedelcoff; (n) Ashley Richards; (o) Lora Sweezy; (p) Richie Townsend; (q) Stephen Welsh; (r) Stop Teen Tobacco organizing project; (s) Judy Thomas. -- Received

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REPORTS OF OFFICERS

00-0612-08 Mayor Doty submitting veto of Resolution 00-0333(b), adopting criteria that apply to a business that requests a business subsidy from the city. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

00-0612-09 Assessor submitting:

(a) Affidavit of mailing of notice of hearing by special assessment board to be held on June 13, 2000, at 2:30 p.m. for reassessment of costs for demolition of Plat/Parcel 1800-970 (Demolition Assessment Contract 5224). -- Clerk

(b) Letters of sufficiency of petitions to vacate:

(1) Elon Avenue;

(2) Francis Street which joins Lot 19, Block 5, Riverside Park, Second Addition;

(3) Lover's Lane in Lakeview Division, First Addition;

(4) Portions of alleys, streets and easements in Blocks 170, 171, 173, 176 and 178, West Duluth Seventh Division, Block 58, Oneota Division, and part of 48th Avenue West lying southerly of the centerline of Second Street and westerly of the easterly right-of-way line of Superior Street, Oneota Industrial Division, First Addition. -- Received

00-0612-10 Building official submitting appeals of:

(a) Building appeal board order to demolish San Marco Apartments located at 222-224-226 West Third Street (Anderson);

(b) Board of zoning appeals denial to reduce the minimum lot size requirement from 5,000 square feet to 4,687.5 square feet and to reduce the minimum frontage requirement from 50 feet to 37-1/2 feet for the division of three lots into two sites to build two new homes on a site presently used for one home located at 418 North 51st Avenue West (Northern Communities Land Trust). -- Committee 2 (Planning)

00-0612-11 Engineering division submitting monthly project status report of May 1, 2000. -- Received

00-0612-45 Finance and records director submitting Comprehensive Annual Financial Report for the Fiscal Year ended Decemer 31, 1999. -- Received

00-0612-12 Parks and recreation director submitting Lake Superior Zoological Society:

(a) Financial statements of March and April, 2000;

(b) Minutes of March 29, 2000, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0612-13 Alcohol, gambling and tobacco commission minutes of: (a) April 11; (b) April 25; (c) May 2, 2000, meetings. -- Received

00-0612-14 Alcoholic beverage board minutes of: (a) February 9; (b) February 22; (c) March 8, 2000, meetings. -- Received

00-0612-15 Board of zoning appeals minutes of April 25, 2000, meeting. -- Received

00-0612-16 Civil service board minutes of April 4, 2000, meeting. -- Received

00-0612-17 Duluth airport authority: (a) Minutes of April 18, 2000, meeting; (b) Unaudited balance sheets for three months ending March 31, 2000. -- Received

00-0612-18 Duluth/North Shore sanitary district minutes of (a) April 4; (b) May 2; (c) June 6, 2000, meetings. -- Received

00-0612-19 Duluth transit authority minutes of: (a) March 29; (b) May 3, 2000, meetings. -- Received

00-0612-20 Environmental advisory council minutes of: (a) February 2; (b) March 1; (c) April 5, 2000, meetings. -- Received

00-0612-21 Heritage preservation commission minutes of March 8, 2000, meeting. -- Received

00-0612-22 Housing and redevelopment authority of Duluth minutes of April 25, 2000, minutes. -- Received

00-0612-23 Human rights commission minutes of: (a) January 10; (b) February 14; (c) March 13; (d) April 10, 2000, meetings. -- Received

00-0612-24 Lawful gambling commission minutes of: (a) February 8; (b) March 8, 2000, meetings. -- Received

00-0612-25 Planning commission minutes of May 9, 2000, meeting. -- Received

00-0612-26 Special assessment board minutes of May 9, 2000, meeting. -- Received

00-0612-27 Technical design advisory committee for DWMX-D minutes of September 21, 1999, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dick Florey questioned the status of the College Street improvements, as this project seems to be on again and off again and requested that the city stay on the original time line as proposed.

Administrative Assistant Winson replied that this project could be finalized and the contract awarded by late August, with the landscaping being completed next spring, but any further delays could delay the entire project until next year.

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Todd Holmquist stated that he contacted 31 out of the 33 houses on Sixth Street and has over 66 percent support to put that street back on the list of street improvements for this year and requested the council to support that action.

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K.L. Lewis voiced safety concerns at First Avenue East and Fourth Street, a rusty safety fence at Fifth Avenue West and Superior Street at Gateway Towers and requested that at the Opus site an entrance be built so that city buses can use it to get into the shopping center so it will not have to be altered at a later date.

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Steve Running, Glenn Bressler and Walter Braughton urged councilors to keep the street improvement project on track for Eighth Street.

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At this time, 8:00 p.m., President Gilbert called to order the public hearing regarding the creation of TIF District #20 (Northwest corridor) (Public Document No. 00-0612-46).

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At this time, 9:00 p.m., the public hearing closed and the regular order of business was resumed.

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RESOLUTIONS TABLED

Councilor Edwards moved to remove Resolution 00-0364, awarding contract to Chesley Freightliner Duluth for five freightliner cab and chassis, in the amount of \$335,497.55, from the table, which motion was seconded and unanimously carried.

Resolution 00-0364 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that Chesley Freightliner Duluth be and hereby is awarded a contract for furnishing and delivering five freightliner cab and chassis for the water and gas divisions in accordance with specifications on its low specification bid of \$335,497.55, terms net 30, FOB destination, \$67,099.51 payable out of Water Fund 510, Dept./Agency 900, Organization 0505,

Object 5580; \$67,099.51 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580 and \$201,298.53 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V011.

Resolution 00-0364 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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Councilor Ness moved to remove Resolution 00-0345, forming a task force to address nonlegislative options and solutions for indoor clean air in Duluth's public places, from the table, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCE
ORDINANCE TABLED**

BY PRESIDENT GILBERT AND COUNCILORS ECKENBERG AND NESS

00-009 (9448) - AN ORDINANCE PERTAINING TO THE REGULATION OF SMOKING IN PUBLIC PLACES; ADDING A NEW ARTICLE VII TO CHAPTER 28, DULUTH CITY CODE, 1959, AS AMENDED.

At this time, Councilor Hogg moved to suspend the rules to consider the ordinance, which motion was seconded and unanimously carried.

Councilor Hogg 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 speakers on the ordinance.

The following speakers supported the ordinance: Gay Trachsel; Dorette Larson; C.J. Bird; Randy Raymond; Lisa Vogelsang; Larry Sundberg; Jane Cosica; Bruce Kasen; Kristine Basilei; Elaine Caufield; Rumelle Jones; Jenny Peterson; Terry Clark; Pat Stieg; Jeremy Hanson; John Johnson; David Kalligher; Bill Simpson; Jim Taylor; K.L. Lewis; Sharon Lund; Ladona Tornabene; Rela Mallow; Carol Thibault; Kristin Yedges; Randy Pass; Jim Skoog; Catherine Winter; Steve O'Neil; Jan Salo Korby; Tom Allnew; Richard Krull; Andy Peterson; Ken Steil; Don Poe; for the following reasons: secondhand smoke is dangerous to nonsmokers and smokers; ventilation systems do not take all of the harmful particles out of the air; bar and restaurant employees' health is at risk; councilors need to take a stand on this issue and listen to the majority of the citizens instead of a small contingent of business owners; it is a serious health issue; it is a serious health problem for children; other cities who have nonsmoking establishments have not lost business due to no smoking; the issue of students smoking at schools needs to be addressed; councilors are elected to protect the public health of the citizens of Duluth; air curtains are not a solution to no smoking; potential lawsuits against businesses from customers and employees; Duluth needs to be a leader on this issue instead of a follower; for fear of losing their job an employee will sign a statement to work in the smoking section even if they do not want to; business will increase because people do not go to bars/restaurants now because of the smoke; and tobacco companies are pushing for smoking in restaurants.

The following speakers spoke against the ordinance: Kay Biga; Vickie Haugland; Paul Goeb; Tom Allnew; and Dennis Christensen; for the following reasons: the public interests of both smokers and nonsmokers should be facilitated; let business owners listen to their customers and follow their input thereby allowing businesses to survive in Duluth; restaurant owners are not the bad guys by allowing smoking in their establishments; business will be lost due to the lack of no smoking; air curtains help eliminate the bad particles in the air and do improve the air quality in the restaurants; states that have smoking bans have problems enforcing the ban and their

restaurants have lost customers; the ordinance is too intrusive on the business owner and unconstitutional; a restaurant should sign their building if they are smoking or not; a change in the norm for society should not cause a business to fail; business owners should be allowed to decide if they want to be smoke free; go after the smoking industry instead of the business owners.

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At this time, 10:00 p.m., Councilor Hogg moved to suspend the rules to extend the meeting to 1:00 a.m., which motion was seconded and unanimously carried.

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President Gilbert moved to amend subsection (g) of Section 28-63 of the ordinance to end after the phrase, "closeable doors for entry and exit," and amend Section 28-66 to end after the phrase, "exception from this ordinance [Article]," which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Ness, Stewart and President Gilbert -- 5

Nays: Councilors Edwards, Hogg, Stenberg and Stover -- 4

Councilor Ness reviewed that this amended ordinance is a compromise for both sides of this issue as it provides a division between smoking and nonsmoking sections in restaurants; it protects people under 18 from being in smoking sections; it reduces the number of smoking seats in the city of Duluth and it allows businesses a more level playing field by allowing restaurants to adapt their establishments and improve their air quality and comply with the ordinance. He went on to say that there has been a good faith effort on both sides and that the main points of contention were on the definition of a wall and the exemption clause for restaurants. Councilor Ness suggested a change to the air curtain definition and that the council take a period of time to gather information on the true effectiveness of air curtain technology compared to a wall situation and then bring it back to the council at a later date to see if the council could agree if air curtain technology is as effective as a wall. He continued by saying that to be fair to a business that has to make changes and incur the expense of building a wall to have a smoking section, they need to know what options are available in advance.

Councilor Hogg agreed that the council has had a good process on this subject, and that the council should not put the community in a position where it is a win for some people and expense for others. He voiced concern for the small neighborhood restaurants where the business is a social outing along with going out to eat.

Councilor Stewart stated that the community has had a lot of good discussion about this and this issue will be back before the council.

Councilor Fena stated that the air curtain has not demonstrated its effectiveness yet but she would be willing to revisit the issue when it has shown that it is effective to keep the indoor air clean. She stated that this is a public health issue and appropriate for the council to prevent disease by passing the ordinance.

Councilor Stover voiced concern over neighborhood bars that will lose business and customers due to the passage of this ordinance.

Councilor Eckenberg expressed his appreciation that various individuals and groups have worked to come to a compromise over this issue.

Councilor Edwards questioned if businesses constructing walls in their restaurants would have problems complying with the building and fire codes.

Councilor Stenberg stated that the city council should not pass any ordinance that would cause the city to lose a business. He continued by saying that the proposed ordinance will be a slow progression towards a change in society.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilor Ness stated that if the restaurants can demonstrate their loss, the council should not prolong the period of time they are faced with business losses. He moved to amend to Section 28-66, after the phrase, "this ordinance [Article] for," to insert the words, "one month or greater than ten percent for," and after the word, "two," insert the word, "consecutive," which motion was seconded and carried upon the following vote:

Yeas: Councilor Eckenberg, Hogg, Ness, Stenberg, Stewart and Stover -- 6

Nays: Councilors Edwards, Fena and President Gilbert -- 3

Councilor Hogg moved to amend Section 28-66 by adding the following sentence: "A request for an exception shall be automatically approved if it is not denied by the council within 30 days after its receipt by the city clerk," which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Fena -- 1

Councilor Stewart moved to amend subsection (g) of Section 28-63, after the phrase, "closeable doors for entry and exit," to add the words, "except no closable door shall be required to be installed on entries and exits that have historical significance as recognized by the Duluth heritage [preservation] commission," which motion was seconded and carried upon the following vote:

Yeas: Councilors Fena, Hogg, Stenberg, Stewart and Stover -- 5

Nays: Councilors Eckenberg, Edwards, Ness and President Gilbert -- 4

Councilor Ness suggested that there be a two to three month period of time to gather information on how well an air curtain separates a smoking section from a nonsmoking section or what technology is needed to perform that function. He continued by saying that the ordinance should be date specific on when the council would consider and accept this kind of technology in order to give a reasonable amount of time to the businesses to react to that decision.

Councilor Eckenberg and President Gilbert stated that they could not support the ordinance with language approving air curtain technology language.

Councilor Ness moved to amend subsection (g) of Section 28-63 by adding the following phrase to the end of the subsection: "and except that at such time as council deems, by amendment by this ordinance [Article], that sufficient scientific evidence supports the effectiveness of air barriers or other technologies, said barriers or technologies may be substituted for walls," which motion was seconded for discussion.

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

The amendment carried upon the following vote:

Yeas: Councilors Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 6

Nays: Councilors Eckenberg, Edwards and President Gilbert -- 3

Councilor Hogg called the question on the ordinance, which motion was seconded and unanimously carried.

President Gilbert and councilors Eckenberg and Ness moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stover and President Gilbert -- 6

Nays: Councilors Edwards, Stenberg and Stewart -- 3

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Councilor Ness withdrew Resolution 00-0345 from the agenda.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement with the Duluth Police Local, containing the same terms and conditions, and being in the same form (except for typographical or insubstantial corrections) as that contract on file with the city clerk as Public Document No. 00-0612-30, covering years 2000, 2001, 2002.

Resolution 00-0387 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment for Washington Square, Lafayette Square and Fairmont Park for the public works and utilities department in accordance with specifications on its low specification bid of \$59,579.30, terms net 30, FOB destination, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 2000, Object C008.

Resolution 00-0374 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Lake Superior Office Furniture, Inc., be and hereby is awarded a contract for furnishing and delivering additional office furniture components for the attorney's office in accordance with specifications on its low specification bid of \$14,061.54, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, (\$6,962) Organization 2108 and (\$7,099.54) Organization 2109, (\$6,962) Object E841 and (\$7,099.54) Object E958.

Resolution 00-0378 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area and issues an on sale dancing license of the following on sale intoxicating liquor license, for the period ending August 31, 2000, subject to departmental approvals:

CW Chips Grill & Bar, Inc. (CW Chips Grill & Bar), 610 East Fourth Street.

Resolution 00-0394 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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:

Lemon's Reef, Inc. (Reef Bar), 2002 London Road, for June 17, 2000, with the music and serving ceasing at 11:00 p.m.

Resolution 00-0395 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Billman Construction, Inc., be and hereby is awarded a contract for construction of Lake Superior Zoo animal care center for the city architect division in accordance with specifications on its low specification bid of \$901,272, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1998, Object C813.

Resolution 00-0410 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Judith Oleson for a term expiring March 30, 2001, replacing Susan Poupore who resigned.

Resolution 00-0386 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into community development block grant (CDBG) program agreements with the service providers listed below in the amounts set forth below with regard thereto, said agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 00-0612-31, payable from 2000 Federal Program Fund 262.

<u>Account</u>	<u>Amount</u>	<u>Economic development projects</u>
6313	\$200,787	North Star Community Development Corporation/microenterprise revolving loan fund
6314	\$ 85,000	Northeast Entrepreneur Fund, Inc./microenterprise development
6315	\$117,500	Project SOAR of Northeastern Minnesota/career development and self-employment training
6316	\$ 40,000	Damiano of Duluth, Inc./opportunities cooking

Resolution 00-0392 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley between 48-1/2 Avenue East and 49th Avenue East above Glendale Street legally described as: the alley abutting Lots 1274 through 1289, Blocks 94 and 95, Crosley Park Addition; and

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

WHEREAS, the city planning commission approved unanimously the alley vacation petition at its May 24, 2000, 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. 00-0612-32.

BE IT FURTHER RESOLVED, that the full width and length of the vacated alley way be retained as utility easement.

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

Resolution 00-0398 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized and directed to execute Minnesota department of transportation Agreement No. 80239, filed as Public Document No. 00-0612-33, between the city of Duluth and the Minnesota department of transportation for the purchase and installation of landscaping materials at Lake Place under State Project No. 6982-969.

Resolution 00-0397 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an amendment to City Contract No. 18511, a copy of which will be on file in the office of the city clerk as Public Document No. 00-0612-34, with the Minnesota department of economic security to provide services under the Minnesota youth program by extending the contract dates to June 30, 2001, and accepting an additional \$21,936, bringing the total contract amount to \$172,607.

FURTHER RESOLVED, that funds shall be deposited in Fund 268, Budget Item 6233.

Resolution 00-0399 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Independent School District No. 709 for the services of six teachers to provide instructional services and work site coordination to summer work experience program clients for the summer work experience program's academic enrichment component for the period June 17, 2000, through July 31, 2000, at costs not to exceed \$32,800. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 00-0612-35.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Item 6233.

Resolution 00-0420 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that General Heating and Mechanical Co., Inc., be and hereby is awarded a contract for replumbing of one inch, one and one-half inch and two inch gas piping, gas meter resetting and related work in various locations in the city of Duluth for the public works and utilities department in accordance with specifications on its low specification bid of \$35,330.60, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0400 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide street and utilities which serve Woodlawn Street; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to design such services; 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 \$29,000, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5330, Object 5530.

Resolution 00-0380 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the 2001 street improvement program in Hunters Park West; and

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

WHEREAS, LHB Engineers and Architects, Inc., has submitted a proposal for engineering services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$139,562.50, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 0106, Object 5530.

Resolution 00-0382 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the 2001 street improvement program in Lakeside - Central; 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 \$144,592.54, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 0107, Object 5530.

Resolution 00-0383 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the 2001 street improvement program in Woodland West - Center; 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 \$113,072, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 0108, Object 5530.

Resolution 00-0384 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized and directed to execute an easement agreement substantially in the form of the agreement filed as Public Document

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

No. 00-0612-36, granting the city and the Miller Creek joint powers board a maintenance road easement across property of Sears, Roebuck and Company for the purpose of gaining access to and constructing and maintaining the Miller Creek sediment trap.

Resolution 00-0388 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized and directed to execute easement agreements substantially in the form of those filed as Public Document No. 00-0612-37, granting the city of Duluth and the Miller Creek joint powers board a sediment trap and maintenance road easement from the Simon Property Group, L.P., for the construction and maintenance of a sediment trap in Miller Creek and a maintenance road leading to the sediment trap.

Resolution 00-0389 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Klassic Constructors, Inc., be and hereby is awarded a contract for construction of citywide street and sidewalk repairs for the engineering division in accordance with specifications on its low specification bid of \$438,759.31, terms net 30, FOB destination, payable out of Special Assessments Fund 810, Dept./Agency 038, Organization 5329, Object 5530.

Resolution 00-0391 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Bituminous, Inc., be and hereby is awarded a contract for bituminous surface restoration on East Superior Street from 47th Avenue East to 60th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$788,026.78, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2138, Object 5530.

Resolution 00-0396 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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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 Seaway Port authority of Duluth for the improvement of approximately 4,500 lineal feet of Port Terminal Drive, said agreement filed as Public Document No. 00-0612-38. The total estimated cost of the project is \$418,920.12, with the city's share being \$17,161.52, payable out of the P.I. fund.

Resolution 00-0402 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that Resolution 99-0558 to Short Elliott Hendrickson (formerly Seaway Engineering) for furnishing professional engineering services required for construction engineering survey and layout, inspection and testing of Year 2000 street improvement project for upper Woodland West area, be amended to increase the amount by \$42,465 for a new total of \$107,565, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0006, Object 5530.

Resolution 00-0412 was unanimously adopted.
Approved June 12, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0555 to Salo Engineering, Inc., for furnishing professional engineering services required for construction engineering survey and layout, inspection and testing of Year 2000 street improvement project for Central Lakeside East area, be amended to increase the amount by \$90,260 for a new total of \$210,260, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0001, Object 5530.

Resolution 00-0413 was unanimously adopted.
Approved June 12, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that R.R.E.M., an M.S.A. division, be and hereby is awarded a contract for the professional engineering services for survey, geotechnical, design and construction of Year 2001 Cody North for the engineers division in accordance with specifications on its proposal of \$89,496, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0102, Object 5530.

Resolution 00-0415 was unanimously adopted.
Approved June 12, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that R.L.K.-Kuusisto, Ltd., be and hereby is awarded a contract for the professional engineering services for survey, geotechnical, design and construction of Year 2001 Congdon Park Central for the engineers division in accordance with specifications on its proposal of \$159,410, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0103, Object 5530.

Resolution 00-0416 was unanimously adopted.
Approved June 12, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that Comark Sales, Inc., be and hereby is awarded a contract for furnishing and delivering seven laptop police vehicle computers for the police department in accordance with specifications on its low specification bid of \$27,658.05, terms net 30, FOB destination, \$5,808.19 payable out of Police Grant Program Fund 215, Dept./Agency 200, Organization 2448, Object 5580; \$19,637.22 payable out of Police Grant Program Fund 215, Dept./Agency 200, Organization

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

2450, Object 5580 and \$2,212.64 payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5580.

Resolution 00-0379 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to accept grant monies of up to \$50,000 from the United States department of justice for expenditures related to the Central Hillside task force program.

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

Resolution 00-0385 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 00-0612-39, between the city of Duluth and Arrowhead Regional Corrections for the purpose of providing services of processing and assessment of juvenile offenders, at a cost to the city of \$25,000, to be paid from the Minnesota cities grant program, Job Training Program Fund 268, Agency 031, Organization 6234, Activity SCXX, Object 0030.

Resolution 00-0390 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 00-0612-40, between the city of Duluth and St. James House, d/b/a Woodland Hills, for the purpose of providing a police diversion project for juvenile offenders, at a cost to the city of \$15,000, to be paid from Job Training Program Fund 268, Agency 031, Organization 6234, Activity SCXX, Object 0030.

Resolution 00-0393 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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. 00-0612-29, 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 \$120,000, to be deposited in General Fund 100, Agency 100, Org. 1505.

Resolution 00-0405 was unanimously adopted.

Approved June 12, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth desires to establish programs to combat juvenile delinquency in Duluth; and

WHEREAS, the city desires to hire an agency/organization to provide the services required to design, implement and run programs to discourage delinquency and gang violence; and

WHEREAS, the Center for African American Unity has submitted a proposal for a youth drill team project which is directed toward reducing juvenile delinquency in the Central Hillside area;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Center for African American Unity to provide the city with services set forth in the agreement filed as Public Document No. 00-0612-41.

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$8,076, will be payable from the Police Grant Programs Fund 215, Agency 200, Org. 2441.

Resolution 00-0406 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR STEWART:

WHEREAS, the council passed Resolution 00-0369, as amended, at its meeting on May 22, 2000; and

WHEREAS, said resolution establishes a committee to advise the council on comprehensive planning; and

WHEREAS, said resolution sets a deadline for applications for membership to the committee; and

WHEREAS, the deadline is not adequate time for all interested citizens to participate;

NOW, THEREFORE, BE IT RESOLVED, that said Resolution 00-0369, as passed, is amended as follows:

The following language that appears in the paragraph beginning "RESOLVED FURTHER" is deleted: The deadline for application will be 21 days from the date of approval of this resolution.

The following language is substituted for the deleted language: The deadline for application shall be July 10, 2000.

Resolution 00-0433 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, by the city council of the city of Duluth, as follows:

Section 1. Recitals.

1.01 The council has established the Duluth economic development authority (DEDA) to promote development and redevelopment of property located in the city of Duluth (the city).

1.02 In order to promote such development, DEDA has established Development District No. 17 (the development district) in the city and adopted a development program (the development program) therefor pursuant to Minnesota Statutes, Sections 469.090 through 469.1801 and

Sections 469.124 through 469.134 (collectively, the act). DEDA has prepared the development program in accordance with Sections 469.125 and 469.126 of the act.

1.03 DEDA proposes to establish Tax Increment Financing District No. 20 (the TIF district) within the development district and adopt a tax increment financing plan (the TIF plan) therefor pursuant to Minnesota Statutes, Sections 469.174 through 469.179 (the TIF act) for the purpose of financing public improvements and encouraging investment in the development district. DEDA has prepared the TIF plan in accordance with the TIF act (Public Document No. 00-0612-43).

1.04 Pursuant to Section 469.175, Subdivision 3 of the TIF act, the city held a public hearing on the TIF plan, which hearing was held this day, at which the views of all interested parties were heard.

1.05 DEDA has transmitted a copy of the TIF plan to the council in a document entitled "Fourth Amendment to Development Program for Development District No. 17 and Tax Increment Financing Plan for Tax Increment Financing District No. 20 (Northwest Corridor)," which is now on file in the office of the city clerk.

1.06 Pursuant to Minnesota statutes, Section 273.1399 (the section), upon creation of the TIF district, the city will experience a reduction in state aids to be paid to the city (the reduction) unless an exemption provided in the section applies.

1.07 Pursuant to the section, the TIF district is exempt from the reduction if the city elects at the time of approving the tax increment financing plan for the TIF district to make a qualifying local contribution (the contribution).

1.08 After investigation of the facts, the council is of the opinion that:

(a) It is necessary for the sound and orderly development of the development district and of the city as a whole and for the protection and preservation of the public health, safety and general welfare, that the powers authorized by the act and the TIF act be exercised by the city to provide public financial assistance to the development district;

(b) Proper development of the development district and implementation of the development program in accordance with the city's long range plans is essential to (i) the economic viability of the development district, (ii) the economic well being of the city and its residents, (iii) the orderly development of the city, and (iv) the orderly and beneficial development of the development district to ensure the construction of and provide moneys for the payment of the cost of certain public improvements within the development district, including site improvements, in order to provide and finance development of suitable and necessary sites for development;

(c) There is a need for new development within the development district (i) to provide employment opportunities for residents of the city, the surrounding communities and the state of Minnesota (the state), (ii) to improve the tax base of the city and the state, (iii) to improve the general economy of the city and the state, and (iv) to provide other facilities identified in the development program and TIF plan;

(d) Creation of the development district and TIF district is in the public interest and will result in increased employment in the city and in the preservation and enhancement of the tax base of the city; and

(e) The TIF district is intended and, in the judgment of city, its effect will be to promote the public purposes and accomplish the objectives specified in the development program, which are all consistent with the efforts already made for the development of the development district.

1.09 The council has fully reviewed the contents of the TIF plan.

Section 2. Statutory findings.

2.01 There is a need for new development in the development district, in order to provide employment opportunities, to improve the tax base, and to improve the general economy of the state.

2.02 Establishment of the TIF district will provide impetus for commercial development; increase employment; and provide off street parking to serve employees of the development district and the TIF district.

2.03 The actions required to assist the implementation of the development program are a public purpose and the execution and financing of the development program are a public purpose.

2.04 It is the opinion of the council, based on discussions with developers of projects proposed to be constructed in the TIF district and information contained in the development program and the TIF plan that:

(a) Development and redevelopment within the TIF district would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future;

(b) The increased market value of the site to be included in the TIF district that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from development in the TIF district after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan; and

(c) The use of tax increment financing is necessary.

2.05 Based on information contained in the development program and the TIF plan, the TIF plan conforms to the general plan for the development and redevelopment of the city as a whole.

2.06 Based on information contained in the development program and the TIF plan, the TIF plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development and redevelopment of the development district by private enterprise.

Section 3. Approval.

3.01 The TIF plan is approved.

3.02 The geographic boundaries of the development district and TIF district are as described in the development program and TIF plan, which documents are incorporated herein by reference and which, together with this resolution contain the requirements set forth in Section 469.175 of the TIF act.

Section 4. Designation of TIF district.

4.01 The proposed TIF district is a redevelopment district as defined in Section 469.174, Subdivision 10 of the TIF act because it consists of a portion of the development district within which the following conditions, reasonably distributed throughout the TIF district, exist:

parcels consisting of 70 percent of the area of the TIF district are occupied by buildings, streets, utilities or other improvements and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance.

4.02 The reasons and supporting facts for the determination that the TIF district meets the criteria set forth in Section 5.01 hereof will be retained and made available to the public by DEDA until the TIF district has been terminated.

4.03 At least 90 percent of the revenues derived from tax increments from the TIF district will be used to finance the cost of correcting conditions that allowed designation of the TIF district under Section 469.174 of the TIF act.

Section 5. Qualifying local contribution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

5.01 Since the TIF district is a redevelopment district, the city hereby elects to make a contribution equal to five percent of the increment from the TIF district.

5.02 The contribution for all tax increment financing districts in the city is limited to two percent of the city net tax capacity, except as otherwise provided by the section.

5.03 The contribution will be paid out of unrestricted money of the city or DEDA, including but not limited to monies from the general fund, a property tax levy or a federal or state grant-in-aid which may be spent for general government purposes and will not be made directly or indirectly with tax increments or developer payments.

5.04 The contribution will be used solely to pay project costs set forth in the TIF plan and will not be used for general governmental purposes or for improvements or costs that the city or DEDA plans to incur absent the project described in the TIF plan.

Resolution 00-0403 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, and President Gilbert -- 7

Nays: Councilors Stewart and Stover -- 2

Approved June 12, 2000

LYNN FENA, Acting Mayor

- - -

BY PRESIDENT GILBERT:

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 or about June 16, 2000, 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, graft, 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 project compliances section (FP-20) of the business and community development application.

FURTHER RESOLVED, that the city will obtain credit reports and credit information from UnitedHealthCare Services, Inc. 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 as are necessary to implement the project on behalf of the city.

Resolution 00-0411 was unanimously adopted.

Approved June 12, 2000

LYNN FENA, Acting Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0423, by President Gilbert, approving DEDA agreement with UnitedHealth-Care Services, Inc., and Duke Construction Limited Partnership providing tax increment financing and \$150,000, pursuant to DEDA Resolution 00D-36, was introduced for discussion.

Councilor Stewart expressed his concern that this resolution has been rushed through the council with the threat that if the council does not pass the resolution there will be a loss of 600 jobs in Duluth. He stated that by the city gaining 300 jobs, there is another community that is losing those jobs which perpetuates one community fighting another for jobs.

Resolution 00-0423 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to city council Resolution No. 99-0239, the agreement substantially in the form of that between the Duluth economic development authority (DEDA), United-HealthCare Services, Inc., and Duke Construction Limited Partnership, as approved by the DEDA board at its meeting of June 6, 2000, pursuant to DEDA Resolution No. 00D-36, a copy of which is on file in the office of the city clerk as Public Document No. 00-0612-44, is hereby approved.

Resolution 00-0423 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: Councilor Stewart -- 1

Approved June 12, 2000

LYNN FENA, Acting Mayor

- - -

At this time, 12:45 a.m., Councilor Stenberg moved to suspend the rules to extend the meeting to 1:15 a.m., which motion was seconded and unanimously carried.

- - -

BY PRESIDENT GILBERT:

WHEREAS, by the passage of this resolution and the filing of Ordinance No. 00-018-O, the Duluth City Council hereby expresses its intent to modify the North Shore development moratorium contained in Ordinance No. 9439 to permit limited construction of single family residences under the terms and conditions set forth in Ordinance No. 00-018-O; and

WHEREAS, a building permit was inadvertently issued to Richard and Karen Sather for the construction of a single family residence within the moratorium area; and

WHEREAS, it appears that the residence the Sathers seek to construct will meet the conditions for the single family dwelling exception set forth in Ordinance No. 00-018-O; and

WHEREAS, the Sathers have expended time and money in reliance on the building permit they inadvertently received from the city.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council requests that the Duluth building official not seek to cancel or revoke the building permit issued to Richard and Karen Sather with the understanding that the city council proposes to pass Ordinance No. 00-018-O.

BE IT FURTHER RESOLVED, that the building official is requested to allow the Sathers to continue with their project during the time Ordinance No. 00-018-O is being enacted and on file before taking effect.

Resolution 00-0434 was unanimously adopted.

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR ECKENBERG:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering cold water meters for the water division in accordance with specifications on its low specification bid of \$43,384.56, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 00-0407 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Hogg -- 1

Approved June 12, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0421, by Councilor Stover, affirming the May 9, 2000, order to Jennifer Huntley, SNM Development Company, Mesabi Villas South, Ltd., and T&B Partnership to disconnect and cease using a private sewer line, was introduced for discussion.

Resolution 00-0421 failed upon the following vote (Public Document No. 00-0612-42):

Yeas: None -- 0

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

- - -

BY COUNCILOR STOVER:

WHEREAS, Jennifer M. Huntley owns a residence at 126 North Seventh Avenue West; SNM Development Company owns residential properties at 702, 704 and 706 West Second Street; Mesabi Villas South, Ltd., owns residential property at 706½ West Second Street; and T&B Partnership owns residential property at 708 West Second Street; and

WHEREAS, all of the above-mentioned properties are served by a private common sewer service located in North Seventh Avenue West that connects to a public sewer main in Second Street; and

WHEREAS, the private common sewer service serving these properties is crushed and no longer serviceable; and

WHEREAS, Section 43-27 of the Duluth City Code and Section 4715.0310 of the Minnesota State Plumbing Code provide that each building must have a separate sewer service connecting it to the main; and

WHEREAS, on May 9, 2000, Duane Lasley, building official, acting as agent for the superintendent of sewers, issued an order to Jennifer M. Huntley, SNM Development Company, Mesabi Villas South, Ltd., and T&B Partnership ordering them to disconnect their common private sewer line so that each building served by said common sewer line would have a separate sewer connection to a public sewer main; and

WHEREAS, SNM Development Company, Mesabi Villas South, Ltd., and T&B Partnership have appealed said order pursuant to the provisions of Section 43-16 of the Duluth City Code; and

WHEREAS, the Duluth City Council has heard relevant information from the building official and the appellants and has considered all evidence and arguments presented in this matter.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council finds that the appellants are entitled to relief to the extent that the order is suspended if, and only if, the affected parties reach an agreement to construct separate private services and/or extended sewer mains to legally serve the affected properties by August 15, 2000, and complete construction of said

services and/or mains by November 1, 2000. If these conditions are not met, the order remains in full force.

Resolution 00-0422 was unanimously adopted.
Approved June 12, 2000
GARY L. DOTY, Mayor

- - -

Resolution 00-0404, by councilors Stenberg, Ness, Eckenberg and Stover, creating a citizens' advisory committee to report to the city council a feasibility and benefit analysis of connecting the Munger Trail to the Lakewalk system, was introduced for discussion.

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

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR HOGG

00-015 (9449) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2000 INCREASING THE BUDGET FOR THE GAS UTILITY SALES PROMOTION DIVISION AND TO PAY FOR SUCH INCREASE FROM GAS SALES.

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

Councilor Hogg moved to amend the first dollar amount in Section 1 of the ordinance from, "\$141,000," to, "\$95,400," and the second dollar amount from, "\$308,600," to, "\$263,000," which motion was seconded and unanimously carried.

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

- - -

At this time, 1:10 a.m., Councilor Hogg moved to suspend the rules to extend the meeting to 1:20 a.m., which motion was seconded and unanimously carried.

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The following entitled ordinances were read for the first time:

BY PRESIDENT GILBERT

00-017 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 11 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL, PROPERTY LOCATED ON THE NORTHEAST CORNER OF BOUNDARY AVENUE AND SKYLINE PARKWAY (THOMPSON-PATRONAS).

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

Nancy Nelson urged the councilors not to approve the proposed ordinance as this is not just a neighborhood issue as this area is the gateway to Duluth via Thompson Hill. She reviewed that there have been several requests in the past to change the zoning for commercial use, but past city councils have denied each request because it is not a desirable land use concept. Ms. Nelson requested the council involve the heritage preservation commission in this plan and find out the status of the corridor management plan.

- - -

BY PRESIDENT GILBERT

00-018 - AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 9439, WHICH IMPOSED A MORATORIUM ON NORTH SHORE DEVELOPMENT IN DULUTH, TO ALLOW LIMITED CONSTRUCTION OF SINGLE FAMILY HOMES UNDER CERTAIN CONDITIONS.

President Gilbert moved to amend subsection (b) of the ordinance by deleting the phrase, "is 900 square feet or less in area," which motion was seconded and unanimously carried.

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BY COUNCILOR NESS

00-014 - AN ORDINANCE AUTHORIZING THE RECOVERY OF FEES BY THE DULUTH PUBLIC LIBRARY THROUGH THE UTILIZATION OF THE STATE REVENUE RECAPTURE ACT; AMENDING SECTION 2-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED

- - -

The meeting was adjourned at 1:15 a.m.

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

- - -

ORDINANCE NO. 9448

BY PRESIDENT GILBERT AND COUNCILORS ECKENBERG AND NESS:

AN ORDINANCE PERTAINING TO THE REGULATION OF SMOKING IN PUBLIC PLACES; ADDING A NEW ARTICLE VII TO CHAPTER 28, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article VII be added to Chapter 28 of the Duluth City Code, 1959, as amended, to read as follows:

Article VII. Smoking in Public Places.

Sec. 28-62. Findings of fact and statement of purpose.

(a) The Duluth City Council finds the following facts to exist:

(1) Tobacco smoke is a major contributor to indoor air pollution, and breathing second hand smoke is a cause of disease, including lung cancer, in nonsmokers. At special risk are children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Many of these individuals cannot go into public places with second hand smoke due to their respiratory or allergenic handicap; and

(2) Health hazards induced by breathing second hand smoke include, but are not limited to, lung cancer, heart disease, respiratory infection and decreased respiratory function; and

(3) The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke for which there is no known safe level of exposure;

(4) Consideration should be given to businesses who will experience undue economic hardship as a result of legislation prohibiting smoking in public places.

Sec. 28-63. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(a) Bar. Bar means any establishment or portion of an establishment where one can purchase and consume alcoholic beverages;

(b) Office. Office means any building, structure or area used by the general public or serving as a place of work at which the principal activities consist of professional, clerical or administrative services. An office includes professional offices, offices in financial institutions, business offices, telemarketing offices and government offices;

(c) Public conveyance. Public conveyance means any air, land or water vehicle used for the transportation of persons for compensation, including but not limited to airplanes, trains, buses, boats and taxis;

(d) Public place. Public place means any enclosed, indoor area used by the general public, including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, bars, hospitals, auditoriums, arenas, meeting rooms and common areas of hotels and motels, but excluding bowling alleys, pool halls and private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers;

(e) Restaurant. Restaurant means any building, structure or area used as, maintained as, advertised as or held out to the public for food service as defined in Minnesota Rules Part 4625.2401, Subpart 15, which requires licensure under Minnesota Statutes, Chapter 157, in consideration of payment other than a bar as defined in (a) above;

(f) Retail store. Retail store means that portion of a commercial occupancy used for the transaction of business or the rendering of a service directly to the public, including shops, retail food stores, laundries or laundromats and department stores;

(g) Room. Room means any indoor area bordered on all sides by a floor to ceiling wall. The sides must be continuous and solid except for closeable doors for entry and exit, except no closeable door shall be required to be installed on entries and exits that have historical significance as recognized by the Duluth heritage [*preservation*] commission, and except that at such time as the council deems, by amendment of this ordinance [*Article*], that sufficient scientific evidence supports the effectiveness of air barriers or other technologies, said barriers or technologies may be substituted for walls;

(h) Smoking. Smoking includes possessing or carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Sec. 28-64. Smoking prohibited in public places; exception.

No person shall smoke in any public place except those rooms constituting bars where persons under the age of 18 are not permitted to enter or remain, and except restaurants that have a designated smoking area in a separate room, separately ventilated to the outside and constituting not more than 30 percent of the seating floor space and persons under the age of 18 are not permitted to enter or remain.

Sec. 28-65. Signage.

Signs shall be posted in all public places informing the public of the smoking restrictions contained in this ordinance [*Article*]. The form and placement of the signs shall conform to Minnesota Rules Part 4620.0500.

Sec. 28-66. Loss of revenues; exemption.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

A restaurant which realizes a loss of sales, based upon sales tax receipts as compared to the same months the previous year, greater than 15 percent as a result of complying with the provision of this ordinance [Article] for one month or greater than ten percent for two consecutive months may make a request to the city council for an exception from this ordinance [Article]. A request for an exception shall be automatically approved if it is not denied by the council within 30 days after its receipt by the city clerk.

Sec. 28-67. Employees not required to enter bar area.

At public places that include both a restaurant and a bar, the owner shall not require nonsmoking employees to enter the bar area as part of the employee's duties without the employee's consent.

Sec. 28-68. Religious use of tobacco.

This ordinance [Article] shall not apply to the use of tobacco as part of recognized religious rituals or activities.

Sec. 28-69. Owners not obligated to enforce.

Nothing in this ordinance [Article] shall be construed to impose any requirements to enforce this ordinance [Article] upon owners of public places.

Sec. 28-70. Private clubs.

No private club shall be established for the purpose of avoiding compliance with this ordinance [Article].

Sec. 28-71. Hours of application.

Subject to the provisions of the Minnesota Clean Indoor Air Act, smoking may be allowed by the management at restaurants holding alcoholic beverage licenses or beer and wine licenses after 8:00 p.m. until 1:00 a.m.

Sec. 28-72. Penalty.

Any person who violates this ordinance [Article] shall be subject to the penalty set out in Section 1-7 of the Duluth City Code, as amended, or its successor.

Section 2. That this ordinance shall take effect and be in force on January 1, 2001.

(Effective date: January 1, 2001)

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

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stover and President Gilbert -- 6

Nays: Councilors Edwards, Stenberg and Stewart -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 12, 2000
Approved June 12, 2000
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9449

BY COUNCILOR HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2000 INCREASING THE BUDGET FOR THE GAS UTILITY SALES PROMOTION DIVISION AND TO PAY FOR SUCH INCREASE FROM GAS SALES.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 1. That Ordinance 9431 passed and approved December 20, 1999, is hereby amended by increasing the appropriation authority by \$95,400 in the gas utility fund's sales promotion division as follows:

Division 0560 - sales promotion \$263,000

Section 2. That this ordinance will take effect and be in force immediately upon its passage. (Effective date: June 12, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 12, 2000
Approved June 12, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 26, 2000, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of council meetings held on April 10 and 24, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0626-01 Billman Construction, Inc., petitioning to vacate Lots 1-7, Block 3, Lots 1-13, Block 1, Lots 1-8, Block 4 and unbuilt road area, Aarons Valley Addition. -- Assessor

00-0626-02 Michael Iallonardo, et al. (five signatures), submitting petition to construct an eight inch sanitary sewer main on 38th Avenue West from Fourth Street to Fifth Street Alley. -- Assessor

00-0626-28 Bevan Schraw submitting communication regarding the United Healthcare expansion (00-0423R). -- Received

00-0626-03 The following submitting communications regarding Seventh Street between Irving Place and Wallace Avenue and Sixth Street between 24th Avenue East and Wallace Avenue (00-0078R): (a) Judith Babst; (b) Mary F. Bjorklund; (c) Cindy Michel Grindy; (d) Preservation Alliance of Minnesota; (e) Anita and Harlan Stech; (f) Carolyn Sundquist. -- Received

00-0626-30 The following submitting communications regarding the proposed reclassification of property located on the northeast corner of Boundary Avenue and Skyline Parkway (00-017-O): (a) Duluth Preservation Alliance; (b) Joseph Grant; (c) Mark Poirier. -- Received

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REPORTS OF OFFICERS

00-0626-04 Assessor submitting letters of sufficiency regarding petitions to:

(a) Construct an eight inch sanitary sewer main on 38th Avenue West from Fourth Street to Fifth Street Alley;

(b) Reclassify from R-4 to C-1 property described as Lots 25, 27, 29 and 31, Duluth Proper First Division, West Third Street;

(c) Vacate the utility easement reserved by the city of Duluth when Keith Street from Melrose Avenue to Dunedin Avenue was vacated on March 2, 1923. -- Received

00-0626-05 Community development and housing division submitting HRA housing rehabilitation report for April and May, 2000. -- Received

00-0626-06 Public works and utilities department submitting letter of sufficiency regarding petition for construction of a six inch ductile iron water main in West Sixth Street from 36 feet east of the centerline of Sixth Avenue West to a point 158 feet west of the centerline of Sixth Avenue West. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0626-07 Building appeal board minutes of May 10, 2000, meeting. -- Received

00-0626-08 Environmental advisory council minutes of May 3, 2000, meeting. -- Received

00-0626-09 Parking commission minutes of May 2, 2000, meeting. -- Received

00-0626-10 Parks and recreation commission minutes of May 10, 2000, meeting. -- Received

00-0626-11 Planning commission minutes of May 24, 2000, meeting. -- Received

00-0626-12 Seaway Port authority of Duluth: (a) Balance sheet of March 31, 2000; (b) Minutes of April 28, 2000, meeting. -- Received

00-0626-13 Special assessment board minutes of May 22, 2000, meeting. -- Received

00-0626-14 Technical design advisory committee for DWMX-D minutes of April 20, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Wally Pfister expressed his concerns regarding the issue of the proposed West Gate Development.

Mr. Pfister, City Attorney Brown and councilors discussed: the time frame for appealing the issuing of the building permits; that the recent opinion of the state court of appeals regarding the time frame for denial of special use permits affecting the outcome is opposite of the council's actions and the enforcement of the department of natural resources (DNR) minimum setback requirement.

Mr. Brown explained that the court was interpreting the existing statute, and thus the decision affects all situations in the state, even the ones in progress already. He reviewed the points of his memo (attached to Resolution 00-0299, adopted May 8, 2000) on this issue.

The council and administration discussed at length the issues of: the standard practice of almost all cities in the state for approving a special use permit prior to the court of appeals opinion, which has now set new rules for the game; that there is a perception by some councilors that twice the intentions of the majority of the council are not reflected in the form of the resolutions and that the timing of acting on those resolutions needs improvement.

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Jeff Urbaniak commented on some recent administrative and staff comments and advice to the council that have adversely hurt neighborhoods with a lack of good comprehensive planning.

- - -

Elijah noted his support for a skate park for bicycles, roller blades and skateboards and citizen safety in the crosswalks.

- - -

Erik Peterson expressed his concern over the recent actions of the council relative to UnitedHealthCare and that apparently there was no business subsidy report that was supplied to the council. He commented at length on what he felt were unanswered questions that should of been addressed by a business subsidy report. Mr. Peterson requested that the resolution approving this be reconsidered and tabled, so more information can be supplied.

Councilors discussed that they did have a committee meeting earlier that evening where there was more information and greater discussion.

- - -

Jean Beattie, representing the Senior Federation, Northeast Senior Coalition, stated that their organization supports the issues raised by Eric Peterson, noting that their organization supports reconsideration of the UnitedHealthCare resolution passed at the last meeting; to have questions addressed regarding the subsidy report that is needed for certain business subsidies.

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Kay L. Lewis noted her concerns, among other things, of the aspect of pedestrian safety at crosswalks, fire escapes of old buildings, and swimmers around boaters.

- - -

Tom Allnew stated that 80 years ago, this month, in Duluth, a heinous crime was committed of three individuals being murdered without a real trial, before 5,000 Duluthians.

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RESOLUTION RECONSIDERED

President Gilbert moved to reconsider Resolution 00-0403, approving a tax increment financing plan for Tax Increment Financing District No. 20 in Development District No. 17 as proposed by the Duluth economic development authority, which motion was seconded for discussion.

President Gilbert stated that given the lateness of the meeting last week without an adequate time to discuss it, the issue of the layoff of workers, the installation of the traffic light on Rice Lake Road, and the standards that were established a few weeks ago have not been followed, is the reason why he is requesting the reconsideration.

Councilors Hogg and Fena stated that they are not supporting reconsideration, because seven of the nine councilors supported the resolution, that councilors came here tonight unprepared to discuss this again and the questions raised could be addressed without holding up support for the project.

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

Reconsideration of Resolution 00-0403 failed upon the following vote:

Yeas: Councilors Ness, Stewart, Stover and President Gilbert -- 4

Nays: Councilors Eckenberg, Edwards, Fena, Hogg and Stenberg -- 5

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that North Star Ford, Inc., be and hereby is awarded a contract for furnishing and delivering an emergency fire vehicle for the fire department in accordance with specifications on its low specification bid of \$25,524, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V914.

Resolution 00-0381 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Copasetic Softball Team, Wheeler Field, for July 22 and 23, 2000, with Paul King, manager.

Duluth Softball Players Association, Wheeler Field, for July 8 and 9, 2000, with Darrell Eckenberg, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Duluth Softball Players Association, Wheeler Field, for August 4-6, 2000, with Sandy Armstrong, manager.

Duluth Softball Players Association, Wheeler Field, for August 16-29, 2000, with Sandy Armstrong, manager.

Woodland Fastpitch Association (Jimmy Herold Memorial Tournament), Anoka and Woodland Avenue, for July 8 and 9, 2000, with Brett Klosowski, manager.

Resolution 00-0424 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2000, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

J&H of Duluth, Inc. (University Liquors), 1603 Woodland Avenue, with John DeCaro, 50 percent stockholder, and Howie Krenzen, 50 percent stockholder, transferred from Vietri Corporation (Capri Bottle Shop), same address.

Resolution 00-0425 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, for July 21, 2000, (rain date: July 22, 2000) with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, for July 14, 2000, with the music ceasing at 11:00 p.m. and the serving ceasing at 12:00 a.m. (rain date: July 15, 2000).

Lyric Block Development Corporation (Porter's/Sneakers/Greenery), 207 West First Street, for August 11 and 12, 2000, with the music ceasing at 12:30 a.m. and the serving ceasing at 1:00 a.m.

Modern Hotel, Inc. (Roby's Bar/Tom's Junkyard), 2023 West Superior Street, for July 28, 2000, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: July 29, 2000)

Resolution 00-0426 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license to the following licensees, with an application fee of \$200 per day, subject to departmental approvals with any specific restrictions and further subject to approval of the liquor control commissioner:

Northland Country Club, 3901 East Superior Street, for August 16, 2000, with William Roberts, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Northland Vietnam Veterans Association, Bayfront Park, for August 11, 12, and 13, 2000, with Robert Woods, manager.

Save Our Ship (Leif Erickson Restoration Project), Leif Erickson Park, for July 21 and 22, 2000, with Neill Atkins, manager.

AAD Temple, 201 East First Street, for July 6, 2000, with James LeBlanc, manager.
Resolution 00-0427 was unanimously adopted.

Approved June 26, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas on First Street between Third and Fourth Avenues West and First and Second Avenues West, on July 14, 2000, in conjunction with the Downtown sidewalk days, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 00-0428 was unanimously adopted.

Approved June 26, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 2000, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Firelight Inn on Oregon Creek, Inc., 2211 East Third Street, with Jim Fischer, 50 percent stockholder and Joy Fischer, 50 percent stockholder.

Resolution 00-0435 was unanimously adopted.

Approved June 26, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, St. Margaret Mary Church has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0436 was unanimously adopted.
Approved June 26, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that pursuant to Minnesota Statutes Sections 645.02 and 645.021, the Duluth City Council hereby approves Laws of Minnesota 2000, Chapter 440, Section 7, and directs the city clerk to file a certificate of approval of such special law with the secretary of state.

Resolution 00-0459 was unanimously adopted.
Approved June 26, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

DULUTH TRANSIT AUTHORITY

Isobel Rapaich (at large) for a term expiring June 30, 2003, replacing Scott Welles.

Resolution 00-0418 was unanimously adopted.
Approved June 26, 2000
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

Ryan E. Mears and Richard W. Towey for terms expiring July 31, 2003.

Resolution 00-0429 was unanimously adopted.
Approved June 26, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKING COMMISSION

Neill Atkins (District 4) and Steven G. LaFlamme (at large) for terms expiring July 1, 2003.

Resolution 00-0430 was unanimously adopted.
Approved June 26, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SPECIAL BOARD OF REVIEW

William A. Spang (appraiser) for a term expiring July 31, 2004.

Resolution 00-0431 was unanimously adopted.
Approved June 26, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the city council did vacate Keith Street between Melrose and Dunedin Avenues on March 14, 1923, and did reserve the right-of-way through said property for conduits for wires, sewers, water and gas and other public necessities; and

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the utility easement reserved by the city of Duluth when Keith Street from Melrose Avenue to Dunedin Avenue was vacated on March 2, 1923, by vacation recorded as Document Number 58233 with the registrar of titles of St. Louis County, Minnesota, on March 19, 1923; 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 utility easement vacation petition at its June 13, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easement described above, and as more particularly described on Public Document No. 00-0626-15.

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

Resolution 00-0438 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Elon Avenue in the plat of Rearrangement of Block 8, Woodland Park, 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 vacation petition at its June 13, 2000, 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. 00-0626-16.

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

Resolution 00-0439 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, sufficient petition was filed with the city clerk requesting the vacation of Francis Street abutting Lot 19, Block 5, Riverside Park, Second 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 street vacation petition at its June 13, 2000 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. 00-0626-18.

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

Resolution 00-0440 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Super One Foods has submitted to the city council a request for C-5 plan approval, in accordance with Section 50-140(a) of the Code, for an addition of 1,400 square feet of floor space on property described as Lot 1, Block 1, Burning Tree Division, located at 5401 Burning Tree 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 compliance with the appropriate standards of the ordinance have been met.

NOW, THEREFORE, BE IT RESOLVED, that C-5 plan approval is hereby granted to Super One Foods for the addition of 1,400 square feet of floor space (entry/exit addition) to the Super One Foods located at 5401 Burning Tree Road, on the condition that the addition be limited to, constructed and maintained in accordance with documents as identified as Public Document No. 00-0626-19.

Resolution 00-0441 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that the 2000 revised neighborhood matching grants funds guidelines are hereby approved.

Resolution 00-0455 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments, substantially in the form of those on file in the office of the city clerk as Public Document No. 00-0626-20, to city Contract Nos. 18518 and 18409, respectively, with Lifehouse, Inc., and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

the Housing and Redevelopment Authority of Duluth, Minnesota, extending the time for completion of construction until December 31, 2000.

Resolution 00-0457 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the city has received notification from the Arrowhead Regional Development Commission of the availability of 1999 nutrition services carry over monies to be allocated for one time funding projects in 2000.

FURTHER, said additional funds of \$7,783 have been awarded to the city for specific expenses and are to be added to the base amount of federal funds allocated for 2000. These new funds will be paid in total and will not change the per meal reimbursement rate of \$1.80.

RESOLVED, that the proper city officers execute the contract addendum (Public Document No. 00-0626-29) and upon receipt of the funds from the Arrowhead Regional Development Commission that such fund be deposited into fund Account 272, Agency 031, Organization 6300.

Resolution 00-0414 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 00-0626-21, between the city of Duluth and the Duluth Heights Community Club, which authorizes the Duluth Heights Community Club to operate and maintain the facilities named in said agreement for recreational and community advancement purposes.

Resolution 00-0451 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 00-0626-22, between the city of Duluth and the Piedmont Community Club, which authorizes the Piedmont Community Club to operate and maintain the facilities named in said agreement for recreational and community advancement purposes.

Resolution 00-0452 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with ISD No. 709, filed as Public Document No. 00-0626-23, for the relocation of a 36 inch water main lying beneath the Ordean athletic field, with the city's share of the relocation costs estimated to be \$110,000 to be paid from Dept. 900, Fund 510, Org. 0505, Object 5533.

Resolution 00-0448 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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BY COUNCILOR ECKENBERG:

RESOLVED, that Minnegasco, Inc., be and hereby is awarded a contract for furnishing and delivering 6,000 pounds of natural gas odorant for the gas division in accordance with specifications on its low specification bid of \$15,348.78, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0555, Object 5280.

Resolution 00-0408 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, it appears that it may be necessary that a six inch ductile iron water main be constructed in West Sixth Street from 36 feet east of the centerline of Sixth Avenue West to a point 158 feet west of the centerline of Sixth Avenue West;

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

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

Resolution 00-0453 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, by Resolution of Intent numbered 00-0453 approved on the 26th of June, 2000, the council did request the administration to prepare plans and specifications for the extension of a six inch ductile iron water main in West Sixth Street from 36 feet east of the centerline of Sixth Avenue West to a point 158 feet west of the centerline of Sixth Avenue West; and

WHEREAS, the parties proposed to be assessed for this project have agreed to waive their rights to a hearing and to waive the 60 day waiting period as provided by Section 62 of the City Charter;

NOW, THEREFORE, BE IT RESOLVED, that said extension be constructed; that the estimated total cost of said improvements as estimated by the department of public works and utilities is \$30,000, payable from the public utility fund; that the cost of said project be paid by special assessment against the land and premises specially benefited, which land and premises are described in the petition filed herein, and which description is hereby incorporated herein by reference to said petition; that those assessed be permitted to pay said installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment will satisfy all the requirements of Section 60 of the Charter of the city of Duluth.

Resolution 00-0454 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Bituminous be and hereby is awarded a contract for furnishing and delivering bituminous materials for the street maintenance division in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

specifications on its low specification bid of \$137,928.15, terms net 30, FOB picked up, payable out of General Fund 100, Dept./Agency 500, Organization 2000, and Object 5232.

Resolution 00-0409 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide an improved street at 33rd Avenue West; 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 \$21,600, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5324, Object 5530.

Resolution 00-0432 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in 38th Avenue West between Fourth Street and Fifth Street Alley, approximately 175 feet in length, to serve: Portions of Lots 34, 35 and 36, Block 007 of Seibourn Park Duluth.

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

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

Resolution 00-0437 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Blacktop, Inc., be and hereby is awarded a contract for the Year 2000 fine mix paving program for the engineering division in accordance with specifications on its low specification bid of \$159,940, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0007, Object 5530.

Resolution 00-0442 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that Klassic Constructors, Inc., be and hereby is awarded a contract for reconstruction of sanitary sewer lift station number 17 located at 41st Avenue West and Oneota Street for the sewer division in accordance with specifications on its low specification bid of \$116,654, terms net 30, FOB job site, payable out of Sewer Construction Fund 531, Dept./Agency 500, Object 5532.

Resolution 00-0444 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide improvement in Fourth Street from Wallace Avenue to the Tischer Creek Bridge; and

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

WHEREAS, LHB Engineers and Architects, Inc., has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$109,682, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2142, Object 5303; to be reimbursed from the Minnesota state aid fund.

Resolution 00-0456 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement between the city of Duluth and Duluth Public Schools Academy District No. 4020, authorizing the operation of a police-school liaison program, with DPSA No. 4020 contributing \$45,000 and the city contributing one police officer during the school year, said agreement filed as Public Document No. 00-0626-24.

Resolution 00-0449 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 00-0417, by Councilor Stewart, confirming appointment of Thomas Vecchi to Duluth airport authority Replacing Jack Arotta, was introduced for discussion.

Councilor Stewart moved to table the resolution for an interview, which motion was seconded and unanimously carried.

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BY COUNCILOR STEWART:

WHEREAS, subject to the approval of the mayor and the city council, the administrative assistant has appointed Carl Seehus to the position of director of the parks and recreation department effective July 1, 2000; and

WHEREAS, such appointment has been approved by the mayor;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Carl Seehus to the position of director of the parks and recreation department is hereby approved.

Resolution 00-0460 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

Resolutions 00-0446 and 00-0447, by President Gilbert, affirming and reversing, respectively, a decision of the board of zoning appeals to deny the request to reduce the minimum lot size requirement from 5,000 square feet to 4,687.5 square feet and to reduce the minimum frontage requirement from 50 feet to 37-1/2 feet for the division of three lots into two sites to build two new homes on a site presently used for one home on property located at 418 North 51st Avenue West, were introduced for discussion.

Resolution 00-0447 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, Jeff Corey and the Northern Land Trust applied to the board of zoning appeals for a variance to construct two homes on a site presently used for one home reducing the minimum frontage requirement from 50 feet to 37.5 feet and the lot size requirement from 5,000 square feet to 4,687.5 square feet on property located at 418 North 51st Avenue West and legally described as Lots 7, 8 & 9, Block 187, West Duluth Seventh Division; and

WHEREAS, Jeff Corey and the Northern Land Trust have appealed the decision denying the variance to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and determined that the facts of this case do justify a reduction in lot size and property frontage requirements;

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth finds that the need for housing of the type to be constructed by the appellant here together with the existence of a community neighborhood plan accepted by the neighborhood and the current lack of community unit plan provisions in Chapter 50 of the Duluth City Code, 1959, as amended, constitute extraordinary or exceptional situation or condition pertaining to the piece of property in question which would render strict application of Chapter 50 of the Duluth City Code, 1959, as amended, thereto an exceptional or undue hardship upon the owner thereof and which would result in particular and exceptional practical difficulties thereto, such that the reductions in the minimum frontage requirements and the minimum lot size requirements are justified.

FURTHER RESOLVED, that said city council finds that the special circumstances or conditions applying to the 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, 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 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.

FURTHER RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of May 23, 2000.

Resolution 00-0447 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

- - -

Resolution 00-0446 failed upon a unanimous vote (Public Document No. 00-0626-25).

- - -

BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to City Council Resolution No. 99-0239, the agreements between the Duluth economic development authority (DEDA) and Neighborhood Housing Services, Inc., Spirit Valley Neighborhood Citizens' Development Association, Northern Communities Land Trust, and Housing and Redevelopment Authority of Duluth, Minnesota, in an amount not to exceed \$1,340,000, as approved by the DEDA board at its meeting of June 20, 2000, pursuant to DEDA Resolution No. 00D-38, a copy of which is on file in the office of the city clerk as Document No. 00-0626-17, is hereby approved.

Resolution 00-0464 was unanimously adopted.

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0462, by Councilor Ness, amending Resolution 99-0309 to include Sixth Street between 24th Avenue East and Wallace Avenue into the year 2000 street improvement program, was introduced for discussion.

Motion was made, seconded and unanimously carried to suspend the rules to allow speakers on the resolution

Todd Holmquist and Don McGregor spoke in support of the resolution for the reasons of: the street needs to be redone; the uncertainty of the funding for the granitoid surface; the majority of homeowners on this street want the street to be put back on the 2000 street improvement program; that a prior petition for delaying the street improvement program was supported by a minority of homeowners on Sixth Street and that the increased funding costs associated with a new granitoid surface may not be found and when found will also have increased inflation costs.

Anita Stech spoke against the resolution because: in February the council decided to look at some new options of technology and funding sources; the process decided on in February should be allowed to be completed; over the years, before the street improvement program, there has always been a process where a majority of homeowners can petition and pay to have their street done; and that one block on Sixth Street has 100 percent of the homeowners supporting the granitoid surface.

Councilors Fena, Stover, Hogg, Edwards and Eckenberg did not support the resolution because: there are other aspects in this case, in that these streets have an historical aspect owned by the community; some funds have been received already to assist in redoing the granitoid streets; the council has already made a decision on this issue, and for the next year should stand by that decision; and it is not known for sure how much the restoration of the granitoid streets will cost the city and the property owners.

Councilors Ness and Stenberg stated that: this resolution would give the council the opportunity to reassess their prior action, given the recent request by the residents of Sixth Street; the estimated costs for the granitoid project will increase without a source for funding; there is a better chance to get funding for just Seventh Street; even though for years this street has been

on the street improvement list, it was not looked at being restored as a granitoid street until this year.

Resolution 00-0462 failed upon the following vote (Public Document No. 00-0626-26):

Yeas: Councilors Ness and Stenberg -- 2

Nays: Councilors Eckenberg, Edwards, Fena, Hogg, Stewart, Stover and President Gilbert -- 7

- - -

Resolution 00-0458, by Councilor Stover, awarding contract to S.R.F. Consulting Group, Inc., for professional engineering services for design of traffic signal on Rice Lake Road, in an estimated amount of \$8,780. was introduced for discussion.

Councilors Stewart, Hogg and Stover voiced their opposition to the resolution noting: concern for the funding source; that urban sprawl development could easily happen here; and that the traffic from this location can be brought down to Arrowhead Road without the need for another set of lights.

Councilors Edwards, Fena and Stenberg noted their support for the resolution because with the increased traffic, it is important to have a traffic light at this location and it is wise to be proactive in situations like this, where there will be 900 employees working there.

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

Resolution 00-0458 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that S.R.F. Consulting Group, Inc., be and hereby is awarded a contract for the professional engineering services for design for a traffic signal on Rice Lake Road, 1,400 feet north of Arrowhead Road for the access road to United Health Group for the engineers division in accordance with specifications on its proposal of \$8,780, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2228, Object 5530.

Resolution 00-0458 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness and Stenberg -- 5

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

Approved June 26, 2000

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT GILBERT

00-019 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY TO A. KEMP FISHERIES COMPANY, INC., FOR TITLE CLEARANCE PURPOSES.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT GILBERT

00-017 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 11 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL, PROPERTY LOCATED ON THE NORTHEAST CORNER OF BOUNDARY AVENUE AND SKYLINE PARKWAY (THOMPSON-PATRONAS).

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Peggy Marrin, representing the Duluth Preservation Alliance, noted their opposition to the ordinance, as stated in their letter (Public Document No. 00-0626-30(a)).

President Gilbert noted that he will be abstaining from any discussion or vote on this ordinance because of a possible conflict of interest.

Councilors Eckenberg, Fena, Stover, Hogg and Ness opposed the ordinance noting that: Skyline Parkway is one of the most scenic highways in the nation; this is another form of commercial urban sprawl; prior city councils have upheld not changing the rezoning; the city is in the process of a comprehensive planning process and thus should not act on a rezoning change yet; the city has received funds to do a corridor management study that has not been done yet; litter from the existing businesses up there already are being strewn along the Skyline Parkway and there is sense of spot zoning here.

Councilors Edwards and Stenberg supported the ordinance because: the city cannot stop moving forward by waiting on a comprehensive land use plan and corridor study plan; the last time that this was looked at, there was hardly any other commercial development there; the developers are making many accommodations, because of the C-5 zoning and their own willingness to minimize any adverse affect; if this is rezoned after the comprehensive plan is adopted, then another developer may not have the interest and responsibility to put in a quality development that is considerate of the neighbors.

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

Ordinance 00-017 failed upon the following vote (Public Document No. 00-0626-27):

Yeas: Councilors Edwards and Stenberg -- 2

Nays: Councilors Eckenberg, Fena, Hogg, Ness, Stewart and Stover -- 6

Abstention: President Gilbert -- 1

- - -

At this time, 10:55 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:05 p.m., if necessary, which motion was seconded and unanimously carried.

- - -

BY PRESIDENT GILBERT

00-018 (9450) - AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 9439, WHICH IMPOSED A MORATORIUM ON NORTH SHORE DEVELOPMENT IN DULUTH, TO ALLOW LIMITED CONSTRUCTION OF SINGLE FAMILY HOMES UNDER CERTAIN CONDITIONS.

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

- - -

BY COUNCILOR NESS

00-014 (9451) - AN ORDINANCE AUTHORIZING THE RECOVERY OF FEES BY THE DULUTH PUBLIC LIBRARY THROUGH THE UTILIZATION OF THE STATE REVENUE RECAPTURE ACT; AMENDING SECTION 2-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 11:00 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9450

BY PRESIDENT GILBERT:

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 9439, WHICH IMPOSED A MORATORIUM ON NORTH SHORE DEVELOPMENT IN DULUTH, TO ALLOW LIMITED CONSTRUCTION OF SINGLE FAMILY HOMES UNDER CERTAIN CONDITIONS.

The city of Duluth does ordain:

Section 1. That Section 4 of Ordinance No. 9439 be amended to read as follows:

Section 4. Exceptions to moratorium.

It is the intent of the Duluth City Council that this moratorium should not impose undue hardship upon the existing residents or residential lot owners in the moratorium area. Therefore, the following actions are exempt from the moratorium:

(a) The repair or remodeling of any structure in existence on the effective date of this ordinance provided that no change in use of the structure, as defined in Chapter 50 of the Duluth City Code, is made;

(b) The construction of a garage which is accessory to an existing residence, is not designed for human occupancy and contains no plumbing facilities;

(c) The construction of a one-family dwelling provided that the following conditions are met:

(1) The lot to be built upon has at least 200 feet of frontage on an improved roadway and has an area of at least two acres;

(2) The lot to be built upon was owned by the party doing the building before March 20, 2000;

(3) The party owning the lot to be built upon files with the county recorder a properly executed covenant, approved as to form by the city, agreeing that as a consideration for receiving a building permit to construct a one-family residence on the lot, the lot will never be subdivided without the expressed consent of the Duluth City Council in a city council resolution.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 6, 2000)

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

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

Nays: None -- 0

Passed June 26, 2000

Approved June 26, 2000

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9451

BY COUNCILOR NESS:

AN ORDINANCE AUTHORIZING THE RECOVERY OF FEES BY THE DULUTH PUBLIC LIBRARY THROUGH THE UTILIZATION OF THE STATE REVENUE RECAPTURE ACT; AMENDING SECTION 2-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 1. That Section 2-17 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-17. Library operations and services; fees.

The department of libraries may charge user fees, rental fees and penalties in conjunction with the operation of the public library system including, but not limited to, penalties for overdue materials, rental fees for library meeting rooms and the use of library equipment, and nonresident user fees. Types of fees charged and the amounts of the fees shall be set by council resolution. The department of libraries may, in the collection of fees, utilize procedures set forth in the Revenue Recapture Act, Minnesota Statutes Chapter 270A, as a claimant agency.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 6, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 26, 2000
Approved June 26, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 10, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on May 8, 2000, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0710-01 Robert M. Fryberger, Jr., Trust B submitting:

(a) Petitions to construct:

(1) 24 foot curb and gutter street with bituminous surface on Featherstone Lane and Featherstone Drive in Plat of Woodcrest;

(2) Sanitary sewer, water and gas mains to serve Block 1, Lots 1-8, Block 2, Lots 1-5, Block 3, Lot 1, all in the Plat of Woodcrest. -- Assessor

(b) Waiver agreement regarding the construction of roads and utilities to serve lots in the Plat of Woodcrest. -- Engineering

00-0710-20 Minnesota state auditor submitting audit report of Duluth airport authority for the years ending December 31, 1999, and 1998. -- Received

00-0710-12 The following submitting communications regarding the proposed landmark site status designation of Sixth and Seventh Streets, Irving Place and Clover Street (00-0482R):

(a) Judith Babst; (b) Valerie Broughton, et al.; (c) Bonnie Fuller-Kask; (d) Minnesota historical society; (e) Preservation Alliance of Minnesota. -- Received

00-0710-21 The following submitting communications regarding the proposed rental town-house units for Block 2, Lakeview Division First Addition (00-0472R): (a) Cathy Ameel; (b) Barbara Anderson; (c) Dennis Bloomquist; (d) Todd and Karin Caine; (e) Fryberger, Buchanan, Smith and Frederick, P.A.; (f) Joseph Gallegos; (g) Patricia Gentry (supported by 411 signatures); (h) Jean Elton Turbes; (i) Elizabeth Vandersteen-Teitelbaum. -- Received

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REPORTS OF OFFICERS

00-0710-02 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on July 11, 2000, at 3:00 p.m., regarding the proposed reassessment of sidewalk assessment for Plat-Parcel 790-12990 (Contract 4906). -- Clerk

(b) Assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1999, to June 1, 2000, for which the licensed collector has not been reimbursed;

(c) Letter of sufficiency regarding petition to vacate that portion of platted road in Aarons Valley. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0710-03 Board of zoning appeals minutes of May 23, 2000, meeting. -- Received

00-0710-04 Civil service board minutes of: (a) May 2; (b) May 9, 2000, meetings. -- Received

00-0710-05 Duluth airport authority: (a) Minutes of May 16, meeting; (b) Unaudited balance sheets for three months, ending April 30, 2000. -- Received

00-0710-06 Duluth housing commission and Duluth housing trust fund board minutes of: (a) April 13; (b) May 11, 2000, meetings. -- Received

00-0710-07 Duluth transit authority minutes of May 24, 2000, meeting. -- Received

00-0710-08 Housing and redevelopment authority of Duluth minutes of May 30, 2000, meeting. -- Received

00-0710-09 Special assessment board minutes of: (a) June 13; (b) June 20, 2000, meetings. -- Received

00-0710-10 Spirit Mountain recreation area authority minutes of: (a) May 22; (b) June 15, 2000, meetings. -- Received

00-0710-11 Tree commission minutes of May 9, 2000, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

K.L. Lewis spoke regarding the lack of bus service to the Stone Ridge Mall and Miller Hill Mall areas and that she has not observed any improvement on the subject of traffic versus pedestrian safety throughout the city.

- - -

John Sanford stated that he believes that state legislators have been misinformed regarding the status of property proposed for the McQuade Road safe harbor project and he encouraged the council to take swift action regarding the transfer of city property for that purpose.

- - -

Peggy Marrin spoke and made suggestions regarding the process to be used when developing the city's comprehensive plan.

- - -

Tom Allnew spoke regarding the unfortunate circumstances and poor process used by city officials recently in condemning the San Marcos Apartments and the prosecuting of its owners. He urged the council to establish laws that will prohibit future actions by city officials that intimidate residents and instill fear that would make them reluctant to use government services.

- - -

Jackie Falk, representing the Duluth Public Policy Alliance, noted that the city is involved with numerous lawsuits this year because of decisions that the city administration and city council have made without the benefit of the larger context and the information that a comprehensive plan would provide. She stated that Minnesota Statute 462.355, subd. 4, of the enabling legislation provides for the council to design an interim ordinance to use to screen the kinds of decisions that will come before the council until a plan is implemented. Ms. Falk encouraged councilors to utilize their authority to establish an interim ordinance to govern this period to give residents a sense of principle, order and predictability of how decisions will be made between now and the time the plan is in place.

- - -

Clyde Richie encouraged councilors to oppose any forthcoming lease of the Congdon property by the city to the department of natural resources for the proposed McQuade Road public access.

- - -

Charlie Sislo criticized the Duluth police department for allowing uniformed, off duty police officers to be hired by local establishments. He, councilors and City Attorney Brown discussed at length the process used by the police department when private establishments wish to have a

police officer present and the appropriateness of the officer to wear a city of Duluth police uniform while performing in that capacity.

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RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 00-0417, confirming appointment of Thomas Vecchi to Duluth airport authority replacing Jack Arotta, from the table, which motion was seconded and unanimously carried.

Resolution 00-0417 was adopted as follows:

BY COUNCILOR STEWART:

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

DULUTH AIRPORT AUTHORITY

Thomas Vecchi for a term expiring July 1, 2002, replacing Jack Arotta.

Resolution 00-0417 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 00-0404, by councilors Stenberg, Ness, Eckenberg and Stover, creating a citizens' advisory committee to report to the city council a feasibility and benefit analysis of connecting the Munger Trail to the Lakewalk system, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Hogg -- 1

Councilor Stenberg moved to withdraw the resolution from the agenda because there would be no work for a task force to do, as the Metropolitan Interstate Commission (MIC) has done an enormous amount of work on the trail already and is in the final stage of searching for funding resources, 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.)

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

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

Wizner Co., 113 West First Street, for July 14, 2000, with the music ceasing at 11:00 p.m. and the serving ceasing at 12:00 a.m. (rain date: July 15, 2000).

Resolution 00-0461 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BE IT RESOLVED, that the city council of the city of Duluth hereby issues an on sale intoxicating liquor and Sunday liquor license to the following licensee, for the period ending August 31, 2000, with an annual on sale intoxicating liquor license fee of \$2,650 and an annual Sunday liquor license fee of \$125, subject to departmental approvals:

Lake Superior Center authority, 353 Harbor Drive, with David Lonsdale, executive director.

Resolution 00-0474 was unanimously adopted.
Approved July 10, 2000
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

Dean Grace (professional) for a term expiring February 13, 2003, replacing Richard Haney.

Resolution 00-0465 was unanimously adopted.
Approved July 10, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Andrew Peterson (West Duluth) for a term expiring March 1, 2002, replacing Deanne Westermann who resigned.

NEIGHBORHOOD ADVISORY COUNCIL

Wallace Pfister (West Duluth) for a term expiring March 1, 2003, replacing Deanne Westermann who resigned.

Resolution 00-0466 was unanimously adopted.
Approved July 10, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that the city council of the city of Duluth hereby adopts the amended CDBG citizens participation plan dated May 10, 2000, a copy of which is on file in the office of the city clerk as Public Document No. 00-0710-13.

Resolution 00-0469 was unanimously adopted.
Approved July 10, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

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. 00-0710-14, with the Spirit Valley Citizens' Neighborhood Development Association (SVCNDA) in an amount not to exceed \$61,000, payable from 2000 HOME Program Fund 260, Agency 020, Org. 2601, Obj. H012.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0470 was unanimously adopted.
Approved July 10, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

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

(a) Superior Street between 48th and 49th Avenues West; adjoining Block 160; Block 174; Lots 1 through 8, Block 176; and Lots 11 through 8, Block 178, all in Oneota Division;

(b) 48th Avenue West between Superior Street and West Second Street; lying southerly of the centerline of Second Street; westerly of the easterly right-of-way line of Superior Street as platted with Oneota Industrial Division First Addition and the northerly of the easterly extension of the southerly line of Block 176, West Duluth, Seventh Division;

(c) Wadena Street Alley between 51st Avenue West and 51st Alley: That part of the alley in Block 171, West Duluth, Seventh Division, lying between the northerly extension of the westerly line of Lot 31, said Block 171 and the westerly right-of-way line of 51st Avenue West;

(d) 51st alley between 51st and 52nd Avenues West: that part of the alley between Blocks 170 and 171, West Duluth, Seventh Division, lying between the westerly extension of the northerly line of Lot 20, said Block 171 and the westerly extension of the southerly line of Lot 23, said Block 171;

(e) Portion of 49th and 52nd Avenues West: beginning at the most easterly corner of Lot 4, Block 171, West Duluth, Seventh Division, thence northeasterly along the southerly line of said Lot 4 a distance of 80 feet to the northeasterly line of 49th Avenue West; thence northwesterly along said northeasterly line a distance of 139.17 feet to the centerline of Second Street; thence southwestwardly on and along said centerline a distance of 172.34 feet to the easterly line of Elinor Street; thence southeasterly along said right-of-way line a distance of 59.9 feet to the easterly line of 52nd Avenue West; thence north along said east line to the northwesterly corner of Lot 1, Block 171, thence northeasterly along the north line of said Lot 1 to the northern most corner of said Lot 1; thence south easterly along the westerly line of 49th Avenue West to the point of beginning;

(f) Rene Street Alley between 48th and 49th Avenues West; the south 1/2 of the alley between 48th Avenue West and 49th Avenue West and adjacent to Block 173, West Duluth, Seventh Division, and Block 58, Oneota 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 June 28, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of:

(a) Superior Street between 48th and 49th Avenues West;

(b) 48th Avenue West between Superior Street and West Second Street;

(c) Wadena Street Alley between 51st and 52nd;

(d) 51st Alley between 51st and 52nd;

(e) Portion of 49th and 52nd Avenues West;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(f) Rene Street Alley between 48th and 49th Avenues West; described above and retaining utility easements for existing facilities, as more particularly described on Public Document No. 00-0710-15 (Exhibits a through f).

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

Resolution 00-0479 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a National Senior Citizens Education and Research Center, Inc., grant in the amount of \$231,131 for the period July 1, 2000, through June 30, 2001. A copy of this agreement and electronic form budget shall be on file in the city clerk's office as Public Document No. 00-0710-16.

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6330.

Resolution 00-0480 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Groebner & Associates, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 556 gas meters for the public works and utilities department in accordance with specifications on its low specification bid of \$35,509.23, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 00-0401 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Residential Services of N.E. Minnesota, Inc., the amount of \$15,904.96 in full settlement of all claims for damage to its apartment building located at 331 South 16th Avenue East from a watermain break which occurred on January 30, 2000; payment to be made from the self insurance fund.

Resolution 00-0468 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that effective October 1, 2000, all customers of the Duluth steam utility, division of public works and utilities department of the city of Duluth, whose hot water supply is measured by meter shall be charged for such hot water in accordance with the scheduled rates established by this resolution as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

WHEREAS, Krech, Ojard and Associates, P.A., 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, P.A., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$151,942, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2147, Object 5303.

Resolution 00-0478 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the state of Minnesota department of transportation proposes to make certain improvements on T.H. 53 within the corporate limits of the city of Duluth, at the intersection of Trinity Road and Central Entrance; and

WHEREAS, the city has requested that the Minnesota department of transportation add to the proposed T.H. 53 project reconstruction of the Joshua Street connection and revised construction on the east side of T.H. 53 to accommodate a new commercial development; and

WHEREAS, the Minnesota department of transportation has requested that the city formally indicate its intent to pay for the full costs of the Joshua Street connection and to participate in the additional costs relating to the commercial development; and

WHEREAS, the commissioner of the department of transportation has prepared a preliminary layout of the improvement of a part of Trunk Highway 106 renumbered Trunk Highway No. 23 within the corporate limits of the city of Duluth, and seeks the approval thereof; and

WHEREAS, said preliminary layouts are on file in the office of the department of transportation, Saint Paul, Minnesota, being marked, labeled and identified as Layout #3, T.H. 53, vicinity of Duluth at intersection of Trinity Road and Central Entrance.

NOW, THEREFORE, BE IT RESOLVED, that said preliminary layouts for the improvement of said trunk highway within the corporate limits be and hereby are approved.

RESOLVED FURTHER, that the city of Duluth intends to participate in the costs of T.H. 53 construction and traffic signals in accordance with the latest Procedures for cooperative construction projects and municipalities (a copy of which has been received by the city) and shall pay the full costs of the Joshua Street connection which shall be added to the project at the request of the city.

Resolution 00-0481 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 00-0472, denying a special use permit amendment request by Mark Lambert/Summit Management for rental townhouse units for Block 2, Lakeview Division First Addition; and Resolution 00-0487, granting a special use permit amendment request by Mark Lambert/Summit Management for rental townhouse units for Block 2, Lakeview Division First Addition, by President Gilbert, were introduced for discussion.

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

Mark Lambert, developer, gave a brief presentation on the 90 unit townhome development that he is proposing; to house no more than 350 students. His remarks included how the townhomes have been constructed for quality, the parking facilities that are made available, the type of clients the housing is intended to attract, the rules that tenants must live by and how they are enforced. Mr. Lambert noted that millions of dollars will be invested in the proposed townhomes, which will be an asset for Duluth. He concluded by stating his willingness to work with the neighbors and staff members at Chester Bowl Park to insure a safe, quiet neighborhood and urged councilors to give fair consideration to this proposal.

Speakers opposed to this project were: Don Howard; James Denney; Beverly Denney; Mary Gallegos; Jeff Mirtica; Jennifer Turbes; Allison Winkler; Susan Schumacher; Steven Scignoli; Thom Storm; Cheryl Meese; Joe Meese; Patrick Contardo; Jeff Provost, representing the Chester Park Improvement Club; Sheralyn Zlonis; Robyn Roslak; Daniel Murphy; Tyler Schwartz; David Arvold; Betsy Kneepkens; Kenneth Shaw; Robert Contardo; Gary Foley; Mary Lou Murphy; Bob Bennett; Katie Krikorian; Daniel Maddy, attorney representing the neighborhood; Vicki Sanville; Dennis Bloomquist; Ken Kaylor; John Glendenning and Peggy Marrin.

The following reasons were made in opposition to the project: the existing green space that makes up Chester Bowl Park is fragile and must be protected and preserved for generations to come; the unique experiences enjoyed in this magnificent and extraordinary green space in the center of the city today, just as they were in the 1940's and 1950's, will be lost; the high intensity, nondiversified housing project proposed to be constructed adjacent to Chester Bowl Park will negatively impact the park forever; it is predictable that some of the students will go to the park to party, which will result in increased vandalism, littering, noise and overuse of trails at Chester Bowl Park, and cause permanent, irreversible damage to the environment; maintenance and security costs for the park will increase; statistics relating to vandalism that includes damage to the ski trails and the ski jump which are used by local high schools and individuals for training; arrests in the park are directly attributable to college students; trail biking is a popular recreational activity for students and it is probable that the existing, already eroded, bike and ski trails in the park will be overused and desecrated; most college students who live together in large complexes have little or no commitment to the aesthetics or the longevity of the small neighborhood and environment in which they reside; it cannot be expected that the rules imposed by the developer for the housing complex will be observed when the students are off site; communities with student housing have few good things to say about it and most report that the biggest problems they have are litter and violent crimes; a petition being circulated that opposes this project has been signed by residents who live throughout the city of Duluth and neighborhood communities; the safety of children and individuals who fish and play in the park will be compromised; the services and facilities provided for and used by the general public will be usurped away by students; for safety reasons, this housing project will require bright lighting that is not conducive to the neighborhood; the developer is not proposing to put in a street with curb and gutter that conforms with the rest of the neighborhood, and the street into the housing units will be, at best, a blacktopped swath going up to the housing facility; the grade of the roadway into the complex will be at least 13 percent or more and is not safe; the topography of the site is mostly rock and is not conducive to the installation of utilities at the necessary depth of seven feet; traffic safety at the already overburdened intersections of Martha Street, Skyline Parkway and Kenwood Avenue will be compromised because of the number of additional students and guests who need to access this development; the site is not zoned appropriately to accommodate the development; the proposed 280 car parking lot is inadequate for 350 students; the proposed plan does not provide for the

mitigation of water runoff that will result from the construction of the townhomes and parking lot; when this community unit plan was considered and approved in 1975, much time and money was spent on a lawsuit by neighborhood residents which resulted in a compromise with then developer, George Hovland, to insure that no development like this would ever be built on this site; the plan that was crafted in 1976 was a better usage of this property and less damaging environmentally than what is being proposed now; the community unit plan previously approved is legal and binding and cannot be amended; if additional student housing is required, appropriate locations should be studied and planned for in concert with city planners, universities and neighborhoods in a comprehensive plan; the University of Minnesota - Duluth has a plan for additional housing on campus if this project is not approved; the College of St. Scholastica does not support this off campus housing.

Responding to Councilor Fena, Mr. Maddy explained that the community unit plan that was approved in 1976 cannot be amended because it was meant to be permanent. He noted that Item No. 5(d) of the conditions in Resolution 76-0546 requires that before any building permits are issued, the director of planning and development must certify in writing that a covenant running with the land has been filed with property title assuring that the use of the land as delineated by and limited in Resolution 76-0546 will not be expanded in the future. Mr. Maddy further acknowledged that the covenant that was to have been added to the property title and filed with the county recorder appear to have never been completed. He continued by saying that if Mr. Lambert's request for this community unit plan is granted, it should be considered an expansion of the project, which the conditions of the resolution prohibit.

Councilor Hogg reminded councilors that the site being discussed is private property and that the property owner has the right to develop it, conditionally, as set forth in the agreement reached in 1976. He continued by saying that conditions in the 1976 agreement required the property owner to dedicate approximately half of the property for a buffer zone, which property residents now erroneously believe is park property. Councilor Hogg emphasized that this site will surely be developed and will never be park property unless the city or someone else purchases the property for that specific purpose. He moved to table the resolution, which motion was not seconded.

Councilors noted the following: Chester Bowl Park, and what is good for it, is not the issue; students who, in general, have been given a derogatory description this evening are also members of the community and are not the issue; the amendment being requested deviates too much from the plan that was approved in 1976; it is questionable whether an amendment to the 1976 community unit plan is legal; there is a need for additional decent, affordable housing for students; the public and Mr. Lambert and other developers should work closely with the city in developing a comprehensive plan to decide where this type of housing should be constructed; the issue of water runoff has not been addressed; the permanent street provided for in the original plan is not included in this amendment; the site is just not appropriate for the type of housing being proposed; and the neighboring property owners deserve and expect to have the community unit plan that was in place when they purchased their property remain the same.

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At this time, 10:53 p.m., Councilor Stover moved to suspend the rules to extend the meeting until 12:00 a.m., which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

Yeas: Councilors Hogg, Stenberg and Stover -- 3

Nays: Councilors Eckenberg, Edwards, Fena, Ness, Stewart and President Gilbert -- 6

Resolution 00-0472 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, the city council did, on November 1, 1975, approve Resolution No. 76-546 granting a community unit plan, subject to conditions, for "no more than 159 apartment units, all being located within Lots 1 through 3 of Block 2," Lakeview Division, First Addition, with Lot 4 of Block 2 being "limited to uses which are accessory to the apartment uses of Lots 1 through 3 but shall not be commercial uses, it being understood that said prohibitions of commercial uses shall not prohibit recreational facilities if they do not contain liquor or other such commercial sales establishments. Any building on said Lot 4 shall be approved by the city council prior to construction"; and

WHEREAS, Mark Lambert of Summit Management has submitted to the city council a request for an amendment to Resolution 76-546 to provide for up to 90 rental townhouse units, providing not more than 350 single occupancy bedrooms for student housing on property described as all of Block 2, Lakeview Division, First Addition, including the vacation of Lovers Lane. 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 for denial was made because of the city planning commission's findings that safeguards did not exist to protect the adjacent city park or protect property values in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that the city council affirms the planning commission's recommendation and denies the requested amendment based on the following findings:

(a) The requested amendment does not respect the intent of Resolution 76-546 with regard to the development of 159 market rate apartments;

(b) The proposed amendment presents a potential negative environmental impact on Chester Park;

(c) The proposed amendment does not meet the limitations of development on only Lots 1 through 3 of Block 2 of the plat.

Resolution 00-0472 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Hogg -- 1

Approved July 10, 2000

GARY L. DOTY, Mayor

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Resolution 00-0487 failed upon a unanimous vote (Public Document No. 00-0710-18).

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Resolution 00-0482, by President Gilbert, designating landmark site status for Sixth and Seventh Streets, between Irving Place and Wallace Avenue, Irving Place and Clover Street between Irving Place and Eighth Street, was introduced for discussion.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

The following individuals opposed historical designation of Sixth and Seventh Streets, between Irving Place and Wallace Avenue, Irving Place and Clover Street between Irving Place and Eighth Street: Raymond Peplinski; Dick Florey; K.L. Lewis; Jean Norris; Steve Running; Walter Broughton; and Valerie Broughton.

The following statements were made and concerns raised in opposition to the designation of landmark site status: issues raised at a November 1999 neighborhood meeting with the architects were the width of the street and retention of the trees; the issue of granitoid street restoration and landmark status designation should have been brought up at the beginning of the planning stage; Irving Place, Clover Street, East College Street and East Eighth Street, as a project, were approved for reconstruction at a June meeting of the city council and the process to proceed should occur without delay; none of the residents who live on the streets and attended the meetings had any problem with asphalt surfacing; designating Irving Place and Clover Street as landmark streets will take them out of the street improvement program and will effectively kill the entire project; East College Street should not be designated as a landmark street; Irving Place and Clover Street were not included in the resolution that removed East Sixth and East Seventh Streets from the 2000 street improvement program and should not be added now; supporters of landmark status have come to a point where their efforts have failed and now this new issue is being introduced to further delay the project; improvement of these streets should have happened 20 years ago; the streets are in such a terrible condition that you cannot drive more than ten to 15 m.p.h. over some parts of them without causing damage to your car; a search for funding for this project could take years and delaying it now will only increase costs in the future; the utilities in these streets are either nonexistent or in as poor a shape as the streets and need to be replaced now; this total project is comprised of water, gas, sewer, storm sewer repairs and street repair, not just granitoid street restoration; the stop and go process of this project has already caused administrative costs to be excessive; the issue of street width to accommodate emergency vehicles should receive more consideration than restoration of granitoid streets; Irving Place has no storm sewers so when it rains, basements are flooded which may result in permanent structural damage to the homes there; preservation of the homes by construction of storm sewers should have a higher priority than granitoid reconstruction; safety and health concerns caused by sewer backup should be the most important consideration; the streets are in such bad shape that children have to be driven out of the neighborhood for activities such as skateboarding and biking; historic landmark status requires that the improvement of streets can only be done in a way that replicates the original model no matter what the cost; changing pieces of the project will make the project more costly; historical landmark designation is permanent and irreversible and if official designation is given, the city will have no other option except to restore the streets to their original status; it could take years to raise the additional funding required for additional streets added to the project; the city has already recognized the historical nature of the streets and has delayed construction of Sixth and Seventh Streets for one year; and official designation is not necessary to search for other sources of funding.

The following individuals spoke in favor of historical designation of Sixth and Seventh Streets, between Irving Place and Wallace Avenue, Irving Place and Clover Street between Irving Place and Eighth Street: William Palmer, representing the Minnesota historical society; and Judith Babst and Dale Lucas, representing the heritage preservation commission (HPC).

The following statements and comments were made in support of landmark status designation of the streets: the streets should be preserved because they are the second oldest streets in the country and are a model of the type of streets that were used during the transition from horses to automobiles; because of their historic significance, the streets are presently being recognized

statewide and nationally; most of the people who live on these streets will not live there 40 years from now and preserving the historical nature of the streets forever is more important than the wishes of the current residents; there are seven criteria used for designating historical landmark status and this project is unusual because it meets all seven; it is important to include Irving Place in this project because it is essentially the final block of Seventh Street between 24th and 25th Avenues East, connecting to Sixth Street; a portion of a letter from George Edwards, Minnesota historical society, in support of historical landmark status was read (Public Document No. 00-0724-18(c)); the construction of the street was a major consideration when some homes were purchased; Irving Place is where all the streets meet and should be considered for landmark status; the HPC has been studying the issue of historical landmark status for the streets since April at the request of residents who live on the various streets; this is the only project that the commission has ever considered that meets all seven of the criteria used to evaluate and determine importance and historical significance of the site; only a limited number of the seven criteria must be met to qualify for designation to the historical register; the process used by the HPC to nominate a site or structure for historical landmark status was explained; a letter from Dolly Schnell (Public Document No. 00-0724-18(d)) summarizing the commission's support for historical landmark designation of these streets was read; this should not be a subjective decision based on opinion, neighborhood consensus or the inclination of individuals because the streets are public places and belong not only to those who reside on them, but to everyone and all time, past and future; and every option should be explored to reconstruct these oldest of paved streets, which are the nation's rarest of treasures.

Administrative Assistant Winson commented that the state historic preservation officer sent a letter on August 7, 2000, to Mr. Lucas stating that only five of the seven criteria have been met regarding this project; and that the estimate of \$460,000 to \$500,000 given to the council by City Engineer Brink is only for Sixth and Seventh Streets and does not include costs for granitoid replication or repair of the portions of Irving Place and Clover Street, as is being proposed this evening.

President Gilbert noted that the city attorney has stated that this issue should be dealt with in the form of an ordinance and not a resolution, as has been presented on this agenda.

Mr. Brown read Section 28-4(g) of the City Code regarding designation of landmark districts with the city of Duluth. He elaborated that if the council votes in favor of this resolution, it still will not become a landmark site because that can only be done by ordinance.

Responding to Councilor Eckenberg, Mr. Lucas stated that if these streets are designated historical landmark status and after one year the city has not raised the funds necessary to complete the replication, the city would still have to come before the HPC and submit to the restrictions imposed by that commission regarding design and construction of the improvement.

Councilor Hogg felt that with the designation, there is the adoption of a preservation plan; with the plan, temporary repairs may be made to the street using normal methods, i.e. bituminous patches, but permanent repairs must be done in replicated granitoid; new construction is to maintain the scale and character of the present street surface and curbing; this would mean that any reconstruction would have to be replicated granitoid and that if the designation is given, then that is the way it will be forever.

Responding to Councilor Hogg, Mr. Winson stated that a local designation may be easier to undo, but with the state designation, he is not aware of a process to undo historical designations.

Councilor Hogg continued by saying that with the designation, the HPC would have the authority to approve or disapprove the plans for improvement to these streets; however, its decision is appealable to the city council.

Mr. Winson stated that if the council overturns a decision of the HPC, that decision is appealable to district court.

Mr. Brown stated that the ordinance provides for the city council to overrule, or modify, the decision of the heritage preservation commission, but only to the extent that the suggested change is found to be consistent with the U.S. secretary of interior's recommended standards for preservation projects. He emphasized that the chance for the council to overrule or modify the plans would be almost nonexistent and that the council would lose control of the project.

Councilors voiced concern that if the historic designation is approved, the council will lose control of the project and, after one year, if funds are not raised for granitoid street replication, the project still could not be started because of the designation. The administration was requested to provide cost estimates for doing just the sanitary and storm sewer construction in Irving Place with temporary bituminous patch so that construction of College Street will not be delayed.

Resolution 00-0482 failed upon the following vote (Public Document No. 00-0710-17):

Yeas: Councilors Fena and Stover -- 2

Nays: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart and President Gilbert -- 7

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At this time, 11:54 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 12:30 a.m., which motion was seconded and unanimously carried.

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BY PRESIDENT GILBERT:

WHEREAS, an application was made to rezone property located at 9211 West Skyline Parkway from R-1-a single family to C-5 planned commercial for the purpose of constructing a Hardee's Restaurant in the Thompson Hill area; and

WHEREAS, the above rezoning request was heard by the Duluth City Council at a public hearing in the city council chambers on June 26, 2000; and

WHEREAS, the Duluth City Council heard further testimony on the matter on June 26, 2000, at the city council meeting before voting on the matter;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council makes the following findings of fact and conclusion:

FINDINGS OF FACT

(a) The zoning change requested is inappropriate because it is inconsistent with the state designation of scenic byway that has been given to the Skyline Drive;

(b) Rezoning this area at this time is inappropriate because the city of Duluth has just received a \$77,500 grant from the federal government to study the Skyline Drive corridor for zoning and other purposes and the study has not yet started;

(c) Rezoning requested is inappropriate at this time because the city's comprehensive plan for the area is not completed at this time;

(d) Rezoning for commercial purposes of the area is not appropriate because the scenic view from Thompson Hill is one of the most environmentally sensitive areas in the city and a cluster of commercial development at this scenic entrance to the city would have a detrimental impact on the city's image and character;

(e) This rezoning would result in an area of residential zoning between commercial zones.

CONCLUSION

It is not appropriate to rezone property located at 9211 West Skyline Parkway from R-1-a to C-5 planned commercial because of the negative impact it will have on the city.

Resolution 00-0488 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

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Resolution 00-0483, by Councilor Ness, authorizing a consultant agreement with BRW, Inc., for providing certain professional design services to the city of Duluth in connection with the Bayfront Festival Park, in an estimated amount of \$235,000, was introduced for discussion.

Councilors Hogg and Stover stated that management of this new park needs to be talked about and that it should not be a forgone conclusion that the Duluth Entertainment Convention Center (DECC) will be chosen as manager of the facility.

Resolution 00-0483 was adopted as follows:

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with BRW, Inc., for the estimated sum of \$235,000, from Capital Fund 450, Object C921, for providing certain professional design services to the city of Duluth in connection with Bayfront Festival Park, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 00-0710-19.

Resolution 00-0483 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

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Resolution 00-0475, by Councilor Stover, amending Resolution 00-0247 ordering the improvement of the 2001 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, to increase the amount by \$160,000 for adding improvements to Valley Drive from center of Section 12 to Oxford Street, was introduced for discussion.

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

Adele Yorde requested support for the addition of this street to the 2001 street improvement program. She noted that since construction of homes on the last two lots of this street, the street has become impassable due to heavy equipment. Ms. Yorde further noted that Bob Troolin, street maintenance manager, has taken pictures of the street and stated that, not only is the road not safe for traffic, but it also will not safely accommodate emergency vehicles or snow plows.

Councilor Ness voiced concern that there should be a process to follow for cases such as this because other streets in the city are also in need of improvement but will never have the opportunity to appeal the cost of assessments in the way that residents of this project have done.

Mr. Winson stated that these residents did follow the process by submitting a petition for street improvement, which was tabled by the special assessment board to see if this would be approved by the council.

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At this time, 12:25 a.m., Councilor Hogg moved to suspend the rules to extend the meeting until 12:45 a.m., which motion was seconded and unanimously carried.

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Councilors discussed whether it is necessary to hear from all the other speakers due to the lateness of the meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

Resolution 00-0475 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0247, ordering the improvement of the 2001 street improvement program, be amended to increase the amount by \$160,000 for a new total of \$5,660,000 for the improvement to Valley Drive from center of Section 12 to Oxford Street; payable from the street improvement fund 440.

Resolution 00-0475 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, communities across the United States have designated August 1, 2000, 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 1, 2000, 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 00-0463 was unanimously adopted.

Approved July 10, 2000

GARY L. DOTY, Mayor

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Resolution 00-0484, by Councilor Stenberg, accepting up to \$95,610 under the U.S. department of justice local law enforcement block grant program for expenditures related to police personnel expenses, technology and crime prevention training and initiatives for the period June 1, 2000, to May 31, 2002, was introduced for discussion.

Councilor Stenberg stated that the information requested regarding this resolution has not yet been received and therefore moved to table the resolution, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT GILBERT

00-020 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 29 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE UPPER SIDE OF THE NORTHEASTERLY CORNER OF SECOND AVENUE WEST AND THIRD STREET FROM R-4 APARTMENT RESIDENTIAL TO C-1 COMMERCIAL (SHAPIRO, ET AL.).

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

K.L. Lewis suggested that the city find a way to zone property that allows commercial building in this area, but also allows for residential or rental property to be constructed on top of the structures.

Councilor Edwards reminded councilors that a resolution of findings of fact needs to be drawn up and presented and voted on at the next meeting when this ordinance has a second reading.

Councilor Hogg read the planning commission recommendation and emphasized that the reasons stated in the finding of fact resolution, if that is decided, it should state that the rezoning is inappropriate because: the zoning change is contrary to the historical planning and zoning efforts of the city and neighborhood; the change would affect the potential for additional losses in housing opportunities in the neighborhood in close proximity to the Downtown; the change would also be contrary to the city policy of maintaining office space in the Downtown zone; and the planning commission recommended denial by a vote of six yes votes, one no vote and two abstentions.

Councilor Fena stated that other reasons should be: there is a risk of losing housing in this neighborhood where housing is in a short supply and the housing market is very tight; and it has been a goal of the Central Hillside community club and part of their neighborhood planning to restore housing to this neighborhood and that rezoning it does not work in concert with concerned community groups.

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The following entitled ordinance was read for the second time:

BY PRESIDENT GILBERT

00-019 (9452) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY TO A. KEMP FISHERIES COMPANY, INC., FOR TITLE CLEARANCE PURPOSES.

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

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The meeting was adjourned at 12:35 a.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9452

BY PRESIDENT GILBERT:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY TO A. KEMP FISHERIES COMPANY, INC., FOR TITLE CLEARANCE PURPOSES.

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 A. Kemp Fisheries Company, Inc., for the purpose of clearing title to said property and execute all documents necessary with regard to said conveyance:

That part of Lots 1 through 4, inclusive, Block 179, WEST DULUTH, Seventh Division, lying westerly of a line drawn parallel with and distant 50 feet from the centerline of the Duluth, Winnipeg and Pacific Railroad as the same is now constructed across Block 179, together with those portions of public highways, whether vacated or unvacated, appurtenant to said lots, excepting, however, all minerals and mineral rights.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 20, 2000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 10, 2000

Approved July 10, 2000

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 24, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on May 22, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0724-17 The following submitting communications regarding the McQuade protected access project (00-0511R): (a) Friends of the North Shore; (b) Judy Sausen. -- Received

00-0724-18 The following submitting communications regarding designation of granitoid streets as Duluth heritage preservation landmarks (00-025-O and 00-026-O): (a) Mark Anfinson; (b) Judith Babst; (c) Minnesota historical society; (d) Dolly Schnell. -- Received

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REPORTS OF OFFICERS

00-0724-01 Assessor submitting letter of sufficiency of petition to construct a 24 foot curb and gutter street with bituminous surface for Featherstone Lane and Featherstone Drive in Woodcrest Plat and for sanitary sewer to serve Block 1, Lots 1-8, Block 2, Lots 1-5 and Block 3, Lot 1, all in Woodcrest Plat. -- Received

00-0724-02 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffles) from the Duluth Art Institute on November 2 and 3, 2000. -- Received

00-0724-03 Community development and housing division submitting HRA housing rehabilitation report for June, 2000. -- Received

00-0724-04 Purchasing agent submitting emergency purchase order to Duluth Lawn and Sport for two John Deere six wheel utility vehicles. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0724-05 Alcohol, gambling and tobacco commission minutes of: (a) June 13; (b) June 27, 2000, meetings. -- Received

00-0724-06 Building appeal board minutes of June 14, 2000, meeting. -- Received

00-0724-07 Seaway Port authority of Duluth minutes of May 25, 2000, meeting. -- Received

00-0724-08 Special board of review minutes of May 30, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah stated that he was speaking as a voice for youth and expressed concern that youth should be able to speak their opinions without judgement.

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Peggy Marrin expressed concern over the city buying property in Duluth to protect green space when instead the city should put pressure on the developer who buys the land in hopes that the land will be rezoned for development.

- - -

Tom Allnew stated that the government does not protect a property owner and their land and should let the people be in charge of protecting the title to their property.

- - -

RESOLUTION TABLED

Councilor Stenberg moved to remove Resolution 00-0484, accepting up to \$95,610 under the U.S. department of justice local law enforcement block grant program for expenditures related to police personnel expenses, technology and crime prevention training and initiatives for the period June 1, 2000 to May 31, 2002, from the table, which motion was seconded and unanimously carried.

Resolution 00-0484 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a grant of \$95,610 from the U.S. department of justice local law enforcement block grant program to improve public safety and reduce crime. Grant revenues shall be deposited in Fund 215.

Resolution 00-0484 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the monthly salary schedule for assistant city attorneys is hereby established as follows:

Effective January 1, 2000:

Step 1	Step 2	Step 3	Step 4	Step 5
\$3,483	\$3,661	\$3,838	\$4,017	\$4,194
Step 6	Step 7	Step 8	Step 9	Step 10
\$4,393	\$4,618	\$4,843	\$5,066	\$5,291
Step 11	Step 12	Step 13	Step 14	Step 15
\$5,543	\$5,828	\$6,114	\$6,403	\$6,687

Effective January 1, 2001:

Step 1	Step 2	Step 3	Step 4	Step 5
\$3,623	\$3,808	\$3,991	\$4,178	\$4,362
Step 6	Step 7	Step 8	Step 9	Step 10
\$4,569	\$4,803	\$5,036	\$5,268	\$5,503

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

<u>Step 11</u>	<u>Step 12</u>	<u>Step 13</u>	<u>Step 14</u>	<u>Step 15</u>
\$5,765	\$6,061	\$6,359	\$6,659	\$6,954

Effective January 1, 2002:

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
\$3,768	\$3,960	\$4,151	\$4,345	\$4,536
<u>Step 6</u>	<u>Step 7</u>	<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>
\$4,751	\$4,995	\$5,238	\$5,479	\$5,723
<u>Step 11</u>	<u>Step 12</u>	<u>Step 13</u>	<u>Step 14</u>	<u>Step 15</u>
\$5,995	\$6,304	\$6,613	\$6,925	\$7,232

An assistant city attorney shall, at the time of his or her initial appointment, be placed at Step 1 of such scale, unless a higher step is recommended by the city attorney and approved by the director of the department of administrative services. During his or her first two years of service, the attorney shall advance one step in the pay scale every six months until reaching Step 5. Upon written approval of the city attorney, the assistant city attorney shall advance to Step 6, and thereafter shall advance one step in the pay scale upon completion of each additional year of service, up to Step 10. The assistant city attorney shall remain at Step 10 until written approval of the city attorney allows for advancement to Step 11, and thereafter, the assistant city attorney shall advance one step in the pay scale upon completion of each additional year of service, up to Step 15. At any time, the city attorney, with approval of the administrative assistant, may advance an assistant city attorney one step in the pay plan.

RESOLVED FURTHER, that effective January 1, 2000, the monthly salary for the city attorney shall be \$7,167. Effective January 1, 2001, the monthly salary for the city attorney shall be \$7,454. Effective January 1, 2002, the monthly salary for the city attorney shall be \$7,752.

RESOLVED FURTHER, that effective January 1, 2000, the monthly salary for the deputy city attorney shall be Step 15.

RESOLVED FURTHER, that the city attorney and assistant city attorneys shall be entitled to the same fringe benefits as the supervisory employees of the city, excluding longevity awards.

RESOLVED FURTHER, that the city shall reimburse 1/2 of the license fee paid by each lawyer in the office of city attorney which is necessary to maintain the lawyer's license.

RESOLVED FURTHER, that the monthly salary schedule for the position of equal opportunity representative is established as follows:

Effective January 1, 2000:

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
\$3,450	\$3,622	\$3,802	\$3,994	\$4,193

Effective January 1, 2001:

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
\$3,588	\$3,766	\$3,954	\$4,154	\$4,361

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Effective January 1, 2002:

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
\$3,732	\$3,917	\$4,112	\$4,320	4,535

The person employed in this position shall initially be placed at Step A of such schedule, unless placement at a higher step is approved by the mayor, and shall advance one step in the schedule at the beginning of the next pay period after completion of six months service in the position; and shall advance one further step in the schedule at the beginning of the next pay period after completion of each additional 12 months of service in such position.

The equal opportunity representative shall be entitled to the same longevity award and fringe benefits as the supervisory employees of the city.

Resolution 00-0490 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Beerhunters Softball Tournament, Wheeler Field, for July 29 and 30, 2000, with Ronald Heurung, manager.

Resolution 00-0498 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 4, 2000, (rain date August 5, 2000), with the music and the serving ceasing at 12:30 a.m.

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for August 4, 2000, (rain date August 5, 2000), with the music and the serving ceasing at 12:30 a.m.

Dwayne & Kimberly, Inc. (Kom On Inn), 332 North 57th Avenue West, for August 4, 2000, (rain date August 5, 2000), with the music and the serving ceasing at 12:30 a.m.

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for September 9, 2000, with the music and the serving ceasing at 12:30 a.m.

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for September 9, 2000, with the music and the serving ceasing at 12:30 a.m.

Holiday Inn of Tukumcari (Canal Park Inn), 250 Canal Park Drive, for August 11, 12 and 13, 2000, with the music ceasing at midnight.

Lac/Tom Investments, Ltd. (J&J Limit Bar), 1426 Commonwealth Avenue, for July 28, 2000, with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m.

Resolution 00-0499 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license to the following licensee, with an application fee of \$200 per day, subject to departmental approvals with any specific restrictions, and further subject to approval of the liquor control commissioner:

Lighthouse for the Blind, Inc., 4505 West Superior Street, for August 23, 2000, with Scott Welles, manager.

Resolution 00-0500 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street and 57th Avenue West between Grand Avenue and Central Avenue, on August 4, 2000, 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 00-0501 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 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 00-0502 was unanimously adopted.

Approved July, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

HERITAGE PRESERVATION COMMISSION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Dale W. Lucas, Marguerite A. Mason and William Scalzo for terms expiring May 31, 2003.

Resolution 00-0507 was unanimously adopted.
Approved July 24, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the North Shore Scenic Drive has been officially designated between Brighton Beach and Two Harbors as a part of the state and national scenic byway system; and

WHEREAS, the entire route between Duluth and Grand Portage near the Canadian border has recently been designated as an All-American Road, the highest scenic byway recognition in the nation; and

WHEREAS, the federal highway administration has suggested that the designation of this byway be extended westerly into the city of Duluth; and

WHEREAS, the North Shore scenic committee has endorsed the proposed extension of the byway designation from Brighton Beach to Canal Park; and

WHEREAS, such designation opens the door for potential future outside funding sources for improvements to the route; and

WHEREAS, the Arrowhead Regional Development Commission is administering the program and the Duluth Convention and Visitors Bureau is assisting with the marketing.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports the extension of the North Shore Scenic Byway designation from Brighton Beach to the Canal Park area via London Road, Superior Street, Lake Avenue/Canal Park Drive to the U.S. Army Corps of Engineers Maritime Museum adjacent the Aerial Lift Bridge.

BE IT FURTHER RESOLVED, that the city of Duluth endorses a single designation for the route between Duluth and the Canadian border to reduce confusion to the traveling public.

Resolution 00-0467 was unanimously adopted.
Approved July 24, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, sufficient petition was filed with the city clerk requesting the vacation of an unnamed street abutting Blocks 3 and 4, Aarons Valley; 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 July 11, 2000, 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. 00-0724-16.

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

Resolution 00-0492 was unanimously adopted.
Approved July 24, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Northwood Children's Services has submitted to the city council a request for a special use permit for a beneficial reuse of demolition debris facility on property described as Lots 4 through 8, Block 5, Lots 1 through 17, including adjacent vacated streets, avenues and alley, in Whitman Park Addition to Duluth and located at 4000 West Ninth Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Northwood Children's Services to allow for the operation of a beneficial reuse of demolition debris facility at 4000 West Ninth Street, on the condition that:

- (a) The requirements of Minnesota pollution control agency permit be complied with;
- (b) Only demolition debris (as defined by the beneficial reuse of demolition debris facility permit) be placed in the fill areas;
- (c) The permit be limited to and maintained in accordance with permit submitted by Northwood Children's Services, Gregg A. Andrews, maintenance supervisor, dated June 9, 2000, as identified as Public Document No. 00-0724-09.

Resolution 00-0493 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to acquire the property in St. Louis County, Minnesota, legally described below from the city of Superior for a consideration of \$26,400, payable from Economic Development Fund 255:

Lots 1 through 32, Block 5, Lots 11 through 22, Block 7, Lots 1 through 32, Block 8, Mineral Addition to West Duluth.

Resolution 00-0508 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, pursuant to the Rural Development Act, local governing units are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of SunRamp Solutions, Inc.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase the tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of SunRamp Solutions, Inc.

Resolution 00-0510 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved July 24, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

BE IT RESOLVED,

(a) That the Duluth City Council verifies that by vote taken on July 10, 2000, the council passed Resolution 00-0472, which resolution denied the request of Summit Management for an amendment to a community unit plan, and set forth findings that formed a basis for that action, the denial taking effect July 10, 2000;

(b) That the city council verifies that the findings stated in the Resolution 00-0472, and its statement of purpose are basis for its decision;

(c) That the citizens of the city, after much public debate, perceived the passage of Resolution 76-546 to preserve for all time that the only development on the subject property would be no more than 159 apartment units located on Lots 1 through 3 of Block 2, and subject to other conditions set out in 1976; that the requested amendment changed the type, location and number of housing units and vacated a street easement; this amendment is a large change in use which violates the public reliance upon the conditions adopted in 1976;

(d) That the introduction of 350 students living in the area will result in overuse and damage to Chester Park, will require a large parking lot which produces storm water problems, will increase traffic at the entry to Kenwood Avenue and the already overburdened intersection of Kenwood Avenue and Skyline Boulevard;

(e) That the findings and recommendation of the planning commission are adopted by the city;

(f) That many residents of the area proposed for development appeared before the council in opposition, and the developer appeared before the council in favor and to explain his project; all interested parties had notice and an opportunity to be heard;

(g) That the record in this matter is this resolution, Resolution 00-0472 and its attachments and statement of purpose, the planning commission file and meeting minutes, and the planning department Files 00062 and 00063.

Resolution 00-0514 was unanimously adopted.

Approved July 24, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which shall be on file with the city clerk's office as Public Document No. 00-0724-10 with St. Louis County to provide services under the Minnesota family investment program (MFIP) at costs not to exceed \$3,500 per participant, food stamp employment and training (FSET) services at costs not to exceed \$400 per participant, and food stamp employment and training (FSET) start work services for costs not to exceed \$23,809.52. Contract dates shall run from July 1, 2000, through June 30, 2001.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 269, Budget Items 6272 and 6273.

Resolution 00-0485 was unanimously adopted.

Approved July 24, 2000
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Blacktop be and hereby is awarded a contract for furnishing and delivering bituminous materials for the street maintenance division in accordance with specifications on its low specification bid of \$80,000, terms net 30, FOB picked up, payable out of General Fund 100, Dept./Agency 500, Organization 2000, and Object 5232.

Resolution 00-0491 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, one hundred percent of the property owners abutting the improvements petitioned for these improvements and, at their expense, prepared plans and specifications for the construction of a permanent street in Featherstone Drive and Featherstone Lane in Woodcrest Plat, approximately 1,500 feet in length, including permanent residential design street with concrete curb and gutter, bituminous surface, storm sewer, sanitary sewer, water main and gas main (City Job No. 9218RS00); 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 \$360,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5331, Object 5530; that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited, which land and premises are described in the report of the special assessment board; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 00-0503 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a lease with the MJK-POR Real Estate Partnership, Inc., for the lease of a storage building located at 3941 Calvary Road from October to April in the years 1999 through 2002, for a consideration of \$1,200 per month to be paid from city Fund No. 100-500-1950-5412; said lease on file in the city clerk's office as Public Document No. 00-0724-11.

Resolution 00-0504 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for the reconstruction of Burning Tree Road at Maple Grove Road and for the installation and maintenance of traffic control signals with street lights and signing at said intersection (City Project No. 9160CA99), said agreement filed as Public Document No. 00-0724-12. The city's costs in this project, which are estimated to be \$185,601.60, are payable out of P.I. Fund 411, reimbursable from the M.S.A. fund.

RESOLVED FURTHER, that the plans and specifications prepared by St. Louis County for the above-mentioned project are hereby approved.

Resolution 00-0505 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

BE IT RESOLVED, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, the following segment of Michigan Street is no longer a one way street: Michigan Street between 37-1/2 Avenue West and 39th Avenue West.

Resolution 00-0509 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 00-0496, authorizing proper city officials to accept \$2,000 from the Concrete Paving Association of Minnesota as the local match for a CLG grant for evaluation of concrete streets; and Resolution 00-0497, authorizing proper city officials to accept a CLG grant from the Minnesota historical society for an evaluation of concrete paved streets in an amount of \$6,500, by President Gilbert, were introduced for discussion.

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

Deb Kellner, Carolyn Sundquist, Penny Clark and Susan Maki urged passage of the resolution for the following reasons: this study will help to hire an historic preservation consultant who has an engineering focus which will help the replacement plan and financing; preserving the streets is an important city issue and also important as it is a nontraditional historic landmark; this project has national significance; saving the street is a new and unique process for the city and the best way to proceed is to gather information available; there has been success in raising private money for these streets, this study will help protect the streets by designating them an historic preservation landmark; and future generations will be able to understand the history of the city.

K.L. Lewis stated that if the utilities will last as long as the street then it is a cost effective measure, but if the pavement must be dug up to repair utilities it is not a good idea.

Resolution 00-0496 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, funding in an amount of \$6,500 has been made available from the Minnesota historical society for the study of granitoid concrete streets in Duluth; and

WHEREAS, the Concrete Paving Association of Minnesota has offered to provide the local share amount of \$2,000 needed toward the study; and

WHEREAS, this study is needed to determine the significance of retaining these streets locally, regionally and nationally; and

WHEREAS, the heritage preservation commission has recognized the historic nature of the granitoid streets in Duluth.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials be authorized to accept the offer of \$2,000 from the Concrete Paving Association of Minnesota, such funds to be deposited in Fund 100, Agency 015, Org. 2020, Activity 4654.

Resolution 00-0496 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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Resolution 00-0497 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, the neighborhood residents have petitioned the city engineering office to delay the reconstruction of Sixth, Seventh Streets, a portion of Clover Street and Irving Place in order to study ways of retaining the historic granitoid concrete surfaces; and

WHEREAS, the city council has granted a one year period to study this issue; and

WHEREAS, the heritage preservation commission has recognized the historic nature of the granitoid streets in Duluth; and

WHEREAS, the Minnesota historical society and the Concrete Paving Association have offered to provide the funding for such a study to be undertaken; and

WHEREAS, it is expected this study will provide some additional insight into the preservation, protection and replication of granitoid streets.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to accept the \$6,500 from the Minnesota historical society to be applied toward a study of the granitoid streets such funds to be deposited in Fund 100, Agency 015, Org. 2020, Activity 4230.

Resolution 00-0497 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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Resolution 00-0506, by President Gilbert, establishing the basis for rejecting proposed Ordinance 00-020, a zoning change of the area near Second Avenue West and Third Street, was introduced for discussion.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

BY PRESIDENT GILBERT

00-020 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 29 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE UPPER SIDE OF THE NORTHEASTERLY CORNER OF SECOND AVENUE WEST AND THIRD STREET FROM R-4 APARTMENT RESIDENTIAL TO C-1 COMMERCIAL (SHAPIRO, ET AL.).

Councilor Hogg moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

Councilor Stewart stated he would abstain from discussing or voting on the ordinance and resolution because he lives adjacent to the proposed property.

Ordinance 00-020 failed upon the following vote (Public Document No. 00-0724-15):

Yeas: None -- 0

Nays: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Abstention: Councilor Stewart -- 1

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Resolution 00-0506 was adopted as follows:

BY PRESIDENT GILBERT:

BE IT RESOLVED, that the city council has denied, and does deny, proposed Ordinance 00-020, and makes and adopts the following findings as a basis therefore:

(a) The proposed ordinance had a full and fair hearing before the planning commission and before the city council, adequate notice and opportunity to be heard being granted, according to law, to any interested party;

(b) The proposed zoning change is contrary to the longstanding planning and zoning efforts of the city and the neighborhood. The proposal would further restrict affordable housing and is, therefore, against the recommended neighborhood plan for the area. The historical development of the zoning plan for the area is set out in the staff report, File No. 00068, for meeting date June 28, 2000, under background data;

(c) The zoning change is contrary to the historical planning and zoning efforts of the city and neighborhood which encourages housing close to downtown. The change would affect the potential for additional losses in housing opportunities in the neighborhood in close proximity to downtown. This multi-family dwelling close to Downtown commercial would cease being a dwelling and commercial use would intrude into the neighborhood. The change would also be contrary to the city policy of maintaining office space in the Downtown zone, rather than have it spread to the neighborhoods;

(d) The planning commission, after hearing, voted to deny the request for rezoning. The staff report and minutes of the June 28, 2000, meeting of the commission are a basis for city council action and a part of the record in this matter.

Resolution 00-0506 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: None -- 0

Abstention: Councilor Stewart -- 1

Approved July 24, 2000

GARY L. DOTY, Mayor

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Resolution 00-0513, by President Gilbert, 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 Ness said that one parcel included in this resolution is part of the Northwest corner study and should be held up until the Northwest corner study has been presented to the city council for passage. He moved to split the resolution to separate out File No. 00087, which motion was seconded and unanimously carried.

Resolution 00-0513(b), without File No. 00087, was adopted as follows:

BY PRESIDENT GILBERT:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

File #	Applicant Name	Legal Description	Location
00078	Steve Lamphier	Lots 15 through 16, Block 7, Hunters Grassy Point Addition (10-2320-00330)	northwest corner of 62nd Avenue West and Redruth Street (Irving)
00082	Kyle Haugland	westerly 20 feet of Lot 292 and easterly ten feet of Lot 294, Block 94, Duluth Proper Second Division (10-1140-6610 and 6620)	lower side of First Street between Piedmont Avenue and 18th Avenue West (Lincoln Park/West End)
00088	Mike Kalkbrenner	Lots 20-30, Block 61, Gary Central Division (10-1790-2340-2620)	between 106th and 107th Avenue West south of Gary Street (Gary New-Duluth)
00089	Alice Brown	Lots 12 and 13, Block 30, Gary First Division (10-1800-7240-7250)	southwest corner of 96th Avenue West and Dickson Street (Gary New-Duluth)
00090	St. Louis County Land Department	Lots 165 and 167, Block 105, (10-1350-4130) and Lot 146, Block 106, (10-1350-4350) Duluth Proper Third Division	north side of Eighth street between Ninth and 11th Avenues West (Central Hillside)

Resolution 00-0513(b) was unanimously adopted.
 Approved July 24, 2000
 GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to table Resolution 00-0513(a), File No. 00087, which motion was seconded and unanimously carried.

- - -

Resolution 00-0522, by President Gilbert, amending Resolution 00-0333(a) relating to business subsidy criteria, was introduced for discussion.

President Gilbert moved to withdraw the resolution from the agenda, which motion was seconded and unanimously carried.

- - -

Resolution 00-0486, by Councilor Ness, accepting a gift in the amount of \$50,000 from Lois Paulucci to be used for expenses related to the creation of a New Bayfront Festival Park, was introduced for discussion.

Councilor Ness expressed the council's thanks for the monetary gift from Lois Paulucci. Resolution 00-0486 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR NESS:

RESOLVED, that the city hereby accepts a gift in the amount of \$50,000 from Lois Paulucci to be used for expenses related to the creation of a new Bayfront Festival Park, which gift shall be deposited in the Capital Improvements Fund 450-015-1999-4690.

Resolution 00-0486 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0494, authorizing proper city officials to increase by \$6,000 an existing agreement (#17222) with Margaret R. Colombo for public information services for the McQuade protected access committee to an amount of not to exceed \$57,330; Resolution 00-0495, authorizing proper city officials to increase by \$13,000 an existing agreement (#17153) with Cheryl Lynn Erickson for administrative services for the McQuade protected access committee to an amount of not to exceed \$108,350; Resolution 00-0511, authorizing 25 year lease to the DNR of property adjacent to Congdon Boulevard for the McQuade Road safe harbor project; and Resolution 00-0515, approving receipt of \$19,000 from Minnesota department of natural resources for the continued administrative support of the McQuade public access committee, by Councilor Fena, were introduced for discussion.

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

The following speakers opposed the resolutions: Emily Van Evera; Arnold Overby; Morgan Hutchinson; Bill Johnson; Robert McFarland; Mary Sue Taullerud; John Pokizywinski; Tom Johnson; Kate Whitaker; Lynn Olson; Terry Brown; Cheryl Dannenbring; Christine Penny; Carrie Plamann; Bill Hardesty; K.L. Lewis; Jerry Compton; Christina Wagner; Paul Peterson; Phil Meany; Will Rhodes; Louise Curnow; Tom Allnew; Peggy Marrin and John Sanford, for the following reasons: Chester Congdon's family is against the use of the land for the harbor; the land was not meant to be developed; it is the responsibility of Duluth to preserve that property; future generations need to see the beauty of Duluth; Knife River already has a harbor for commercial boats; Minnesota Point is for private boats and is protected; need for this project has not be demonstrated; it is an inappropriate use of the considerate gift of the Congdon family; it is a big waste of money when Knife River is so close; this is not a use that coincides with what Duluth stands for; the usage of other boat launches is very small and are under utilized; the price per stall of the parking lot for the proposed boat launch is not a prudent use of taxpayers' money; it is not a wise use of natural shoreline and it is not a natural harbor; it has too big of a price tag to turn it into a safe harbor; it would permanently change the view of the scenic drive; the mouth of the breakwater will have to be dredged because of the amount of sand that moves down the lake; money would be better spent on other department of natural resource projects; it will cause ecological damage to the land; North Shore Drive is used for cyclists; it will increase the small boat traffic, which will contribute to noise pollution; supporting a project that uses fossil fuels is not a responsible use of a finite resource; money would be better used for bathrooms along the scenic highway; this project will open the door for more commercial development; the DNR will not live up to their end of their agreement to maintain the area and the responsibility will fall back to the city; and the marina at Knife River potentially could be turned over the county and be opened to the public.

The following speakers supported the resolutions: Mr. Beaudry; Jeff Cook; Marge Columbo; Len Johnson; and David Koneczyny, for the following reasons: there have been lots of hours and money spent by the committee on this project; the townships will lose trust in the city after backing out of this project; only a breakwall and driveway will be used on Congdon property;

the parking lot is on private property; questioned why there is a problem now instead of eight years ago when the project started; the city asked the townships to join in this project; this project can be used by everyone and would be especially good for seniors and persons with disabilities who will be able to get down to the lake; this project is going to be a public park for all tourists and citizens; Chester Congdon did not own the land that is in question but only gave the money to the city for condemnation costs to acquire the land for the road; the area in question is an eyesore and not a quality piece of shoreline; the boaters of the area have worked hard for safe boating as it is not the same as the other break harbors up the shore; the boats fish in the lake all year; and the project is funded by the state legislature because the citizens went directly to the legislature and the legislators listened.

Councilor Ness questioned how this project has gone for eight years with a lot of money and why is it so divisive at this time.

Councilor Hogg reviewed that all past resolutions were presented to the council as procedural actions to be done to give the project an opportunity to succeed. He stated that he never supported the project, but that the rest of the council was comfortable with it so he voted for it as a newly elected councilor. Councilor Hogg stated that although the lease has only cost the city \$50,000, it will cost the city a part of their quality of life and their heritage.

In response to Councilor Ness's question, Assistant City Attorney Asleson replied that the mayor could proceed with this project and give a lease for three years to the parties, but the question would be if the DNR and the corps of engineers want to enter into an agreement for only three years.

Councilor Fena stated that the structure is too expensive now compared to what the project started out as. She continued by saying that she is not against a safe harbor, as it is a legitimate desire by the citizens, but it costs too much money.

Councilor Edwards expressed concern that the legislators will be upset about the city turning back the money, and if the state decides to go ahead with the marina, they have eminent domain over the property and the city will lose control on what happens on the property.

Councilor Stenberg stated that this is a good project, and even though it is not a need, it will be a very beneficial project. He stated that he was concerned that the city will lose face with the legislative team, the townships and the citizens who want and support this project.

Councilor Stewart stated that this area is a beautiful piece of land and the harbor would be an eyesore. He stated that he was concerned it could stimulate development in the area, which would violate the Congdon Trust.

Councilor Eckenberg questioned if there could be legal action against the city and if the city could be liable for the money that the other townships have put into this project. He continued by saying that this is too much money for an unnecessary project when there is not enough money for community development block grant funding. Councilor Eckenberg also stated that the council needs to be concerned about what Mr. Congdon's intent was and that he does not want the city involved in this project since it is a DNR project.

Councilor Stover stated that this project is too large and this council did not approve the previous resolutions.

Councilor Edwards moved to table Resolution 00-0511, authorizing a 25 year lease to the DNR for property adjacent to Congdon Boulevard, which motion failed upon the following vote:

Yeas: Councilors Edwards and Stenberg -- 2

Nays: Councilors Eckenberg, Fena, Hogg, Ness, Stewart, Stover and President Gilbert -- 7

Resolution 00-0511 failed upon the following vote (Public Document No. 00-0724-13):

Yeas: Councilors Edwards, Ness and Stenberg -- 3

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Nays: Councilors Eckenberg, Fena, Hogg, Stewart, Stover and President Gilbert -- 6

- - -

Councilor Hogg moved to table resolutions 00-0494, 00-0495 and 00-0515, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Eckenberg -- 1

- - -

At this time, 10:45 p.m., President Gilbert called a ten minute recess.

- - -

At this time, 10:55 p.m., the regular order of business was resumed. Councilor Fena moved to suspend the rules to extend the meeting to 11:30 p.m., which motion was seconded and unanimously carried.

- - -

Resolution 00-0519, by Councilor Fena, supporting the October 2000 "Building Sustainable Communities" forum sponsored by a broad base of community stakeholders, developed by the Minnesota Division of the Izaak Walton League of America, and funded by the legislative committee for Minnesota resources, was introduced for discussion.

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

Lynn Olson and Will Rhodes stated that a forum to be held in Duluth in October focuses on educating participants in the process of developing sustainable communities and they encouraged support and participation of the councilors in the forum.

Resolution 00-0519 was adopted as follows:

BY COUNCILOR FENA:

WHEREAS, the principles associated with developing sustainable communities have been used successfully in community planning efforts in Minnesota, the United States and throughout the world; and

WHEREAS, communities that are sustainable strive to meet the environmental, economic and social needs of today's citizens without compromising the ability of future generations to enjoy the same; and

WHEREAS, the city of Duluth is in the beginning stages of a process to develop a comprehensive plan that will guide all future community planning efforts; and

WHEREAS, the city of Duluth and its surrounding area is blessed with an abundance of natural beauty and resources that are treasured by both our citizens and our many visitors; and

WHEREAS, there is increasing pressure to develop many of these natural areas in the names of "growth" and "progress"; terms which mean different things to different people; and

WHEREAS, community businesses, organizations, government entities and grassroots citizen groups work with good intentions to enhance the economic, environmental and social quality of life in our community.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports the efforts of a broad base of community stakeholders to come together in a series of three meetings, on October 10, 11 and 27, 2000, to increase their understanding of sustainability principles, to learn the processes for building sustainable communities and how to apply them to our community.

Resolution 00-0519 was unanimously adopted.

Approved July 24, 2000

GARY L. DOTY, Mayor

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Resolution 00-0512, by Councilor Stover, authorizing an agreement between the city of Duluth and St. Louis County including plan approval for the reconstruction of Wallace Avenue between Fourth Street and St. Marie Street for an estimated cost of \$182,976.10, was introduced for discussion.

Councilors Stewart and Hogg encouraged councilors to vote against this resolution to express the council's request that a dispute resolution board be established.

Administrative Assistant Winson reviewed that if the council does not approve the county's plan for Wallace Avenue, and if the county would want to move ahead with the project, the statute requires the county to make a request to the Minnesota commissioner of transportation to establish a dispute resolution board. He continued by saying that the board would make a recommendation to the commissioner of transportation, who would determine if the project would be approved and, if the project was to move forward, construction would start next year.

Councilors Edwards and Eckenberg stated that the county did have a good process with this project in working with the citizens, but stated the neighbors were upset that this one year project has turned into a two year project.

Councilor Edwards stated she would vote against this resolution so it would delay this project until next year.

Councilor Eckenberg voiced concern that the county might not pursue this project and move on to the next street project.

Resolution 00-0512 failed upon a unanimous vote (Public Document No. 00-0724-14).

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At this time, 11:20 p.m., Councilor Hogg moved to suspend the rules to extend the meeting to 11:45 p.m., which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR EDWARDS

00-023 - AN ORDINANCE INCREASING TAXI FARES, AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY PRESIDENT GILBERT

00-021 - ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LINCOLN PARK TO THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA.

- - -

BY PRESIDENT GILBERT

00-025 - AN ORDINANCE DESIGNATING COLLEGE STREET BETWEEN EIGHTH STREET AND IRVING PLACE AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

BY PRESIDENT GILBERT

00-026 - AN ORDINANCE DESIGNATING SIXTH AND SEVENTH STREETS BETWEEN IRVING PLACE AND WALLACE AVENUE, IRVING PLACE AND CLOVER STREET BETWEEN IRVING PLACE AND SEVENTH STREET AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

The rules were suspended upon a unanimous vote to hear speakers on ordinances 00-025 and 00-026.

Carolyn Sundquist; Judith Babst; Bonnie Fuller Kask; and Anna Maria Ogura urged support of the ordinance: as per the heritage preservation commission (HPC) and the planning

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

commission to show that the city believes in the value of the historic streets; this is a local designation and the citizens do not lose control to Washington; the council can overrule the HPC; the local landmark status would help demonstrate the city's commitment to these historic resources and would help get outside funding to replicate these streets; and it is worth a delay in the repair of these streets for this landmark designation.

- - -

BY COUNCILOR NESS

00-022 - AN ORDINANCE PERTAINING TO THE DULUTH PUBLIC FACILITIES AND PROGRAM FUND; DELETING REFERENCES TO FUND DISBURSEMENTS TO A NONPROFIT CORPORATION; AMENDING SECTION 10A-18, DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR STOVER

00-024 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY EASEMENT OVER LOT 2, BLOCK 17, ONEOTA, TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

- - -

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

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

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, July 31, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: Councilor Eckenberg -- 1

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MOTIONS AND RESOLUTIONS

Resolution 00-0522, by President Gilbert, amending Resolution 00-0333(a) relating to business subsidy criteria, was introduced for discussion.

Responding to councilors, City Attorney Brown explained that the proposed resolution exempts business recipients that meet criteria as defined in Minnesota Statutes §116J.993, subd. 6, from the business subsidy requirements established by Resolution 00-0333(a). He explained the statute in detail.

Councilors Fena and Hogg stated that their concern, which prompted this resolution, is that businesses receiving community development block grant (CDBG) funds are exempted from this process because they already submit reports required by the CDBG process. They expressed further concern that this language will exempt other nonprofit businesses that do not receive CDBG funding.

Councilor Hogg moved to amend the resolution as follows:

- (a) Delete "subparagraph (a)" of the fourth paragraph in its entirety;
- (b) Amend the fourth paragraph to read as follows:

"BE IT RESOLVED, that the Duluth City Council adopts the following mandatory and preferential criteria for businesses receiving assistance from the city of \$25,000 or more. The following assistance shall be exempt from the requirements of this resolution:

Federal community development block grant program assistance until the assistance has been repaid to, and reinvested by, the city," which motion was seconded for discussion.

Keith Hamre, manager of community development and housing division, stated that Councilor Hogg's amendment will accomplish the intent of this resolution, which is to exempt CDBG recipients from the requirements of the business subsidy requirements.

Councilor Stenberg stated that because of numerous changes in state statutes, it will be necessary to revisit the issue of business subsidies and reporting requirements in the near future.

Councilor Hogg's amendment passed upon a unanimous vote.

Mr. Hamre requested the council to further amend the resolution by adding the words, "effective May 22, 2000," after the word, "adopts," in the fourth paragraph. He stated that some CDBG grants have been issued since Resolution 00-0333(a) was passed and that this language will insure that previously signed agreements are in compliance with the requirements.

Councilor Fena moved to amend the resolution as requested by Mr. Hamre, which motion was seconded and passed upon the following vote:

Yeas: Councilors Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Eckenberg -- 1

Resolution 00-0522, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the Duluth City Council passed Resolution 00-0333(a) on May 22, 2000, adopting criteria that apply to a business that requests a business subsidy from the city of \$25,000 or more; and

WHEREAS, the Duluth City Council desires that certain assistance programs be exempt from said resolution.

NOW, THEREFORE, BE IT RESOLVED, that Resolution 00-0333(a) is amended to read as follows:

“BE IT RESOLVED, that the Duluth City Council adopts, effective May 22, 2000, the following mandatory and preferential criteria for businesses receiving assistance from the city of \$25,000 or more. The following assistance shall be exempt from the requirements of this resolution:

Federal community development block grant program assistance until the assistance has been repaid to, and reinvested by, the city.

Mandatory criteria. All projects receiving assistance of \$25,000, or more, must satisfy the following seven criteria:

(a) Public purpose criteria. The project must meet two of the following five public purpose criteria:

(1) High quality jobs. If the project results in the creation of new jobs, then the jobs must be predominantly full-time jobs that pay at least a living wage (as defined by Duluth’s living wage ordinance) and provide health insurance and other benefits;

(2) Job retention. If the recipient can demonstrate that job loss is imminent without a business subsidy, then the recipient must present a plan which shows that a significant number of the existing jobs will be retained for at least five years after completion of the subsidy;

(3) Economic diversity. The project must contribute to the economic diversity of the city by reducing dependency upon declining industries, participating in fast growing industries, or supporting existing industries of manufacturing, education, health care, retail sales, tourism and service and technology;

(4) Quality of life. The project must enhance the quality of life of the city’s residents by investing in neglected neighborhoods or business areas, utilizing in-fill areas rather than contributing to urban sprawl, benefitting the environment, or redeveloping blighted or polluted areas;

(5) Tax base. The city must realize a reasonable rate of return on its public investment in the project in the form of an increase in tax base or other monetary return;

(b) Specific goals. The project will have measurable, specific and tangible goals as they relate to the stated public purpose;

(c) Equal opportunity. The recipient will abide by all local, state and federal laws prohibiting discriminatory hiring and employment practices and agree to affirmatively seek out participation in the project by members of protected classes;

(d) Project feasibility and disclosure. The recipient must demonstrate to the satisfaction of the city that it has adequate financing for the project and that the project will be completed in a timely fashion;

(e) Wage policy. If the project results in the creation of any job, the wage for each part-time and full-time job created must be in compliance with Duluth’s living wage ordinance and at least equal to the prevailing wage for like or similar projects within the area or such greater amount as required by the city for a specific project;

(f) Report to the council. At the time the city council reviews a project development agreement calling for assistance of \$25,000 or more, a report shall be submitted to councilors

summarizing the information necessary for them to exercise their due diligence, as determined by the city council;

(g) Applicable laws. The recipient will agree to satisfy all requirements of Minnesota's business subsidy law as defined in Minnesota Statutes §116J.993-§116J.995 and Duluth's living wage ordinance, as amended, in Article 26, Chapter 2 of the Duluth City Code.

Preferential criteria. Businesses that meet any or all of the following criteria shall be given preference for receiving assistance over other businesses that meet the mandatory criteria but not any of the preferential criteria.

(a) Locally owned businesses. Preference shall be given to locally owned businesses or to projects that make extensive use of local businesses for support;

(b) Hiring low-income people. Preference shall be given to businesses with a commitment and plan to hire people earning at or below 200 percent of the poverty line;

(c) Protected class business owners. Preference shall be given to businesses owned in whole or in part by members of protected classes;

(d) Quality of life businesses. Preference shall be given to businesses that are environmentally responsible and enhance the overall quality of live in the city."

Resolution 00-0522, as amended, was adopted upon a unanimous vote.

Approved July 31, 2000

GARY L. DOTY, Mayor

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 14, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 7

Absent: Councilors Fena and Ness -- 2

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The minutes of the council meeting held on June 12, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0814-01 Betty George Sola, et al. (five signatures), submitting petition to vacate the underdeveloped 200 feet of Minnesota Avenue fronting Lots 231, 233, 235, 237 and 239, Upper Duluth, Minnesota Avenue. -- Assessor

00-0814-02 Minnesota state auditor submitting audit report for Duluth state convention center administrative board for the years ended December 31, 1999 and 1998. -- Received

00-0814-03 St. Louis County public works department submitting communication regarding the proposed reconstruction of Wallace Avenue between Fourth Street and St. Marie Street (00-0512R). -- Received

00-0814-04 Sixth Judicial District Chief Judge Gary J. Pagliaccetti submitting order appointing Daniel D. Maddy, Joseph V. Ferguson, Thomas Bennett, Andy Peterson and Vivian Sylvester replacing Mary Evans, Mark Knutson, Steve Ratté, James Shearer and Terry Trogdon and reappointing Patricia Edwards, Allan Kehr and William R. Sample to the Charter Commission for terms ending June 1, 2004. -- Received

00-0814-31 Evensen Dodge, Inc., submitting presale analysis for \$5,575,000 general obligation street improvement bonds, Series 2000A. -- Received

00-0814-05 Steven J. Running submitting communication regarding the proposed 25 year lease to the DNR of property adjacent to Congdon Boulevard for the McQuade public access project (00-0511R). -- Received

00-0814-33 Taxi Owners Association, Greater Duluth Area, submitting request for rate increases (00-023-O). -- Received

00-0814-32 The following submitting communications regarding the proposed designation of portions of Sixth and Seventh Streets and Irving Place and Clover Street (00-026-O) and College Street (00-025-O) as heritage preservation landmarks: (a) Jerome D. Feriancek; (b) Minnesota historical society; (c) National Trust for Historic Preservation, Rural Heritage Program; (d) Roger Norris; (e) Preservation Alliance of Minnesota; (f) Rick Revoir; (g) Carolyn Sundquist (submitting copy of letter from the National Trust for Historic Preservation). -- Received

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REPORTS OF OFFICERS

00-0814-19 Assessor submitting revised assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1999, to June 1, 2000, for which the licensed collector has not been reimbursed. -- Received

00-0814-06 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from St. Mary's Medical Center for November 9, 2000. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

00-0814-07 Community development and housing division submitting HRA housing rehabilitation report for July 2000. -- Received

00-0814-08 Purchasing agent submitting emergency order awarded to United Rental for trench box rental. -- Received

00-0814-09 Treasurer submitting annual report of all gifts received by the city for \$5,000 or less during the period of August 1, 1999, through July 31, 2000, pursuant to Resolution 97-0954. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0814-10 Board of zoning appeals minutes of June 27, 2000, meeting. -- Received

00-0814-11 Building appeal board minutes of July 12, 2000, meeting. -- Received

00-0814-12 Civil service board minutes of June 6, 2000, meeting. -- Received

00-0814-13 Commission on disabilities minutes of July 12, 2000, meeting. -- Received

00-0814-14 Duluth airport authority: (a) Minutes of June 20, 2000, meeting; (b) Unaudited balance sheet of May 31, 2000. -- Received

00-0814-15 Duluth/North Shore sanitary district minutes of July 5, 2000, meeting. -- Received

00-0814-16 Planning commission minutes of June 13, 2000, meeting. -- Received

00-0814-17 Seaway Port authority of Duluth submitting tax increment financing district reports for the Rices Point and Airpark tax increment financing districts. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah spoke on the issue of the ordinance regarding excessive noise levels from automobiles. He felt that the youth that might be subjected to this might feel that they are discriminated against.

- - -

Peggy Marrin felt that a recent councilor's comments regarding the statement that the "majority" of his constituents favor a particular issue, should be stated clearer, because of the possible false implications that could come from it.

- - -

Kay Lewis expressed her concerns regarding various pedestrian safety conditions that she felt needed improving.

- - -

Tom Allnew expressed his concern over the conditions of the poor and how government treats them and underground fuel tanks.

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RESOLUTIONS TABLED

President Gilbert moved to remove Resolution 00-0494, authorizing proper city officials to increase by \$6,000 an existing agreement (#17222) with Margaret R. Colombo for public information services for the McQuade protected access committee to an amount of not to exceed \$57,330; Resolution 00-0495, authorizing proper city officials to increase by \$13,000 an existing agreement (#17153) with Cheryl Lynn Erickson for administrative services for the McQuade protected access committee to an amount of not to exceed \$108,350; and Resolution 00-0515, approving receipt of \$19,000 from Minnesota department of natural resources for the continued administrative support of the McQuade public access committee, from the table, which motion was seconded and unanimously carried.

President Gilbert noted that the administration has requested that the resolutions be sent back to the administration. He moved to refer the resolutions to the administration, which motion was seconded and unanimously carried.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

President Gilbert 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. 00-0814-19, which is levied to defray in full the expense of solid waste collecting during the period of March 1, 1999, to June 1, 2000, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 00-0516 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED that the city council of the city of Duluth hereby consents to and authorizes the assignment of all rights in the permits granted in Ordinance No. 7391, relating to certain easements in Country Club Division, from George Allen Norris and Lynn Norris to Ronald W. Truscott and May Holm-Truscott of 3815 Greysolon Road.

Resolution 00-0530 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract, in the form and containing the terms as in the contract on file with the city clerk as Public Document No. 00-0814-20, with Fryberger, Buchanan, Smith and Frederick, P.A., for legal services related to the issuance of city bonds, for a cost of not to exceed \$24,000, payable from various project funds.

Resolution 00-0541 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the state legislative primary election on September 12, 2000, and the state legislative general election on November 7, 2000, as listed in Public Document No. 00-0814-21.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 00-0523 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 12, 2000, state legislative primary election and November 7, 2000, for the state legislative general election:

POLLING PLACE LIST

<u>POLLING PLACE</u>	<u>ADDRESS</u>
1. St. Michael's Catholic Church (lower level)	4901 East Superior Street
2. Portman Square	4601 McCulloch Street
3. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
4. Lutheran Church of the Good Shepherd	45th Avenue East and Colorado
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church (Fellowship Hall)	2105 Woodland Avenue
9. Duluth Congregational Church (lower level)	3833 East Superior Street
10. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
11. Pilgrim Congregational Church (lower level)	2310 East Fourth Street
12. Woodland Middle School (auditorium)	Clover and Eighth Street
13. U.M.D. Kirby Student Center (garden room)	10 University Drive
14. Edison School (gym)	Kenwood Avenue and Maryland Avenue
15. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
16. Prince of Peace Fellowship Church	1830 East First Street
17. United Baptist Church (lower level)	830 East First Street
18. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
19. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
20. Peace Church (Tenth Avenue entrance)	1015 East 11th Street
21. First United Methodist Church (Lakeview Social Hall)	230 East Skyline Parkway
22. Central Hillside Community Center	12 East Fourth Street
23. Rainbow Senior Center (auditorium)	211 North Third Avenue East
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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

31. St. Lawrence Church	2410 Morris Thomas Road
32. Harrison Community Club	3002 West Third Street
33. Lutheran Church of Christ the King (alley entrance)	4219 Grand Avenue
34. Faith Haven (recreation room)	4901 Grand Avenue
35. Elim Lutheran Church (social hall)	6101 Cody Street
36. Irving Recreation Center	20 South 57th Avenue West
37. Bethany Baptist Church (social hall)	6700 Grand Avenue
38. Bayview Heights School (gym)	8702 Vinland Street
39. USDA Forest Service	8901 Grand Avenue Place
40. Goodfellowship Community Center (warming area)	1242-88th Avenue West
41. Stowe School (gym)	715 - 101st Avenue West
42. Fond du Lac Recreation Center	131st Avenue West & Highway 23

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, that an absentee ballot board shall be in effect and utilized as allowed for under Minnesota Statutes, for the September 12, 2000, and November 7, 2000, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 12, 2000, and November 7, 2000, 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 00-0524 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to the agreement with InsurTec, which agreement is Agreement No. 18597, and which agreement provides the city with health claims processing services, which amendment is on file in the office of the city clerk as Public Document No. 00-0814-22. There will be no additional cost to the city under the amendment to the agreement. Expenditures for this agreement to be paid from the group health fund.

Resolution 00-0532 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the laws of Minnesota, 1967, Chapter 374, a national senior citizens education and research center (N.S.C.E.R.C.) public sector initiatives grant in the amount of \$5,258 for the period July 10, 2000, through June 30, 2001. A copy of this agreement is on file in the city clerk's office as Public Document No. 00-0814-23.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund 270, Budget Item 6344.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0520 was unanimously adopted.
Approved August 14, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the office of the state auditor leases office space within City Hall for the daily conduct of its assigned duties; and

WHEREAS, the office of the state auditor desires to continue leasing existing said office space and further to increase the amount of office square footage leased; and

WHEREAS, the city desires to lease additional office space to the office of the state auditor;

NOW, THEREFORE, BE IT RESOLVED, the city shall increase from 345 square feet to 598 square feet the amount of office space leased to the office of the state auditor for office space within City Hall for a three year period from August 1, 2000, through July 31, 2003.

RESOLVED FURTHER, that the present office space lease rate of \$12.50 per square foot per year be increased to \$13 per square foot per year effective August 1, 2000, and further that the office space lease rate be increased to \$13.50 per square foot per year effective August 1, 2001.

RESOLVED FURTHER, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 00-0814-24 between the city of Duluth and the state of Minnesota, office of the state auditor. All funds payable thereunder to the city to be deposited in the General Fund 100-015-1515-4612.

Resolution 00-0521 was unanimously adopted.
Approved August 14, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the proper city officers are hereby authorized and directed to execute an amendment to an agreement between the city of Duluth and the St. Louis County board for the furnishing of home delivered meals for senior citizens for the period of July 1, 2000, through December 31, 2000, to increase the payment for elderly waiver meals from \$3.99 to \$4.23. Said agreement is filed as Public Document No. 00-0814-25. Monies collected under said agreement shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6300, Rev. Source 4654.

Resolution 00-0536 was unanimously adopted.
Approved August 14, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that 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. 00-0814-26, with Northeast Minnesota office of job training for the provision dislocated worker services pursuant to the Workforce Investment Act and Minnesota Statutes, Chapter 268 for the period July 1, 2000, to June 30, 2001, at costs not to exceed \$369,640, of which \$108,897 shall be payable from Fund 268, Budget Item 6241 and \$260,743 shall be payable out of Fund 268, Budget Item 6242.

Resolution 00-0543 was unanimously adopted.
Approved August 14, 2000
GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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BY COUNCILOR ECKENBERG:

RESOLVED, that Crysteel Truck Equipment, Inc., be and hereby is awarded a contract for furnishing and installing two heated dump bodies and hydraulics for the public works and utilities in accordance with specifications on its low specification bid of \$57,724.88, terms net 30, FOB destination, payable out of Water Fund 510 (\$28,862.44) and Gas Fund 520 (\$28,862.44), Dept./Agency 900, Organization 0505, Object 5580.

Resolution 00-0518 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that US Filter Distribution Group, Inc., be and hereby is awarded a contract for furnishing and delivering water hydrants and parts for the public works and utilities department in accordance with specifications on its low specification bid of \$49,463.66, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 00-0525 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Quality Underground Services, be and hereby is awarded a contract for furnishing and delivering construction of a two inch plastic gas main in pocket conversion areas in the city of Duluth for the public utilities, gas division, in accordance with specifications on its low specification bid of \$98,789.50, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0544 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Minnesota Power, Inc., be and hereby is awarded a contract for furnishing and delivering 3-phase electrical power for the public works and utilities department in accordance with specifications on its low specification bid of \$24,012, terms net 30, FOB job site, payable out of Sewer Fund 531, Dept./Agency 500, Object 5532.

Resolution 00-0517 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Bachman's, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 800 trees for the SIP and boulevard plantings for the forestry division during the year 2001 in accordance with specifications on its low specification bid of \$124,378.97, terms net 30, FOB destination, payable out of (\$21,393.18) General Fund 100, Dept./Agency 500, Organization 2010, Object 5225 and (\$102,985.79) SIP Fund 440, Dept./Agency 038, organization various, Object 5530; to be encumbered out of year 2001.

Resolution 00-0526 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved August 14, 2000
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 St. Louis County for the reconstruction of Piedmont Avenue between Haines Road and Hutchinson Road, said agreement filed as Public Document No. 00-0814-27. The city's cost in this project, which are estimated to be \$115,646.74, are payable from Fund 535, Agency 500, Organization 0505, Object 5533.

RESOLVED FURTHER, that the plans and specifications prepared by St. Louis County for the above-mentioned project are hereby approved.

Resolution 00-0528 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Daffinson Asphalt Maintenance, Inc., be and hereby is awarded a contract for furnishing and installing street crack sealing for the public works and utilities department in accordance with specifications on its low specification bid of \$94,716, terms net 30, FOB destination, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0007, Object 5530.

Resolution 00-0533 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of a sanitary sewer on Boundary Avenue for the public works and utilities department in accordance with specifications on its low specification bid of \$48,951.77, terms net 30, FOB job site, payable out of Sanitary Sewer Fund 531, Dept./Agency 500, Object 5532.

Resolution 00-0540 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Letourneau and Sons be and hereby is awarded a contract for furnishing and delivering construction of Featherstone Drive and Featherstone Lane for the city engineers division in accordance with specifications on its low specification bid of \$288,651.50, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5331, Object 5530.

Resolution 00-0545 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0373 to Nels Nelson and Sons, Inc., for construction of street improvement at 33rd Avenue West between Superior Street and Michigan Street, be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

amended to increase the amount by \$72,777.70 for a new total of \$195,034.23, payable out of Storm Water Utility Fund 535, Dept./Agency 500, Organization 0505, Object 5533.

Resolution 00-0546 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., the hearing on DEDA granting of business subsidy to Spirit Valley Citizens Neighborhood Development Association began (Public Document No. 00-0814-34).

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At this time, 8:05 p.m., the hearing ended.

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At this time, 8:06 p.m., the hearing on DEDA granting of business subsidy to United HealthCare Services, Inc., began (Public Document No. 00-0814-35).

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At this time, 8:10 p.m., the hearing ended and the regular order of business was resumed.

- - -

At this time a motion was made to suspend the rules to consider Resolution 00-0535, by President Gilbert, approving DEDA agreement with SVCNDA pursuant to DEDA Resolution 00D-42, which motion was seconded and unanimously carried.

Resolution 00-0535 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to city council Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Spirit Valley Citizens Neighborhood Development Association (SVCNDA) in an amount not to exceed \$340,000, as approved by the DEDA board at its meeting July 31, 2000, pursuant to DEDA Resolution No. 00D-42, a copy of which is on file in the office of the city clerk as Public Document No. 00-0814-28, is hereby approved.

Resolution 00-0535 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

At this time a motion was made to suspend the rules to consider Resolution 00-0542, by President Gilbert, authorizing an agreement with United HealthCare Services, Inc., for the forgivable loan of Minnesota investment funds in the amount of \$500,000, which motion was seconded and unanimously carried.

Councilor Stewart noted that he supports the specific employment done by United HealthCare Services, Inc., but that his concerns are with the process of giving out public funds to private firms, especially ones that are so large and profitable. He further felt that this forgivable loan is essentially a grant, meaning that there will be no payback and that it appears that companies that, financially, have the least need are mostly the ones to get the loans, because of the implication that if they do not get the loan, they will take their business elsewhere. Councilor Stewart noted that there are plenty of small businesses that really need the assistance.

Other councilors noted that the city should be looking at businesses of all sizes and that, relative to the large scale business that the practices referred to, they are done nationwide and if the city does not utilize these means, another city will secure the large businesses.

The administration noted that there are other funding sources available to small businesses.

Resolution 00-0542 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY PRESIDENT 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. 00-0814-29, with United HealthCare Services, Inc., for a forgivable loan of Minnesota investment funds in the amount of \$500,000, payable from Fund 255.

Resolution 00-0542 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stover and President Gilbert -- 6

Nays: Councilor Stewart -- 1

Absent: Councilors Fena and Ness -- 2

Approved August 14, 2000

GARY L. DOTY, Mayor

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Resolution 00-0534, by Councilor Hogg, authorizing the issuance and providing for the sale of \$5,410,000 general obligation street improvement bonds, Series 2000a, to finance the 2000 street improvement program, was introduced for discussion.

Councilor Hogg noted that the city auditor has requested that this resolution be tabled until the next council meeting, which motion was made, seconded and unanimously carried.

- - -

Resolution 00-0559, by councilors Hogg, Stewart and Stover, requesting that the administration negotiate a contract with BRW to serve as the city's consultants in the citywide comprehensive planning process, was introduced for discussion.

There were council comments regarding the normal process of how contracts are initiated and approved, and how this particular issue has not followed this process because the council and the administration have a difference of opinion at this time as to which consultant would be best.

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

Bill Majewski, Keith Hamre and Tom Cotrovo spoke in opposition to the resolution for the reasons of: the administration asked for council representation and input to the process; the administration followed a commonly accepted practice for hiring a consultant; over 60 requests for qualifications (RFQ's) were sent out and nine responses were received; in addition to city staff, the planning commission chairperson and the city council planning committee chairperson were on the selection team; the administration's selection brings with it a highly qualified local team; the consultant has expertise with involving the citizens and neighborhoods with innovative means; and the consultant selected should have comprehensive planning experience in cities the size, natural environment and quality of life like that of Duluth's.

Joe Perfetti spoke in support of the council moving forward with hiring a consultant.

Peggy Marrin expressed concern over the fairness of the process and that there is a lack of trust if both firms are not given time make a presentation.

Kay Lewis spoke in support of a local representative, from whatever firm that is selected.

Councilors made the following points regarding this resolution: the recommendation of a highly respected professional selection team should be accepted; if the recommendation is not accepted then maybe all three finalists should be allowed to make a presentation; the committee spent a lot more time reviewing the finalists in greater detail than the briefing that the councilors received; that while the selection committee selected another firm, the council has the right to address the aspects of the common sense approach that the public is concerned with; the references of the consultants are important; the aspect of the local partner is very important in the decision making; two councilors are missing and should be involved in this decision; it would be good for the public to have more information as to why the selection team is recommending a

specific firm; planning issues are of great concern to a majority of Duluthians; irregardless of the possibility of the council and the administration disagreeing on the choice, there should have been the opportunity for both of the consultants to give the council and the public a full presentation.

After this discussion, there was a motion to table the resolution, which motion was seconded and unanimously carried.

- - -

At this time a motion was made, seconded and carried to suspend the rules to consider Resolution 00-0554, removing East College Street from the street improvement program for year 2000; and Resolution 00-0555, removing Irving Street and a portion of Clover Street from the street improvement program for year 2000, by President Gilbert, at the time that the ordinances relative to this project are considered.

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to develop a surface water management plan; and

WHEREAS, the city desires to hire a consulting engineer to provide the professional services required for the development of a surface water management plan and a national pollution discharge elimination system (NPDES) Phase II storm water permit application; and

WHEREAS, Camp Dresser and McKee, Inc., has submitted a proposal for professional 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 Camp Dresser and McKee, Inc., to provide the city with such professional services.

BE IT FURTHER RESOLVED, that the cost of said professional services, estimated at \$674,557, will be payable from the Stormwater Utility Fund 535, Dept./Agency 500, Organization 0585, Object 5303.

Resolution 00-0529 was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

At this time a motion was made, seconded and carried to suspend the rules to consider Resolution 00-0539, awarding contract to Nels Nelson and Sons, Inc., for SIP UMD/Lower Chester 2, in the amount of \$640,751.96, by Councilor Stover, at the time that the ordinances relative to this project are considered.

- - -

BY COUNCILOR STOVER:

WHEREAS, St. Louis County intends to improve the county state aid road known as Wallace Avenue in Duluth; and

WHEREAS, the city has expressed an opinion that the dimensions of the proposed improved street be changed from those currently shown on plans; and

WHEREAS, the matter has now been referred to the state commissioner of transportation for resolution by way of the process set out in Minnesota Statutes; and

WHEREAS, the city has planned to participate in the Wallace Avenue project by making some related improvements, mostly storm sewer installation, in the approximate amount of \$186,000;

NOW, THEREFORE, BE IT RESOLVED, by city of Duluth that when use of the commissioner of transportation's dispute resolution system has resulted in a decision on the contents of the plans of the project, the city intends, at that time, to proceed to participate in the

construction and to pay for the city's portion of the project and pay for the same in the approximate amount of \$186,000.

Resolution 00-0547 was unanimously adopted.
Approved August 14, 2000
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STOVER

00-028 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A HIGHWAY EASEMENT OVER LOT 27, BLOCK 1, LINCOLN PARK TERRACE, TO ST. LOUIS COUNTY.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR EDWARDS

00-023 (9453) - AN ORDINANCE INCREASING TAXI FARES, AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY PRESIDENT GILBERT

00-021 (9454) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LINCOLN PARK TO THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA.

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

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BY PRESIDENT GILBERT

00-025 - AN ORDINANCE DESIGNATING COLLEGE STREET BETWEEN EIGHTH STREET AND IRVING PLACE AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

BY PRESIDENT GILBERT

00-026 - AN ORDINANCE DESIGNATING SIXTH AND SEVENTH STREETS BETWEEN IRVING PLACE AND WALLACE AVENUE, IRVING PLACE AND CLOVER STREET BETWEEN IRVING PLACE AND SEVENTH STREET AS A DULUTH HERITAGE PRESERVATION LANDMARK.

President Gilbert introduced Ordinance 00-025 and Ordinance 00-026 together.

As previously noted, resolutions 00-0539, 00-0554 and 00-0555 were also introduced for discussion at this time.

The rules were suspended upon an unanimous vote to hear speakers on these issues.

Raymond Peplinski, Virginia May, Dick Florey, Kay L. Lewis and Roger Norris spoke in opposition to the ordinances because: they will delay the reconstruction of East College Street for many years; finding the funding for redoing the granitoid is not being found very fast; delays will increase the cost of the project, if it's ever to be done; do not delay necessary street work, because of the granitoid reconstruction of Sixth and Seventh streets; the severe deterioration of streets necessitates the work being done now; with the beautiful older houses it is incredible that the streets are in shambles; why is it so important now to save these streets if this program has been in place for many years; the cost for the work has come in under estimate by approximately \$70,000; the priority should be for public safety and health; the existing condition is unsafe for

driving; there is a water runoff problem coming off of College Street; and the extra costs for the granitoid is irresponsible from a business standpoint.

Debra Kellner, for Duluth Preservation Alliance board of directors; Susan Maki; Suzanne Harnish; Karen Johnson, for Duluth Preservation Alliance membership; Carolyn Sundquist; Bonnie Fuller-Kask; Barb Olson-Brown, for Duluth Public-Policy Alliance; J.D. Fariencek, attorney representing some of the residents of Irving Place; Peggy Marrin and Dale Lucas spoke in support of the ordinances because: these streets have been determined eligible for historic designation by the Duluth heritage preservation commission, in five of seven categories, when only one category is required; the streets are also eligible for designation to the National Register of Historical Places; these designations are highly significant resources for funding; there is a misunderstanding that a property owner loses control when it is designated; the preservation plan will address the proper tools for maintenance so these streets can preserve their integrity; the ordinance establishing the heritage preservation commission has as one of its missions to "encourage the sensitive rehabilitation, restoration and preservation of historical buildings or landmarks"; when these streets are gone, there is nothing that can be done; these streets were the first paved streets in the state and the first of their kind in the United States; funds have been received already to preserve these streets; this restoration project should be given an opportunity to continue in its entirety; further delays will put the existing funds in jeopardy; these streets meet the same historical standard as the Aerial Lift Bridge; the final preservation plan guidelines will allow destruction of this resource if it is not economically feasible to reconstruct it; even with higher costs than asphalt, a granitoid street will last longer; the high profile of this project will assist in securing funds; the Minnesota historical preservation society supports this project; this is an opportunity to show citizens that the city council listens to them; homeowners in this area should realize the status of these streets; the designation of heritage preservation landmark status allows the city council to protect the interests of both sides on this issue; concern that in trying to achieve a compromise relative to having some streets included and some not, there would be a serious compromise in the potential quality in creating this heritage landmark.

Councilors discussed at length the aspects of: the merits/costs of having the street utility work done this year, then applying a thin layer of asphalt, until it is determined if a granitoid surface can be funded; the options associated with different street widths and parking; issues raised by the speakers; if any trees can be saved; sidewalks curb cuts that are accessible; keeping some streets on the street improvement program and giving them heritage landmark designation at the same time.

Councilor Hogg moved to amend Resolution 00-0555, first paragraph, as follows:

(a) In subparagraph (a), "Irving Street" be changed to "Irving Place";

(b) In subparagraph (b), "Eighth Street" be changed to "Irving Place," which motion was seconded for discussion.

Administrative Assistant Winson expressed a caution to consider that streets that will be eventually refurbished as granitoid not be started because of the large decision process that will be involved and that streets to be granitoid will have a larger assessment than originally anticipated. He stated that there might be other things that can be done on a temporary basis to improve the utilities without jeopardizing the granitoid project.

Councilors discussed these ordinances and resolutions at length relative to trying to accomplish the goals of assisting those residents that need improved utility work and at the same time preserve the reconstruction of the granitoid streets.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

At this time, 10:50 p.m., a motion was made to suspend the rules to extend the meeting to 11:30 p.m., which motion was seconded and unanimously carried.

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Councilor Stewart moved to table Ordinance 00-025, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Hogg, Stewart and Stover -- 4

Nays: Councilors Edwards, Stenberg and President Gilbert -- 3

Absent: Councilors Fena and Ness -- 2

- - -

Councilor Stewart moved to table Ordinance 00-026, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stewart and Stover -- 6

Nays: President Gilbert -- 1

Absent: Councilors Fena and Ness -- 2

- - -

Resolution 00-0554 failed upon the following vote (Public Document No. 00-0814-18):

Yeas: Councilor Stewart and President Gilbert -- 2

Nays: Councilors Eckenberg, Edwards, Hogg, Stenberg and Stover -- 5

Absent: Councilors Fena and Ness -- 2

- - -

Councilor Hogg's amendment to Resolution 00-0555 carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stover and President Gilbert -- 6

Nays: Councilor Stewart -- 1

Absent: Councilors Fena and Ness -- 2

Resolution 00-0555, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

BE IT RESOLVED, that the following streets are removed from the city street improvement program for year 2000:

(a) Irving Place;

(b) That portion of Clover Street lying between its intersection with Irving Place and its intersection with Seventh Street.

BE IT FURTHER RESOLVED:

(a) The council requests that work continue on the portions of East Eighth Street and Clover Street included in the street improvement program;

(b) The council requests that city engineers inspect homes on these streets with water problems to determine the cause of the problems and to determine whether short term solutions to water problems can be developed pending street repairs being made;

(c) The council requests that participants in that year's street improvement program be assessed no more for granitoid streets than they would be for regular asphalt streets; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(d) The council requests that the streets be included in the street improvement program in the year 2001, if a plan has not been developed by that time to fund the additional cost, if any, of granitoid streets.

Resolution 00-0555, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Stewart, Stover and President Gilbert -- 6

Nays: Councilor Stenberg -- 1

Absent: Councilors Fena and Ness -- 2

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to amend Resolution 00-0539 by removing from the project map the section of Clover Street between Irving Place and Seventh Street and all of Irving Place, which motion was seconded and unanimously carried.

Resolution 00-0539, as amended, was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of SIP/UMD-Lower Chester 2 for the public works and utilities department in accordance with specifications on its low specification bid of \$640,751.96, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0005, Object 5530.

Resolution 00-0539, as amended, was unanimously adopted.

Approved August 14, 2000

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to table Resolution 00-0534, which motion was seconded and unanimously carried.

- - -

BY PRESIDENT GILBERT (introduced by Councilor Ness)

00-022 (9455) - AN ORDINANCE PERTAINING TO THE DULUTH PUBLIC FACILITIES AND PROGRAM FUND; DELETING REFERENCES TO FUND DISBURSEMENTS TO A NONPROFIT CORPORATION; AMENDING SECTION 10A-18, DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stewart moved to amend the ordinance to replace, in Section 10A-18(e), the sentence which reads, "No facility that discriminates on the basis of race, color, creed or gender shall be funded," with the following:

"As a necessary condition to the receipt of any funding under this ordinance [Article], a facility, program or organization must maintain compliance with each state, federal and local civil rights or human rights law, and with any applicable executive orders or government regulations, including, but not limited to, federal civil rights laws contained in Article 42 of United States Code, Americans with Disabilities Act, and the Federal Rehabilitation Act in Article 29 of United States Code, executive orders 111246, 111625, any applicable regulations in 41 CFR, Chapter 60, Minnesota Human Rights Act, Minnesota Laws, Chapter 363. The parks and recreation commission established in Article IX of Chapter 2 of this Code shall act as an advisory body to the city auditor with respect to priorities and amounts of funding for public facility and program projects," which motion was seconded and unanimously carried.

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

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BY COUNCILOR STOVER

00-024 (9456) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY EASEMENT OVER LOT 2, BLOCK 17, ONEOTA, TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

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

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The meeting was adjourned at 11:10 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9453

BY COUNCILOR EDWARDS:

AN ORDINANCE INCREASING TAXI FARES, AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 47-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-33. Rates.

Every person operating a taxicab shall charge, and every person holding a taxicab license shall permit the charging only of the following rates for taxicab service in the city of Duluth and such rates shall not be reduced by issuance of coupon books, premiums or any other device whatsoever:

(a) For the first 1/12 mile or fraction thereof, \$1.50, for each succeeding 1/12 mile or fraction thereof, \$.15, for each three minutes of waiting time or fraction thereof resulting from the special instance and request of a passenger or patron \$.80, provided, however, that such rates shall go into effect only if and when permitted under U. S. government price guidelines, and until such time as such rates go into effect the rates previously established by this Section shall remain in effect. No charge for any waiting time shall be made when the same results from traffic delays or circumstances beyond the control of such patron or passenger;

(b) No taxicab driver shall carry any person other than the person first employing his vehicle without the consent of such person. Group riding is permissible for passengers going in the same general direction, with the consent of all passengers involved, providing there is no other cab available at the point of loading and no delay is caused to any waiting passenger. Each member of such a group of passengers shall be required to pay only that amount which the taximeter would have registered if such person had been taken directly from the point of loading to his destination point.

No extra fare shall be charged by the driver of a taxicab for additional passengers when such passengers are of one party or one family group. If the members of such a party or group do not have a common destination the driver shall collect the recorded fare at the final destination point;

(c) When a taxicab is engaged by the hour, the following rates shall be charged: \$30 for the first hour or fraction thereof and \$7.50 for each succeeding 15 minutes or fraction thereof. While a taxicab is so engaged, the driver shall place a hood or covering over the taximeter in such vehicle;

(d) For trips originating or ending outside of an area bounded by the following described line, \$4 or the rate prescribed by Subsection (a), whichever is greater, except that all trips originating at the Duluth International Airport shall have a minimum fee of \$6:

Commencing at the foot of 40th Avenue West; thence northwesterly along 40th Avenue West to Haines Road; thence northwesterly along Haines Road to Skyline Parkway; thence northerly along Skyline Parkway to Trinity Road; thence northerly along Trinity Road to Arlington Avenue; thence northerly along Arlington Avenue to Arrowhead Road; thence easterly along Arrowhead Road to 34th Avenue East; thence southeasterly along 34th Avenue East and its extension to Lake Superior; thence beginning in a southwesterly direction, along the Duluth city limits to the intersection of such limits with 40th Avenue West extended; thence westerly to the point of beginning;

(e) For trips originating or ending within an area bounded by Kingsbury Creek on the east and the southwesterly entrance to Morgan Park extended westerly to the city limits, on the west, \$5 or the rate prescribed by Subsection (a), whichever is greater, and \$6 or the rate prescribed by Subsection (a), whichever is greater, for trips originating or ending south or west of the area described above;

(f) For trips originating or ending northeast of a line bounded by the Lester River north to Occidental Boulevard; Occidental Boulevard north to the Skyline Parkway; the Skyline Parkway north to the Maxwell Road; and the Maxwell Road north to the city limits line, \$5 or the rate prescribed by Subsection (a), whichever is greater;

(g) For any trip that includes the cartage of an unusual amount of goods, a charge of \$.50 shall be made over and above the rate prescribed in Subsection (a). The driver shall only be required to deliver the goods to a place which is under cover. For the purpose of this Subsection the term, unusual amount, means that amount which requires more than one loading or unloading trip for the passengers and driver.

There shall be prominently displayed in all taxicabs a card supplied by the city clerk for a fee of \$1 setting out in large size print, the taxi fare contained in this Section. This card shall contain a sentence informing passengers that it is illegal for the driver to charge for waiting time while delayed in traffic. This card shall also contain a sentence informing passengers that the driver has printed copies of the entire text of this Section which will be supplied to them upon request. Printed copies of the complete text of this Section shall be supplied to each taxicab driver by the city clerk without charge and such drivers shall give a printed copy of such text to any passenger who requests one.

The driver of any taxicab shall upon demand give any passenger a receipt for the fare charged, which receipt shall include the name of the driver, the identification of the vehicle, the amount charged and the date of the transaction.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 24, 2000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: None -- 0

Absent: Councilors Fena and Ness -- 2

Passed August 14, 2000
Approved August 14, 2000
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9454

BY PRESIDENT GILBERT:

ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LINCOLN PARK TO THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey by quit claim deed that certain property in St. Louis County, Minnesota, legally described below to the housing and redevelopment authority of Duluth, Minnesota (HRA), a public body corporate and politic, at no cost to the HRA:

Lots seven and eight, Block 106, Myers Rearrangement of Blocks 105, 106, 127, 128 and 142, Duluth Proper, Second Division.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 24, 2000)

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

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: None -- 0

Absent: Councilors Fena and Ness -- 2

Passed August 14, 2000
Approved August 14, 2000
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9455

BY PRESIDENT GILBERT (introduced by Councilor Ness):

AN ORDINANCE PERTAINING TO THE DULUTH PUBLIC FACILITIES AND PROGRAM FUND; DELETING REFERENCES TO FUND DISBURSEMENTS TO A NONPROFIT CORPORATION; AMENDING SECTION 10A-18, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 10A-18 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-18. Duluth public facility and program fund established.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(a) There is hereby established a Duluth public facility and program fund (the fund). The fund is created pursuant to Minnesota Statutes, Section 349.213, Subdivision 1, to collect, administer and disburse five percent of the net profits derived from lawful gambling;

(b) The purpose of the Duluth public facility and program fund shall be to provide funds for the establishment, improvement and maintenance of public facilities and/or recreational, educational, environmental or other community related programs in Duluth;

(c) The fund shall be administered by the Duluth city auditor, upon advice from the parks and recreation commission as provided in this Section;

(d) No costs of administration shall be charged to the fund. All proceeds collected shall be disbursed under the provisions of this Section;

(e) Disbursement of funds. Proceeds in the fund shall be disbursed only for the purpose of establishing, improving or maintaining publicly owned facilities located in the city of Duluth, or for establishing or maintaining recreational, educational, environmental or other community related programs in the city of Duluth. All disbursements must constitute lawful purposes as defined in Minnesota Statutes, Section 349.12, Subdivision 25.

As a necessary condition to the receipt of any funding under this ordinance [Article], a facility, program or organization must maintain compliance with each state, federal and local civil rights or human rights law, and with any applicable executive orders or government regulations, including, but not limited to, federal civil rights laws contained in Article 42 of United States Code, Americans with Disabilities Act, and the Federal Rehabilitation Act in Article 29 of United States Code, Executive orders 111246, 111625, any applicable regulations in 41 CFR, Chapter 60, Minnesota Human Rights Act, Minnesota Laws, Chapter 363. The parks and recreation commission established in Article IX of Chapter 2 of this Code shall act as an advisory body to the city auditor with respect to priorities and amounts of funding for public facility and program projects.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 24, 2000)

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

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: None -- 0

Absent: Councilors Fena and Ness -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 14, 2000
Approved August 14, 2000
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9456

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVE-WAY EASEMENT OVER LOT 2, BLOCK 17, ONEOTA, TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys a permanent easement for driveway purposes to the Western Lake Superior Sanitary District, in the form of Public Document No. 00-0814-30, over the following described land in St. Louis County, Minnesota:

Lot Two (2), Block Seventeen (17), ONEOTA, according to the recorded plat thereof on file and of record in the office of the county recorder, St. Louis County, Minnesota; said easement being more particularly described as follows:

The southeasterly 100 feet of Lot 2, Block 17, Oneota, Duluth, Minnesota.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 24, 2000)

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

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: None -- 0

Absent: Councilors Fena and Ness -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 14, 2000
Approved August 14, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 28, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on June 26, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0828-01 Richard Berg, et al. (five signatures), submitting petition to vacate Lombard Street from 41st Avenue East to 40th Avenue East. -- Assessor

00-0828-02 Minnesota state auditor submitting management and compliance report for Western Lake Superior Sanitary District for the year ended December 31, 1999. -- Received

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REPORTS OF OFFICERS

00-0828-03 Assessor submitting:

(a) Letter of confirmation of assessment rolls levied to defray the assessable portions of the improvements of 87th Avenue West from 365 meters to 411 meters northerly from Lawn Street (sanitary sewer and watermain) and Rice Lake Road from 221 meters to 157 meters southerly of Allen Street (watermain). -- Clerk

(b) Letter of sufficiency of petition to vacate the underdeveloped 200 feet of Minnesota Avenue fronting Lots 231, 233, 235, 237 and 239, Upper Duluth, Minnesota Avenue. -- Received

00-0828-04 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses from: (a) Junior League of Duluth, Inc., on November 19, 2000 (raffle); (b) St. Michael's Church on November 5, 2000 (bingo and raffle). -- Received

00-0828-05 Engineering division submitting monthly project status report of August 1, 2000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0828-06 Alcohol, gambling and tobacco commission minutes of July 11, 2000, meeting. -- Received

00-0828-07 Board of zoning appeals minutes of August 22, 2000, meeting. -- Received

00-0828-08 Duluth airport authority: (a) Minutes of: (1) July 18; (2) August 4, 2000, meetings; (b) Unaudited balance sheet for June, 2000. -- Received

00-0828-09 Heritage preservation commission minutes of May 17, 2000, meeting. -- Received

00-0828-10 Planning commission minutes of: (a) June 28; (b) July 11, 2000, meetings. -- Received

00-0828-28 Special assessment board minutes of July 11, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Steven Rasanen and Paul Gonzales voiced concern over the dangerous intersection at 23rd Avenue West and Seventh Street, as it is an unmarked intersection that has become fairly

dangerous with four accidents in the last four months. Mr. Rasanen stated that he has been in contact with Councilor Eckenberg who has reported this information to the traffic engineering division and the public works and utilities department director. He went on to say that he has a petition from the neighbors who all feel very strongly that something has to be done to the intersection, such as closing off 23rd Avenue West where it meets Piedmont Avenue or traffic control signs such as a yield or stop sign.

Councilor Eckenberg stated that Traffic Engineer Scanlon supports closure of Seventh Street at Piedmont Avenue and hopes to be drafting a resolution in the near future supporting that action.

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Damon Anderson stated that there still is a small problem with the Northwest Corner study dealing with the area east of Old Swan Lake to the power line and north of Arrowhead Road as the residents have signed a petition to leave their property zoned suburban. He continued by saying that the process has been good as it has kept the public informed, but there needs to be one more public meeting to finalize all of the area so that the first piece of the comprehensive plan for the city would be done right.

Cindy Beaulier and Barb Cummings stated that another public meeting on the Northwest Corner study is important for the council to hear input from the neighborhood that zoning should remain suburban on Arrowhead Road between Haines Road and Swan Lake Road.

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Jeff Urbaniak questioned the rationale or the distinction on why the Westgate permit was issued as a matter of law where the Demolition Landfill Services (DLS) landfill permit needs special council action.

City Attorney Brown replied that there were three DLS landfill cases. He went on to explain that one decision by the court of appeals states that a permit is issued by default when the city does not act in 120 days, but that is not the case that is being appealed. Mr. Brown explained that the difference between the two cases is that in the Westgate situation, the city did not comply with the 120 day rule and in the current pending DLS case, the city did act in a timely manner, but the issue in the courts is whether the city had an agreement with DLS to extend the 60 days to 120 days. He stated that the city prevailed in district court, but the court of appeals reversed the local court, and now the city is waiting to hear if the Minnesota Supreme Court will hear the case.

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K.L. Lewis stated that there should be four minutes of silence every year for victims of violence.

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Peggy Marrin urged attendance to the regional planning conference being held in Duluth in September as the programs are geared toward comprehensive planning for cities.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 00-0534, authorizing the issuance and providing for the sale of \$5,410,000 general obligation street improvement bonds, Series 2000a, to finance the 2000 street improvement program, from the table, which motion was seconded and unanimously carried.

Resolution 00-0534 was adopted as follows:

BY COUNCILOR HOGG:

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

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$5,410,000 general obligation street improvement bonds, Series 2000A, for the purpose of financing the 2000 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) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in Exhibit A (official terms of offering), on file in the office of the city clerk as Public Document No. 00-0828-11. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(c) Competitive sale of bonds. 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) Subsequent resolution. The form, specifications and provisions for repayment of the bonds shall be set forth in subsequent resolutions of this city council.

Resolution 00-0534 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

Councilors Hogg, Stewart and Stover moved to remove Resolution 00-0559, requesting that the administration negotiate a contract with BRW to serve as the city's consultants in the citywide comprehensive planning process, from the table, which motion was seconded and unanimously carried.

Councilor Hogg reviewed that BRW does not wish to be considered as a candidate for the comprehensive planning process in Duluth and therefore moved that the resolution be withdrawn from the agenda, which motion was seconded and unanimously carried.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that Century Fence, Inc., be and hereby is awarded a contract for furnishing and delivering fence and backstops at various city of Duluth locations for the administrative services department in accordance with specifications on its low specification bid of \$75,891, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 2000, Object C001 (\$46,900); Community Development Fund 262, Dept./Agency 622, Object 6213 (\$24,155) and Special Projects Fund 210, Dept./Agency 030, Organization 2155, Object 5441 (\$4,836).

Resolution 00-0550 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Monroe Truck Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering three sanders for FL80 cab and chassis for the fleet operations division in accordance with specifications on its low specification bid of \$91,913.63, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2009, Object V912 (\$29,194) and Capital Equipment Fund 250, Dept/Agency 015, Organization RS00, Object V011 (\$64,719.63).

Resolution 00-0553 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues 71 on sale intoxicating liquor renewal licenses, 66 on sale Sunday intoxicating liquor renewal licenses, 19 on sale dancing renewal licenses and ten additional bar renewal licenses for the period beginning September 1, 2000, and ending August 31, 2001, 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. 00-0828-12.

Resolution 00-0560 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 15 on sale wine licenses for the period beginning September 1, 2000, and ending August 31, 2001, 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. 00-0828-13.

Resolution 00-0561 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 20 off sale intoxicating liquor licenses for the period beginning September 1, 2000, and ending August 31, 2001, 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. 00-0828-14.

Resolution 00-0562 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves seven on sale club liquor licenses for the period beginning September 1, 2000, and ending August 31, 2001, for issuance by the liquor control commissioner and further subject to departmental approvals, the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 00-0828-15.

Resolution 00-0563 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, the alcohol, gambling and tobacco commission of the city of Duluth has held a public hearing on August 8, 2000, to determine whether or not there is good cause to grant the Moose Lodge #1478 an on sale club liquor license and an on sale Sunday license, notwithstanding delinquent real estate taxes; and

WHEREAS, the alcohol, gambling and tobacco commission found that good cause to issue such license does exist because the delinquent taxes will be paid when the building is sold.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 8-65 of the Duluth City Code, an on sale club liquor license and on sale Sunday license shall be granted to the Moose Lodge #1478, 411 North 57th Avenue West, provided that all delinquent real estate taxes be paid in accordance with the agreement with the St. Louis County auditor.

Resolution 00-0564 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

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 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 00-0566 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

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

	Licensee	Gambling Site	Date Application Filed
1.	Climb Theatre	Stadium Lanes	August 1, 2000
2.	Congdon Park Recreation Association	Round Up Bar	August 6, 2000

Resolution 00-0567 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that American LaFrance, Inc., be and hereby is awarded a contract for furnishing and delivering two fire trucks (pumper and telesquirt) for the fire department in accordance with specifications on its low specification bid of \$431,157, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V002 (\$252,090) and V018 (\$179,067).

Resolution 00-0586 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the 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 22 and 23, 2000, with the music and serving ceasing at midnight.

Resolution 00-0588 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions on Ramsey Street between Bristol Street and Central Avenue, on September 9, 2000, in conjunction with the Kick Start Ride Rally and Extravaganza, 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 00-0592 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, personnel services, which were approved by the civil service board on August 8, 2000, and which are filed with the city clerk as Public Document No. 00-0828-16, are approved; that said classification shall be subject to the city's collective bargaining agreement with its confidential unit employees; and that the pay range and rates shall remain unchanged, Pay Range 12, Pay Rate \$4,153 to \$5,067 per month.

Resolution 00-0552 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES

Barbara Hauck for a term expiring November 1, 2001, replacing Cheryl Blue who resigned.

Scott Welles for a term expiring November 1, 2002, replacing Richard Anderson who resigned.

Irene Evans for a term expiring November 1, 2002, replacing Thomas Martin who resigned.

Resolution 00-0570 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

DULUTH AIRPORT AUTHORITY

Dennis L. Ramberg for the term expiring July 1, 2003, replacing Richard Burns.

Resolution 00-0571 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of job training planner, including a title change to workforce development planner, which were approved by the civil service board on August 8, 2000, and which are filed with the city clerk as Public Document No. 00-0828-17, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range and rates shall remain unchanged, Pay Range 130, Pay Rate \$2,647 to \$3,138.

Resolution 00-0573 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

SISTER CITY COMMISSION

Leonore Baeumler for a term expiring March 30, 2003.

Resolution 00-0574 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

ENVIRONMENTAL ADVISORY COUNCIL

Joel Koemptgen for a term expiring January 5, 2002, replacing Dana Slade who resigned.

Resolution 00-0576 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$20,000 from the state for the Lincoln Park habitat enhancement project, to be deposited into Fund 262, Agency 020, Org. 2600, Revenue Source 4702.

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. 00-0828-18, with the state under which the city will receive a \$20,000 grant for the Lincoln Park habitat enhancement project and further authorizing a nonstate contribution to the project in the amount of \$21,300, payable from Fund 262, Agency 623, Object 6309.

Resolution 00-0537 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, Gracelynn Hansen has submitted to the city council a request for a special use permit for a home beauty salon on property located at 8 Deerwood Street and described as: Lot 2 and the easterly 50 feet of Lot 4, "D" Street, Maple Grove 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 Gracelynn Hansen to allow for the operation of a home beauty salon at 8 Deerwood Street, 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. 00-0828-19;
- (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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0548 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, on December 6, 1999, the city council did approve Resolution No. 99-0834 granting to St. Louis Riverview Homes, Inc., a special use permit, in conformance with the requirements of Section 245A.11 of the Minnesota Statutes, to establish and operate a state licensed program for women with mental illness on property described as Lot 3, Block 59, Endion Division and located at 1610 East First Street; and

WHEREAS, Makalu, Inc., formerly St. Louis Riverview Homes, Inc., has submitted to the city council a request to amend Resolution 99-0834 to change from ten to 12 the number of resident clients to be housed at the facility, 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 Resolution 99-0834 granting a special use permit is hereby amended and grants to Makalu, Inc., nee St. Louis Riverview Homes, Inc., to allow for the operation of a state licensed program for women with mental illness serving not more than 12 residents on the above described property located at 1610 East First Street.

Resolution 00-0549 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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. 00-0828-20, with the Duluth economic development authority, the Duluth Area Chamber of Commerce, the Duluth airport authority, Minnesota Power, Inc., and the Seaway Port authority of Duluth in the amount of \$33,333, payable from Fund 100, Ag. 020, Org. 1202.

Resolution 00-0558 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to city council Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and TEAM Duluth in an amount not to exceed \$33,333, payable from DEDA Fund 360, as approved by the DEDA board at its meeting of August 15, 2000, pursuant to DEDA Resolution No. 00D-43, a copy of which is on file in the office of the city clerk as Public Document No. 00-0828-21, is hereby approved.

Resolution 00-0575 was unanimously adopted.
Approved August 28, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officials are hereby authorized to execute a satisfaction of mortgage given by the Greater Duluth-Grand Portage Enrollees, Inc. (the agency), in favor of the city of Duluth to secure a forgivable urban revitalization action program (URAP) loan in the amount of \$16,000 with respect to property legally described as Lot 411, Block 78, Duluth Proper Second Division St. Louis County, Minnesota.

Resolution 00-0577 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that Lakehead Electric, Inc., be and hereby is awarded a contract for furnishing and delivering the Fourth Street lighting project - Phase II for the community development and housing division in accordance with specifications on its low specification bid of \$115,122, terms net 30, FOB job site, payable out of Community Development Fund 262, Dept./Agency 623, Object 6307.

Resolution 00-0582 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, \$104,509 from the Minnesota department of economic security to operate the Title V senior community service employment program from July 1, 2000, through June 30, 2001. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 00-0828-22.

FURTHER RESOLVED, that amounts received will be deposited in Fund No. 271, Budget Item No. 6331.

Resolution 00-0556 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the city of Duluth is hereby authorized to enter into a grant agreement for the state fiscal year 2001 with the Minnesota department of public safety, center of 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 100, Agency 010, Org. 1104.

Resolution 00-0578 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide street and utilities which serve the Woodcrest Division; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to provide the construction survey, testing and inspection phase; 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 \$31,500, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5331, Object 5530.

Resolution 00-0551 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the state of Minnesota for the construction of turning lanes, traffic control signals and utilities at the intersection of Trunk Highway No. 53 and Trunk Highway No. 194 and for the revision of the Joshua Avenue intersection at the above-mentioned intersection under State Project No. 6915-104 and State Aid Project No. 118-010-023; said agreement filed as Public Document No. 00-0828-23. The city's cost in this project, which is estimated to be \$497,086, is payable out of Fund 810, Agency 038, Org. 5327, Object 5530.

Resolution 00-0581 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it is deemed necessary for the public conveyance and safety that Minnesota Bridge Number L6128 at Keene Creek and Skyline Parkway (City Job No. 9091MC99) be reconstructed; and

WHEREAS, this project will not be eligible for municipal state aid funds unless it is constructed to urban state aid standards for an urban street, 30 to 40 mph design speed, or unless a variance is granted; and

WHEREAS, practical limitations require that the horizontal and vertical alignment through the project segment be constructed utilizing a shorter horizontal curve radius and a shorter sag vertical curve length than dictated by standards resulting in a 26 mph design speed in lieu of a 30 mph 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 166 foot, 6.43 percent algebraic grade difference vertical sag curve in lieu of the required 252 feet and allowing for a 160 foot radius horizontal curve in lieu of the required 230 feet.

Resolution 00-0584 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to reconstruct Bridge #L8502 over Amity Creek on Seven Bridges Road; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design services and contract administration services; and

WHEREAS, LHB Engineers and Architects, Inc., has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$86,919, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2109, Object 5530.

Resolution 00-0587 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of economic security for expenditures related to the juvenile alcohol curfew offender program.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements (Public Document No. 00-0828-24) as necessary to implement the project on behalf of the police and job training departments. All reimbursements to be deposited in Fund 268, Agency 031, Org. 6244, Activity SCXX.

Resolution 00-0568 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that Traffic Control Corporation, Inc., be and hereby is awarded a contract for furnishing and delivering a signal controller cabinet for the traffic operation division in accordance with specifications on its low specification bid of \$16,773.75, terms net 30, FOB destination, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2228, Object 5530.

Resolution 00-0580 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period beginning September 1, 2000, and ending August 31, 2001, subject to departmental approvals, and the payment of sales and property taxes:

Grandma's Restaurant Company (Grandma's Grand Avenue Cafe), 4602 Grand Avenue, with Michael J. Paulucci, chairman and 90 percent stockholder, and Andy Borg, CEO and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

ten percent stockholder, transferred from Grandma's Restaurant Company (Grandma's Steak & Seafood), 375 Minnesota Avenue.

Resolution 00-0565 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Abstention: Councilor Stenberg -- 1

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0594, by Councilor Edwards, requesting that the appeal in Demolition Landfill Services LLC vs. city of Duluth be dismissed and that no further legal action be taken, was introduced for discussion.

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

Darren Saari, owner of Demolition Landfill Services (DLS), stated that this application was brought to the council in 1998 and through the appellate court there has finally been resolution to the permit issue. He continued by saying that he has been operating the landfill since August 8, 2000, and has had the Minnesota pollution control agency (MPCA) and the Western Lake Superior Sanitary District (WLSSD) inspecting the facility. Mr. Saari voiced concern that he while has been open with all of the issues concerning the landfill, he has not had any cooperation from the city in trying to resolve any of the issues and that is why they have had all of these court cases.

Jack Perry, attorney for DLS, expressed his concern that the public perception is that the DLS landfill is operating without a permit and there is a possibility that the city could be issuing an order to stop work at the landfill. He stated that the court has ruled that the permit is approved and the city needs to do whatever is needed to issue the permit without being subject to city council or court action. Mr. Perry continued by saying that there have been several attempts in writing and over the phone to sit down with the city attorney's office and the council to settle the lawsuit, but that the city has not been interested in meeting with him or Mr. Saari.

Councilor Edwards voiced her concern that the administration has not been brought in on the decision to appeal these cases, and if Mr. Saari is willing to discuss an offer with the city, then the council should sit down with the administration and try to settle this case. She stated that the city will lose the appeal and it is a waste of taxpayers' time and money to proceed with the appeal.

Councilors Fena, Stover and Ness all stated that the council should follow the advice of the city attorney, who represents the council, as it would be in the best interest of the citizens of Duluth.

President Gilbert stated that the city attorney's office represents the city and if DLS wants to negotiate a settlement, it should be with the attorney's office and not the city council.

Councilor Stewart questioned if passing this resolution would prohibit damages being pursued by DLS.

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

Resolution 00-0594 failed upon the following vote (Public Document No. 00-0828-25):

Yeas: Councilor Edwards -- 1

Nays: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0593, by Councilor Stewart, appointing members to the citizens advisory committee for comprehensive planning, was introduced for discussion.

Councilor Stewart reviewed that the council has previously outlined a process for selecting a comprehensive plan committee and reviewed the purpose and goals of the committee.

After five rounds of voting, Councilor Stewart moved to amend the resolution by inserting the following names at the end of the fourth paragraph: "David Boe, Mary Frances Skala, Tom Hollenhorst, Jerry Kimball, Jeanne Koneczny, Barbara Koth, Peggy Marrin, Nancy Nelson, Barb Olsen Browne, Andy Peterson, Tari Rayala, Carol Thomsom and Lynn Vandervort," which motion was seconded and unanimously carried.

Resolution 00-0593, as amended, was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, the city council established the citizens advisory committee for comprehensive planning in Resolution No. 00-0369 to consist of nine to 13 members; and

WHEREAS, thirty citizens have applied to be on the committee; and

WHEREAS, Resolution No. 00-0369 provides that the city council shall select members to the committee in accordance with criteria set forth in said resolution.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby appoints the following persons to the citizens advisory council on comprehensive planning, effective immediately:

David Boe	Nancy Nelson
Mary Frances Skala	Barb Olsen Browne
Tom Hollenhorst	Andy Peterson
Jerry Kimball	Tari Rayala
Jeanne Koneczny	Carol Thomsom
Barbara Koth	Lynn Vandervort
Peggy Marrin	

Resolution 00-0593, as amended, was unanimously adopted.

Approved August 28, 2000, pursuant to Section 12 of the Duluth City Charter.

- - -

Resolution 00-0590, by President Gilbert, adopting heritage preservation guidelines for the heritage preservation landmark created by Ordinance 00-026-O, was introduced for discussion.

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

Deb Kellner, Susan Maki and Suzanne Harnish spoke on behalf of the heritage preservation commission (HPC) and requested that the council table this resolution and work with the HPC in making changes to the ordinance.

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

- - -

Resolution 00-0591, by President Gilbert, authorizing the proper city officers to execute a professional services agreement with the Smith Group JJR for the development of a comprehensive plan for the city of Duluth, in an amount not to exceed \$330,000, was introduced for discussion.

Administrative Assistant Winson requested that the resolution be tabled, as it did not meet the filing deadline required by the City Charter.

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

- - -

BY COUNCILOR NESS:

BE IT RESOLVED, that the city of Duluth, on behalf of all of its citizens, gratefully accepts the grant of \$1,950,000 from the Jeno and Lois Paulucci Family Foundation, a grant of \$500,000 from Jeno F. Paulucci and Lois M. Paulucci and a grant of \$500,000 from Republic Bank, Inc., all for the construction and financing of a portion of Bayfront Park Festival Park; and authorizes the proper city officials to execute and implement the three grant agreements on file with the city clerk as Public Documents Nos. 00-0828-26(a), 00-0828-26(b) and 00-0828-26(c); grant funds to be deposited in Bayfront Festival Park construction account within the Capital Improvement Fund 450, Agency 015, Org. 1999, and used in accordance with the grant agreements; and authorizes the proper city officials to give appropriate notice of gratitude and appreciation for the gift to the Paulucci family.

Resolution 00-0579 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the top values and priorities of citizens include safety, family, job opportunities, health, the well-being of children and recreational opportunities; and

WHEREAS, many of the services cities provide directly enhance those citizen priorities; and

WHEREAS, the connection between city services and how they benefit citizen priorities and concerns is not always understood by citizens; and

WHEREAS, it is one of the responsibilities of city officials to ensure legislators, media and citizens understand their governments through open and frequent communication using various avenues and means; and

WHEREAS, it is important to encourage citizens to actively participate in city government, to share their views and to work in partnership with city officials to ensure that the needs of the community are met; and

WHEREAS, partnerships developed between citizens and city officials can result in greater understanding of the connection between Minnesota's high quality of life and the services provided by Minnesota cities, as well as in greater trust by citizens in the efforts of their city government;

NOW, THEREFORE, BE IT RESOLVED that the city of Duluth hereby declares its commitment to join in the "Minnesota Cities: Building Quality Communities" statewide educational effort in cooperation with our fellow members of the League of Minnesota Cities. We hereby designate Mark Winson, chief administrative officer, as the city of Duluth's key contact for this effort, and will inform the League of Minnesota Cities of this designation.

Resolution 00-0585 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0443, by Councilor Eckenberg, awarding contract to Letourneau and Sons, Inc., for sanitary sewer, water main and gas main extensions at Boulevard Terrace, in the amount of \$108,915, was introduced for discussion.

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

Ken Kaylor stated that after being involved in this project for several years, his feelings are that the assessment procedures set in place by the city do not work; that the waiver agreement he signed in January of 1999 to expedite the process by eliminating a need for a public hearing

does not work as there are issues that are not agreeable between the two parties; and there needs to be better communication in the city attorney's office as the city attorney should be aware of problems with projects like this one that have been going on for several years. He urged the councilors to vote this project down and, although there are some positive aspects to the project, let the people involved in this project make the decisions instead of one person who has created all the problems.

Councilor Hogg stated that he understands that Dr. Kaylor is upset with the project and no matter where the fault lies with this project, the project should still go ahead.

Councilors Ness and Stover expressed concern that the process for this project worked for the developer who is well known in the community, but it does not work for the person who does not have the influence.

Councilor Eckenberg voiced his concern about the process, but stated that there are other potential buyers involved in this project, so this process does need to go on.

Resolution 00-0443 was adopted as follows:

BY COUNCILOR ECKENBERG:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of sanitary sewer, water main and gas main extensions at Boulevard Terrace, First Addition, for the water and gas divisions in accordance with specifications on its low specification bid of \$108,915, terms net 30, FOB job site, \$104,558.40 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$4,356.60 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0443 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Stenberg and President Gilbert -- 6

Nays: Councilors Ness, Stewart and Stover -- 3

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0589, by councilors Eckenberg, Hogg, Edwards, Stewart, Stover and Stenberg, requesting the administration to provide for the televising of all city council agenda sessions in the 2001 contract with Duluth-Superior Public Access Community Television, Inc., was introduced for discussion.

Councilor Eckenberg stated that the work that is done in the agenda sessions is often referenced at council meetings and the public needs to know what those discussions were about. He urged support for this resolution.

Resolution 00-0589 was adopted as follows:

BY COUNCILORS ECKENBERG, EDWARDS, HOGG, STENBERG, STEWART AND STOVER:

WHEREAS, the present contract between the city of Duluth and PACT provides for live telecast of the regular Duluth City Council meetings; and

WHEREAS, said contract provides for the live or delayed cable cast, upon four days notice to PACT from the administrative assistant, of agenda sessions, budget meetings and committee of the whole council meetings of special public interest; and

WHEREAS, the city council deems it desirable to further inform the public of its operations by having its agenda sessions telecasted live on a regular basis.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the administration to provide for the regular telecast of its agenda sessions in the 2001 contract with the Duluth-Superior Public Access Community Television, Inc.

RESOLVED FURTHER, that the administration is requested to get a cost and logistical assessment from PACT concerning the televising of agenda sessions so that the data can be included in the 2001 budget process.

Resolution 00-0589 was unanimously adopted.

Approved August 28, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth desires to provide hazardous materials training; and

WHEREAS, the city desires to hire a trainer to provide the hazardous materials workshop services required to train fire department personnel; and

WHEREAS, Lake Superior College has submitted a proposal for hazardous materials training services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Lake Superior College to provide the city with such training services.

BE IT FURTHER RESOLVED, that the cost of said training services, estimated at \$17,500, will be payable from the General Fund 100, Dept./Agency 100, Organization 1505, Object 5319.

Resolution 00-0557 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stover and President Gilbert -- 8

Nays: None -- 0

Abstention: Councilor Stewart -- 1

Approved August 28, 2000

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

00-029 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BAYFRONT FESTIVAL PARK IMPROVEMENT BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$4,300,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR HOGG

00-030 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$325,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY PRESIDENT GILBERT

00-031 - AN ORDINANCE AMENDING ORDINANCE 8938, ADOPTED APRIL 17, 1989, AND CHAPTER 28A OF DULUTH CITY CODE CONCERNING HERITAGE PRESERVATION.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

00-028 (9457) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A HIGHWAY EASEMENT OVER LOT 27, BLOCK 1, LINCOLN PARK TERRACE, TO ST. LOUIS COUNTY.

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

- - -

The meeting was adjourned at 11:00 p.m.

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

- - -

ORDINANCE NO. 9457

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A HIGHWAY EASEMENT OVER LOT 27, BLOCK 1, LINCOLN PARK TERRACE, TO ST. LOUIS COUNTY.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys a permanent easement for highway purposes to St. Louis County, Minnesota in the form of Public Document No. 00-0828-27, over the following described land in St. Louis County, Minnesota:

Lot Twenty-seven (27), Block One (1), Lincoln Park Terrace, according to the recorded plat thereof on file and of record in the office of the county recorder, St. Louis County, Minnesota;

said easement being more particularly described as follows:

The southwesterly ten meters (32.80 feet) of Lot 27, Block 1, Lincoln Park Terrace.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 8, 2000)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 28, 2000
Approved August 28, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 11, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0911-01 Rosemarie Moland, et al. (three signatures), submitting:

(a) Petition regarding the resurfacing of 48th Avenue East from Peabody Street to ±140 feet northerly. -- Assessor

(b) Waiver agreement regarding petition to resurface 48th Avenue East from Peabody Street to ±140 feet northerly. -- Engineering

00-0911-02 Carla Blumberg submitting appeal regarding the proposed Water Resource Management Ordinance variance of 200 feet of Minnesota Avenue extending south from Government Park on the south pier of the ship canal (00-0627R). -- Received

00-0911-08 Evensen Dodge, Inc., submitting: (a) Official statement; (b) Revised presale analysis for \$5,410,000 general obligation street improvement bonds, Series 2000A. -- Received

00-0911-16 Minnesota historical society submitting communication regarding the proposed amendment of Ordinance 8938 concerning heritage preservation (00-031-O). -- Received

00-0911-17 U.S. Junior National Biathlon Team submitting communication pertaining to the proposed amendment of the Snowflake Cross Country Ski Center special use permit (00-0604R). -- Received

00-0911-20 The following submitting communications regarding the proposed vacation and Water Resource Management Ordinance variance of 200 feet of Minnesota Avenue extending south from Government Park on the south pier of the ship canal (00-0602R and 00-0627R): (a) Keith Brakke; (b) Murray W. George; (c) Grandma's Restaurant Company; (d) Harvey and Candy Hengel; (e) Deb Johnson; (f) John Kubiak; (g) Lance G. Reasor; (h) Kinnan Stauber; (i) Jeff VanWychen. -- Received

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REPORTS OF OFFICERS

00-0911-19 Mayor Doty submitting: (a) 2001 budget; (b) 2001 budget address; (c) Capital improvement budget and five year plan (2001-2005); (d) Duluth airport authority budget; (e) Duluth state convention center administrative board budget; (f) Duluth transit authority budget; (g) Duluth Steam District No. 2 budget. -- Received

00-0911-03 Assessor submitting letters of sufficiency regarding petitions to:

(a) Resurface 48th Avenue East from Peabody Street to ±140 feet northerly;

(b) Vacate Lombard Street from 40th to 41st Avenue East. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-0911-04 Civil service board minutes of July 7, 2000, meeting. -- Received

00-0911-05 Duluth/North Shore sanitary district board minutes of August 22, 2000, meeting. -- Received

00-0911-06 Planning commission minutes of August 8, 2000, meeting. -- Received

00-0911-18 Seaway Port authority of Duluth submitting communication regarding the Northwest Corner area study (00-0607R). -- Received

00-0911-07 Spirit Mountain recreation area authority minutes of July 26, 2000, meeting. --
Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Raymond Mitchell and K.L. Lewis spoke regarding the lawn mowing service the city has contracted with to mow the lawn at the Franklin School playground. It was noted that the mowing takes place on Saturday and Sunday when numerous neighborhood children are present and poses a safety issue.

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RESOLUTION TABLED

President Gilbert moved to remove Resolution 00-0591, authorizing the proper city officers to execute a professional services agreement with the Smith Group, JJR, for the development of a comprehensive plan for the city of Duluth in an amount not to exceed \$330,000, from the table, which motion was seconded and unanimously carried.

Councilor Hogg stated that he is not in agreement that this firm should be hired, therefore he will not support the resolution.

Resolution 00-0591 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, the city desires to develop a comprehensive plan for Duluth and has put forth a request for proposals for professional services to assist in this process; and

WHEREAS, Smith Group, JJR, has represented that it is qualified and willing to perform the services set forth in its proposal to assist the city in the development of its comprehensive plan;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, substantially in the form of the agreement filed as Public Document No. 00-0911-09, for professional services in the development and implementation of a comprehensive plan for the city of Duluth. The compensation under this agreement shall not exceed \$330,000, with not to exceed \$80,000 payable in the year 2000; payments shall be made from Fund 100, Org. 020, Agency 1202, Object 5310.

Resolution 00-0591 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Hogg -- 1

Approved September 11, 2000

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., President Gilbert recessed the council meeting and stated that the public hearing regarding the Northwest Corner study (Public Document No. 00-0911-21), would begin.

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At this time, 9:25 p.m., President Gilbert closed the public hearing the regular order of business was resumed.

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MOTIONS AND RESOLUTIONS

Councilor Hogg moved to consider Resolution 00-0607, by President Gilbert, accepting the Northwest Corner Area Study, a neighborhood plan for the area near the Airpark, Arrowhead Road

and Rice Lake Road, at this time, which motion was seconded and carried upon a unanimous vote.

Councilor Ness moved to amend the plan to change the residential density north of Arrowhead Road, as well as south of Arrowhead Road, in the portion west of the entrance to southern Swan Lake Road to suburban residential density, which motion was seconded.

Councilor Stenberg raised concern that this amendment is too substantial for the council to make without getting feedback from the planning commission.

Councilor Ness stated his intent in proposing the amendment is to establish a process by which the council's desires can be addressed by the planning commission. He recommended sending the plan, along with council concerns, back to the planning commission for revision. Councilor Ness withdrew his amendment.

Specific issues that councilors desired to be addressed by the planning commission were as follows: the agreement between the city and the port authority needs to be clarified and represented in the formal study in a way that is satisfactory to everyone; the study needs to be more specific about what the abrogation easement requirements are, what kind of notification goes to whom and under what circumstances; rezoning of property between Krueger Road and Ridgeview should be added to the plan and have the same kind of abrogation sound requirements as the Northwest Corner has; the comments that the county made this evening need to be addressed; if it is not the intent to change the zoning of Mr. Richards' property, a change in the plan needs to be made; the residential density issue needs to be changed; the questions of whether the amount of space dedicated for commercial and business development really requires being tripled, or whether a feasibility study has been completed to determine need; councilor questions which were asked previously have not been addressed; the plan will create urban sprawl and eliminate habitat for wildlife; the issue of stormwater runoff, with what type of infrastructure will need to be constructed; and how storm sewers down hill will be affected.

Councilor Stenberg noted that some speakers tonight stated that they had received no notification of this plan or study and he encouraged residents to get involved with their community clubs so that they know what is happening.

Councilor Eckenberg stated that it may be prudent for the city to pursue land trades with the county if it is the city's desire to retain some of the land now owned by the county as green space. He warned that just because the land is publicly held by the county, it may not remain public if interested parties propose development of the land that meets the zoning requirements.

Councilor Hogg moved to refer the resolution to the administration for further review by the planning commission, which motion was seconded and unanimously carried.

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CONSENT AGENDA

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

President Gilbert 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 are hereby confirmed:

87th Avenue West from 365 meters to 411 meters northerly from Lawn Street (Contract No. 5302, \$16,669.45 assessable, Contract No. 1196071, \$15,450.54 assessable);

Rice Lake Road from 221 meters to 157 meters southerly of Allen Street (Contract No. 1196011, \$17,933.63, assessable).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0609 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement containing the terms and in substantially the form of the contract on file with the clerk as Public Document No. 00-0911-10, which agreement amends the collective bargaining agreement currently in force.

Resolution 00-0624 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Lake Superior Office Furniture, Inc., be and hereby is awarded a contract for furnishing and delivering modular office furniture for the police department in accordance with specifications on its low specification bid of \$20,737.93, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization NR00, Object E020.

Resolution 00-0612 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Environmental Equipment and Services, Inc., be and hereby is awarded a contract for furnishing and delivering a municipal tractor with various options required to perform functions for the street maintenance division in accordance with specifications on its low specification bid of \$56,178.75, terms 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS00, Object V009.

Resolution 00-0615 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

TREE COMMISSION

Timothy Bates for a term expiring August 31, 2003.

Resolution 00-0608 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

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. 00-0911-11, with the law firm of Fryberger, Buchanan, Smith & Frederick, P.A., for professional legal services relating to the sub-allocation of low-income housing tax credits in an amount not

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

to exceed \$4,500, payable from fees generated by the low-income housing tax program in Community Development Fund 262, Agency 020, Object 5304.

Resolution 00-0583 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Jeanne Vigen has submitted to the city council a request for a special use permit for a home beauty salon on property located at 218 West Kent Road described as: Lot 6, Block 11, East Lawn Division of Duluth; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Jeanne Vigen to allow for the operation of a home beauty salon at 218 West Kent Road, on the following conditions:

(a) That the operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 00-0911-12;

(b) That the necessary inspections are received;

(c) The term of the permit run for ten years at which time renewal may be considered.

Resolution 00-0601 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, on July 22, 1968, a special use permit was issued to United Parcel Service to operate a motor freight terminal located at 111 Port Terminal Drive, on W-1 zoned land owned by the Duluth Seaway Port authority for a period of 25 years; and

WHEREAS, Duluth Seaway Port authority, has submitted to the city council a request for renewal of said special use permit for said facility; and said application to amend said permit was duly referred to the city planning commission for a study, report, and public hearing and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that the permit is hereby renewed for a period of 30 years from the effective date of this resolution.

Resolution 00-0603 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment for the community development division in accordance with specifications on its low specification bid of \$26,800, terms net 30, FOB destination, payable out

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of CDBG Fund 262, Dept./Agency 623, Object 6308.
Resolution 00-0606 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Skyline Parkway has historically been a source of pride for Duluthians; and
WHEREAS, the city council has supported the designation of Skyline Parkway as a state scenic byway; and
WHEREAS, Skyline Parkway has received such designation; and
WHEREAS, city staff has submitted an application for funding for the preparation of a management plan which has been offered in an amount of \$77,500.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are authorized to process proper agreements and accept such planning funds to be deposited in Fund 450-015-2000, Revenue 4230.

Resolution 00-0617 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Popular Subscription Service, Inc., be and hereby is awarded a contract for furnishing and delivering 605 magazine subscriptions for the Duluth public library in accordance with specifications on its low specification bid of \$22,876.35, terms net 30, FOB destination, \$18,876.35 payable out of General Fund 100, Dept./Agency 300, Organization 1701, Object 5590 and \$4,000 payable out of Library Special Gifts Fund 740, Dept./Agency 300, Organization SG80, Object 5590.

Resolution 00-0616 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District No. 709 for the services of one .5 FTE teacher to provide basic education instructional services to Workforce Investment Act program clients at the employment opportunity center for the period September 7, 2000, through June 7, 2001, at costs not to exceed \$25,525.20. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 00-0911-13.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6239 (\$12,762.60) and 6240 (\$12,762.60).

Resolution 00-0600 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that pursuant to Minnesota Statutes, Sections 645.02 and 645.021, the Duluth City Council hereby approves Laws of Minnesota 2000, Chapter 402, and directs the city clerk to file a certificate of approval of such special law with the secretary of state.

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Resolution 00-0605 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Duluth-Superior Erection, Inc., be and hereby is awarded a contract for furnishing and installing a replacement steam vault roof for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$65,000, terms net 30, FOB job site, payable out of Steam Fund 540, Dept./Agency 920, Organization 1460, Object 5310.

Resolution 00-0531 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Duluth Public Schools I.S.D. 709 be and hereby is awarded a contract for relocation of a 36 inch watermain around new athletic field at Ordean School for the public works and utilities department in accordance with specifications on its low specification bid of \$110,811, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0613 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Champion Coatings, Inc., be and hereby is awarded a contract for cleaning and lining of Woodland Reservoir No. 2 located at Minneapolis Avenue and East Mankato Street for the public works and utilities department in accordance with specifications on its low specification bid of \$167,888, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0614 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0442 to Duluth Superior Blacktop, Inc., for furnishing year 2000 fine mix paving program, be amended to increase the amount by \$64,604 for a new total of \$224,544, \$5,610 payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0007, Object 5530 and \$58,994 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5403; to be reimbursed in the amount of \$59,000 from the municipal state aid fund.

Resolution 00-0611 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0323 to L.H.B. Engineers and Architects for furnishing engineering services providing construction engineering services for the year 2000 street improve-

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ment project for UMD/Lower Chester area Phase 2, be amended to increase the amount by \$92,812 for a new total of \$264,687, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 0005, Object 5530.

Resolution 00-0618 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0291 to Levine and Son, Inc., for reconstruction of 4700 and 4800 blocks of Tioga Street and additional reconstruction of sanitary sewer, be amended to increase the amount by \$200,000 for a new total of \$1,120,854.35, Street Improvement Project Fund 440, Dept./Agency 038, Organization 001, Object 5530.

Resolution 00-0619 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to apply for and accept grant monies from the Minnesota department of public safety, office of traffic safety, estimated at \$16,300, to reimburse the police department's police overtime expenditures related to the safe and sober grant program; all revenue to be deposited into General Fund 100, Dept. 200, Org. 1620, Revenue Source 4230.

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

Resolution 00-0610 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed property tax levy.

Section 1. The sum to be raised by taxation for the year 2001 for general operations is hereby determined to be the sum of \$7,396,200 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 \$3,243,100.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$3,663,100.

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 \$490,000.

Resolution 00-0595 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 2001 for Duluth transit authority operations is hereby determined to be the sum of \$1,877,600, which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be levied for transit operations the sum of \$1,877,600.

Resolution 00-0596 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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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 2001 for Seaway Port authority operations is hereby determined to be the sum of \$384,900, which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing for the Seaway Port authority fund of the city of Duluth the sum of \$384,900.

Resolution 00-0597 was unanimously adopted.

Approved September 11, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 31, 2001:

		GENERAL	
010	Total legislative and executive -----		\$ 1,711,100
015	Total administrative services -----		\$ 8,001,600
020	Total planning and development -----		\$ 914,600
030	Total finance -----		\$ 2,762,000
100	Total fire -----		\$14,060,700
200	Total police -----		\$13,202,200
300	Total library -----		\$ 3,825,900
400	Total parks and recreation -----		\$ 2,567,300
500	Total public works -----		\$ 9,474,600
700	Total transfers -----		\$ 8,424,400
100	General fund total -----		\$64,944,400
		PUBLIC ENTERPRISE	
503	Golf fund - total -----		\$ 1,932,200

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PUBLIC UTILITIES

510	Water fund - total	-----	\$11,472,700
520	Gas fund - total	-----	\$40,375,600
530	Sewer fund - total	-----	\$19,057,700
535	Stormwater fund - total	-----	\$ 4,058,100
540	Steam fund - total	-----	\$ 3,207,200

Resolution 00-0598 was unanimously adopted.
 Approved September 11, 2000
 GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that pursuant to the requirements of Minnesota Statutes, Section 275.065, Subd. 6, the Duluth City Council hereby sets the following date and time for the public hearing to review the city's final budget of 2001 and final city property tax levy for taxes payable in 2001: December 4 at 7:00 p.m. in the Duluth City Council Chamber.

Resolution 00-0599 was unanimously adopted.
 Approved September 11, 2000
 GARY L. DOTY, Mayor

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Resolution 00-0602, vacating 200 feet of Minnesota Avenue extending south from the Government Park on the south pier of the Duluth Ship Canal; Resolution 00-0626, overturning a planning commission action granting a water resources management ordinance variance to Betty George Sola, et al., for property located at 701 Lake Avenue; and Resolution 00-0627, reaffirming a planning commission action granting a water resources management ordinance variance to Betty George Sola, et al., for property located at 701 Lake Avenue, by President Gilbert, were introduced for discussion.

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

The following individuals opposed the granting of variances for the proposed development on the property: Marty Weintraub, Valerie Ouellette, Bob Ouellette, Susann Gamble; and Lloyd Vienneau.

The following concerns were raised in opposition to the proposed project: there is no reason to grant a water resources management variance for impervious surface because, according to Section 51-36 of the Duluth City Code, no hardship exists; over the years no variance has ever been turned down; water resources management variances have been granted by the planning commission without a valid hardship; if these variances are going to continue to be granted without hardship as defined in Section 51-36, then the Code should be changed so that variances are not necessary; the decision that the planning commission intended to make was published in the paper before the meeting and testimony ever took place; during the planning commission meeting testimony in favor of this project was made only by the developer, his architect and one other person while approximately 12 to 15 of the neighbors spoke against it; vacation of this street for this project should be opposed because the project is too big for the property; this project is too close to the bridge and heavy traffic that currently moves across the bridge will become worse as well as unsafe; the planning commission informed the neighborhood the night of the meeting that it does not concern itself with traffic problems.

Carla Blumberg opposed this project and street vacation and read a statement (Public Document No. 00-0911-02).

Individuals speaking in support of the project were as follows: Dennis Kwapick; Walt Pietrowski; and K.L. Lewis.

Statements made in favor of this project were as follows: the project is a good use for the proposed project; it will add to the community and have little affect on traffic.

Steve, Rand, Betty and Dale Sola, developers, stated the following: the property has been for sale for close to 1/3 of the past 38 years; any hardship created by this project will fall upon the neighborhood, traffic and tourists and it is for traffic safety and the convenience of the customers that the variance from the water resources management ordinance has been requested so that the building can be constructed closer to the bay; it is possible to build this project without the variance, but it will create havoc for traffic; the design of the building has been changed from three to two stories to better blend in with the neighborhood; it is the desire of the developers that this be a high quality development to enhance the property near the Aerial Lift Bridge; the developers intend to fully comply with all restrictions set by the planning commission; in order to comply with planning commission restrictions, the project is being redesigned, and with the redesigning, neighborhood concerns including the size of the structure and traffic are being addressed.

Councilors discussed with the developers' design alternatives at length, including the possibility of reversing the planning commission decision to deny the 25 foot setback requirement to allow for more efficient parking and traffic navigation when on the property.

Councilors noted that the planning commission grants these types of variances and the city council has no jurisdiction unless it is appealed; and that there is no process for the planning commission to meet and decide issues such as this before its meeting.

Responding to councilors, Administrative Assistant Winson stated that if the council wishes to require a traffic study, it may do so, but that the developer would be the party to bear the cost. He further stated that he did not believe, as an engineer, that a development of the proposed size will generate enough traffic to make a significant impact from what it is at the present time.

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Councilor Fena moved to suspend the rules to extend the meeting until no later than 11:30 p.m., which motion was seconded and unanimously carried.

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Councilors Stewart and Fena spoke in opposition of the development, noting that before any new development on Park Point is done, a plan needs to be completed that includes all present and future development, and how the land, water and environment will be protected; the traffic study that has been received is inadequate and a cumulative study needs to be conducted of how all past development and any future development impacts Park Point traffic; the development is too large for the property; Park Point is basically a residential area with a few parcels that some believe are inappropriately zoned commercial; a motel is an inappropriate use for this property; traffic congestion will cause unsafe conditions for pedestrians and bikers; the project does not meet the technical definition of hardship to be granted a variance; the plan might be more acceptable if the impervious surface is less than the 60 percent that has been requested; no neighborhood plan exists and the neighborhood does not want this project; and the reason so many variances have been requested is that good principles for planning needs in this area do not exist.

Councilors Hogg, Eckenberg, Edwards, Ness, Stenberg and Stover supported the project for the following reasons: the use of this property for a commercial use is appropriate because it is zoned commercial; the project is aesthetically pleasing; this project will replace the currently blighted shoreline conditions with a development that is beautiful; the traffic that this project will generate is minimal compared to other developments that may be appropriately located there such

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as fast food establishments; this project actually decreases the impervious surface that is already there from 62 percent to 60 percent; this project will be a locally owned small business that is privately financed without public funding; the Sola's are local residents of Park Point who wish to remain in the area and participate in preserving its beauty; this project will add to the city of Duluth instead of detract from it.

Councilor Hogg moved to call the question, which motion was seconded and carried upon a unanimous vote.

Resolution 00-0627 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, an appeal has been submitted to the city council for a Water Resources Management Ordinance variance to allow a 60 percent impervious surface of the surface area of property described as Lots 238 and 140, Lake Avenue, Upper Duluth, and Lots 235, 237 and 239, Minnesota Avenue, Upper Duluth, and located at 701 Lake Avenue South, 718-720 Minnesota Avenue; and

WHEREAS, the city council finds that the planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan, to protect the environment by use of a sediment basin for run off, to further the intent of Chapter 51 of the City Code and to conserve and to protect property values in the neighborhood if conditions are observed, and that denial of the variance will constitute a hardship to the owner.

NOW, THEREFORE, BE IT RESOLVED, that the city council reaffirms the action of the city planning commission of August 23, 2000, adopts the findings of the commission and grants a Water Resource Management Ordinance variance to allow up to 60 percent impervious surface of the surface area of the property described as Lots 238 and 140, Lake Avenue, Upper Duluth, and Lots 235, 237 and 239, Minnesota Avenue, Upper Duluth, and located at 701 Lake Avenue South, 718-720 Minnesota Avenue; on the condition that project plans be reviewed and approved by the planning commission prior to the issuance of building permits.

Resolution 00-0627 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg and Stover -- 6

Nays: Councilors Fena and Stewart -- 2

Abstention: President Gilbert -- 1

Approved September 11, 2000

GARY L. DOTY, Mayor

[Editor's Note: This resolution was reconsidered on September 25, 2000.]

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Resolution 00-0626 failed upon the following vote (Public Document No. 00-0911-15):

Yeas: Councilors Fena and Stewart -- 2

Nays: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg and Stover -- 6

Abstention: President Gilbert -- 1

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Resolution 00-0602 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 200 feet of Minnesota Avenue extending south from the Government Park along the south pier of the Duluth Ship Canal, legally described as: 200 feet of Minnesota Avenue fronting Lots 231, 232, 233, 234, 235, 236, 237 and 239, Minnesota Avenue, Upper 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 commis-

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sion, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved, by a vote of 6-2, the vacation petition at its meeting on August 23, 2000.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of Minnesota Avenue described above, and as more particularly described on Public Document No. 00-0911-14.

BE IT FURTHER RESOLVED, that the entire right-of-way being vacated be retained as public access, utility and pedestrian easement. The use of the easement being retained being restricted to roadway and pedestrian improvements of a hard surface not to exceed 20 feet in width, upland of the high water mark, and subject to design consultation with the property owner and appropriate city, state and federal permits.

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 Minnesota Avenue to be vacated and the easements being retained.

Resolution 00-0602 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 8

Nays: None -- 0

Abstention: President Gilbert -- 1

Approved September 11, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, a special use permit was issued to Snowflake Cross Country Ski Center pursuant to Resolution No. 93-0872 to operate a cross country skiing facility on property described as the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 8, Township 50, Range 14, lying north and easterly of County Highway 4 (Rice Lake Road) and located at 4348 Rice Lake Road, which permit was thrice amended pursuant to Resolution No's. 97-0395 and 98-0467, 99-0276 said permit, as amended, being hereinafter referred to as the "permit"; and

WHEREAS, George Hovland, D/B/A Snowflake Cross Country Ski Center, has submitted to the city council a request for an amendment to the permit to expand the types of seasonal uses on the above described property; and said application to amend said permit was duly referred to the city planning commission for a study, report, and public hearing and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that the city adopt the findings and conclusions of the planning commission and make the findings and staff report a basis for its action, that the permit is hereby amended to authorize the following uses in accordance with the site plan on file in the city planning division office, subject to the conditions hereinafter set forth:

- (a) Construction of a 50 meter biathlon target shooting range; and
- (b) Permit biathlon athletes to carry biathlon target rifles on the cross-country ski trails of Snowflake Cross Country Ski Center.

BE IT FURTHER RESOLVED, that the above cited uses are subject to the following:

(a) Securing all permits otherwise required under any applicable laws, rule and regulation, including but not limited to permits required by Article V of Chapter 5 of the City Code.
Resolution 00-0604 was unanimously adopted.
Approved September 11, 2000
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STOVER

00-032-O - AN ORDINANCE CONVEYING TO SSG CORPORATION AN EXISTING CITY SEWER EASEMENT ON LOT 1, RONDING ACRE TRACTS AND ADJACENT PROPERTY IN THE CITY OF HERMANTOWN AND ACCEPTING FROM SSG CORPORATION THE DEDICATION OF A REPLACEMENT SEWER EASEMENT IN SAID PROPERTY.

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The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

00-029-O (9458) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BAYFRONT FESTIVAL PARK IMPROVEMENT BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$4,300,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR HOGG

00-030-O (9459) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$325,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT 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.

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BY PRESIDENT GILBERT

00-031-O - AN ORDINANCE AMENDING ORDINANCE 8938, ADOPTED APRIL 17, 1989, AND CHAPTER 28A OF DULUTH CITY CODE CONCERNING HERITAGE PRESERVATION.

President Gilbert moved to table the ordinance, which motion was seconded and unanimously carried.

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9458

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BAYFRONT FESTIVAL PARK IMPROVEMENT BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$4,300,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01. The city has undertaken the development and improvement of the Bayfront Festival Park located on the Duluth Harbor (the project). The city has received grant funds and agreements to contribute funds to the project on condition that the City provide the remaining funds needed to construct the project.

1.02. Under the provisions of Minnesota Laws 1974, Chapter 130, the city council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Chapter 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The project is of the nature contemplated by said law. The city has received grant agreements for private donations in aid of the project, and it is estimated that such funds, together with funds contributed by the city and the proceeds of bonds issued by the city in an amount not to exceed \$4,300,000, will be sufficient to pay the project costs, and that the amount of the city's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03. Pursuant to the authority herein recited, the city council authorizes and directs the issuance and sale of general obligation bayfront festival park improvement bonds of the city in an amount not to exceed \$4,300,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

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

Section 3. REVENUES AND ACCOUNTS.

3.01 The city has created a separate construction account titled Bayfront Festival Park Construction Account within the capital improvements fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by council resolution, together with the proceeds of such grant received by the city on or prior to March 1, 2001, and any additional funds

which may be available and are appropriated for the project or which may be advanced to such account on condition that such amounts be reimbursed from bond proceeds.

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

Section 4. TAX LEVY.

There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate account in the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said funds. If the balance in such separate account of the debt service fund is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from the debt service fund when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such accounts. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the city council in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis county the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. Grant funds for the project received by the city after March 1, 2001, shall be used, as determined by further resolution of the council, for payment of debt service on bonds issued pursuant to this ordinance. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

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

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

Section 6. EFFECTIVE DATE.

This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 15, 2000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

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

Nays: None -- 0

Passed September 11, 2000
Approved September 11, 2000
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9459

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$325,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT 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, Minnesota Laws, 1979, Chapter 113 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and statutes, the City is authorized to issue its general obligation revenue bonds to provide funds for the improvement of the municipal steam plant, which bonds shall be a specific lien upon such plant and may be payable primarily from net revenues to be derived from steam service charges pledged for their payment.

1.02 The City Council determines that it is necessary to make improvements to the central steam utility located in the downtown area of Duluth (the "Duluth Steam Plant"), and determines that it is necessary to issue general obligation revenue bonds in an amount not exceeding \$325,000 for the purpose of paying for the improvements, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The City heretofore issued and sold General Obligation Steam Revenue Bonds dated November 1, 1992, now outstanding in the amount of \$645,000 and dated December 1, 1998, now in the amount of \$285,000. 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 November 1, 1992, and December 1, 1998.

1.04 Pursuant to the authority herein recited, the City Council authorizes and directs the sale of General Obligation Steam Utility Revenue Bonds of the City of Duluth in an amount not exceeding \$325,000 for the purposes stated in Section 1.02 hereof and pledges the full faith and credit and taxing powers of the City irrevocably to the extent required, for the payment of the principal and interest when due on such bonds and the maintenance of a reserve securing such payment, and also pledges and appropriates irrevocably for such payments the net revenues to be derived from time to time from the operation of the Duluth Steam Plant in excess of the normal reasonable and current costs of the operating and maintenance thereof.

1.05 The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the Duluth Steam Plant for the payment thereof, when

authorized in accordance with the law and the City Charter and determined by the City Council to be necessary for the improvement of the 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. Term 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 covenants securing their payment, 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 facilities of the Duluth Steam Plant at the times and amounts required to pay the normal, reasonable, and current operating expenses and to maintain the Duluth Steam Plant 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 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. Certifications of Proceedings.

4.01 The City Clerk is directed to file with the County Auditor of St. Louis County, Minnesota, a certified copy of this Ordinance, 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.

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 of the officer's custody or are otherwise known. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations to the City as to the correctness of the facts recited therein and the actions stated therein to have been taken.

Section 5. Effective Date.

5.01 That this Ordinance shall take effect and be in force 30 days from and after its date of passage and publication. (Effective date: October 19, 2000)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 11, 2000
Approved September 11, 2000
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, September 21, 2000, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Ness, Stenberg, Stewart, Stover and President Gilbert -- 6

Absent: Councilors Eckenberg, Fena and Hogg -- 3

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0921-02 Dain Rauscher, Inc., submitting official statement regarding \$5,410,000 G.O. street improvement bonds, Series 2000A. -- Received

00-0921-01 Evensen Dodge, Inc., submitting bid results for \$5,410,000 G.O. street improvement bonds, Series 2000A. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 00-0622, by Councilor Hogg, providing for the issuance, sale and delivery of \$5,410,000 general obligation street improvement bonds, Series 2000A, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, was introduced for discussion.

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

Katherine Kardell was present on behalf of Evensen Dodge, Inc., financial consultants, and stated that the city still has A1 and A+ ratings with Moody's Investors Service and Standard & Poor Ratings Group, respectively.

Resolution 00-0622 was adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 A. Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of Minnesota Statutes and the home rule charter of the City, the City is authorized to issue its general obligation street improvement bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

B. The city council has, by resolutions adopted on the following dates, ordered street improvements to certain streets, avenues and parkways set forth below (the "2000 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
00-0291	4/24/00	\$1,193,251	Central Lakeside-East
00-0290	4/24/00		Denfeld-West
00-0372	5/22/00		Lower Congdon-East
00-0368	5/22/00		Cody-Southwest 1
00-0367	5/22/00		Upper Woodland-West
00-0442	6/26/00		Street Overlay/Crack Sealing Program
00-0539	8/14/00		UMD/Lower Chester 2

C. The city council hereby determines to finance \$5,410,000, through the issuance of general obligation improvement bonds, for payment of costs of the 2000 Street Improvement Program.

1.02 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$5,410,000 General Obligation Street Improvement Bonds, Series 2000A, to be dated September 1, 2000, as the date of original issue (the "Bonds") for financing the 2000 Street Improvement Program.

1.03 The city council has solicited bids for the sale of the Bonds in the principal amount of \$5,410,000 and has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Dain Rauscher, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$5,345,775.44, plus accrued interest on the total principal amount from September 1, 2000, 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.

1.04 Public Sale Requirement. 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.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 2000, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount	Year	Amount
2002	\$285,000	2010	\$340,000
2003	340,000	2011	355,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Year	Amount	Year	Amount
2004	355,000	2012	370,000
2005	370,000	2013	385,000
2006	385,000	2014	405,000
2007	305,000	2015	425,000
2008	315,000	2016	445,000
2009	330,000		

2.02 The Bonds maturing in the years 2002 through 2008 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2009 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 2001. 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. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 2000A

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	September 1, 2000	

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, 2000, 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, 2001. 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 \$5,410,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted by the governing body of the City on September 21, 2000 (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 2002 through 2008 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2009 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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
___/___/00	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041	_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Federal Taxpayer I.D. No.: 13-2555119

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 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 \$5,026,105.44, into the 2000 street improvement account (the "2000 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 2000 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 2000 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 2000 Street Improvement Program in an amount which, together with the proceeds of federal grants to the City for such improvement projects, is not less than 20% of the costs of such projects financed by the proceeds of the Bonds. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.03 A separate account within the special assessment debt service fund maintained by the City is hereby created and is designated the "2000 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 2000 Improvement Bond Account shall be paid from the proceeds of the Bonds capitalized interest in the amount of \$319,670, 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 set forth on Exhibit A attached hereto. Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council may reduce or cancel the above levies to the extent of an irrevocable appropriation to said debt service account of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not special assessments), and may direct the county auditor to reduce the levy for such calendar year by that amount.

B. All proceeds of the special assessments from the properties described in Section 1.01 hereof and said taxes are hereby appropriated and shall be paid when collected into the 2000 Improvement Bond Account within the special assessment debt service fund. If the balance in the 2000 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 2000 Improvement Bond Account when the balance therein is sufficient.

3.05 Proceeds of the Bonds on deposit in the 2000 Street Account and 2000 Improvement Bond Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

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

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

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

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the

“Rule”). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

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 00-0622 was unanimously adopted.

Approved September 21, 2000

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:40 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 25, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: Councilor Fena -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-0925-02 Lois Lindskog, et al. (two signatures), submitting petition to vacate a portion of the street easement for 21st Street, Lower Duluth, Minnesota Avenue. -- Assessor

00-0925-03 Eugene R. Seczko, et al. (three signatures), submitting:

(a) Petition regarding the construction of a sanitary sewer in 41st Avenue East from Regent Street to Regent Street Alley to serve the southerly 94 feet of Lots 7 and 8, Block 24, London Addition to Duluth. -- Assessor

(b) Waiver agreement regarding the construction of a sanitary sewer in 41st Avenue East from Regent Street to Regent Street Alley to serve the southerly 94 feet of Lots 7 and 8, Block 24, London Addition to Duluth. -- Engineering

00-0925-01 Kevin Skwira-Brown, et al. (four signatures), submitting petition to vacate the portion of Hubbell Street that borders Lots 15-19 of Woodland Gardens First Addition. -- Assessor

00-0925-04 University of Minnesota - Duluth submitting petition to vacate portions of Elizabeth Street and Waverly Avenue in Motor Line Division. -- Assessor

00-0925-05 Minnesota state auditor submitting management and compliance report for the city of Duluth for the year ended December 31, 1999. -- Received

00-0925-06 Housing and redevelopment authority submitting communication regarding 2001 levy for local housing and redevelopment programs. -- Received

00-0925-33 Fond du Lac Utility Task Force submitting communication regarding loan from the Minnesota public facilities authority to finance the extension and improvements to the municipal sewer utility to serve the Fond du Lac neighborhood (00-0538R). -- Received

00-0925-34 St. Louis County historical society submitting communication regarding the proposed amendment of Ordinance 8938, concerning heritage preservation (00-031-O). -- Received

00-0925-32 The following submitting communications regarding the Water Resource Management Ordinance variance of 200 feet of Minnesota Avenue extending south from Government Park on the south pier of the ship canal (00-0627R): (a) Duluth Public-Policy Alliance; (b) Glenn Maxham; (c) Mary E. McGilligan; (d) Kinnan Stauber; (e) Katherine Vander Horck (supported by 92 signatures); (f) Georgina Wagar; (g) Marty Weintraub. -- Received

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REPORTS OF OFFICERS

00-0925-07 Assessor submitting letters of sufficiency regarding petitions to vacate:

(a) Portions of Elizabeth Street and Waverly Avenue in Motor Line Division;

(b) Portion of the street easement for 21st Street, Lower Duluth, Minnesota Avenue. -- Received

00-0925-08 Engineering division submitting monthly project status report of September 2000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

- 00-0925-09 Alcohol, gambling and tobacco commission minutes of: (a) August 8; (b) August 22, 2000, meetings. -- Received
- 00-0925-10 Building appeal board minutes of August 9, 2000, meeting. -- Received
- 00-0925-11 Citywide citizens advisory committee minutes of June 27, 2000, meeting. -- Received
- 00-0925-12 Commission on disabilities minutes of August 2, 2000, meeting. -- Received
- 00-0925-13 Duluth/North Shore sanitary district minutes of September 5, 2000, meeting. -- Received
- 00-0925-14 Duluth transit authority minutes of: (a) June 21; (b) August 17, 2000, meetings. -- Received
- 00-0925-15 Heritage preservation commission minutes of July 12, 2000, meeting. -- Received
- 00-0925-16 Housing and redevelopment authority of Duluth minutes of June 26, 2000, meeting. -- Received
- 00-0925-17 Parks and recreation commission minutes of: (a) May 10; (b) June 14; (c) July 12; (d) August 9, 2000, meetings. -- Received
- 00-0925-18 Seaway Port authority of Duluth minutes of: (a) June 21; (b) July 26, 2000, meetings. -- Received
- 00-0925-19 Special assessment board minutes August 15, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

K.L. Lewis voiced concern about the young men that intimidate riders waiting for the bus Downtown and the danger caused to citizens by the skateboarders in the skywalk.

- - -

Elijah stated that the city has enough police officers to check on the security of the buildings Downtown at night instead of hiring private security personnel.

- - -

Joseph Cemich questioned how he could get his neighbor to clean up his yard and keep his property neat.

- - -

Kinnan Stauber, Scott Wolff, Jack Price, Di Marshall, Marty Weintraub, Warren Howe, Keith Brakke, Rodger Reinert, Terry Brown, Jan Karon and Rosie Loeffler-Kemp urged the councilors to reconsider the resolution passed by the council on September 11 approving an impervious surface variance and vacating part of Minnesota Avenue for a proposed motel on Park Point for the following reasons: while this project is a good project, the project does not demonstrate a hardship to allow the granting of this variance; traffic would be increased; the Park Point Community Club was not part of the presentation nor informed on the project; speakers urged the council to send this issue back to the planning commission to ensure that it conforms to the water resource management plan; it will add a hazard to the traffic flow when crossing over the bridge and speakers requested a traffic study; the city has a responsibility to the neighborhood to create a safe environment with this project; this impacts other neighborhoods besides Park Point; commercial development should not occur on Park Point as the integrity of the neighborhood could be lost; and it should wait until the comprehensive plan is finalized.

K.L. Lewis stated her support of this project as it is a good use of the land on the other side of the canal, and with the use of good signage, traffic problems should be at a minimum.

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RESOLUTION RECONSIDERED

Councilor Ness moved to reconsider Resolution 00-0627, reaffirming a planning commission action granting a Water Resources Management Ordinance variance to Betty George Sola, et al., for property located at 701 Lake Avenue, by President Gilbert, which motion was seconded and unanimously carried.

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

Bill Burns, attorney for the project's developers, reviewed that the process followed to have this project approved was done by the right legal process, and his clients have proceeded to spend money to get the plans drawn up since they followed the rules and received approval from the planning commission and the council. He also stated that the developers will have to bring their redesign of the project back to the planning commission before they can get their building permit and they would be willing to have the neighbors and the council review the plans also if they would like to do so.

Councilor Hogg questioned if a traffic study could be done on this project even though the resolution does not address the issue.

Administrative Assistant Winson replied that the council could request the administration to do a traffic study on that intersection on Park Point.

Councilor Eckenberg questioned what vulnerability the city has in court in the definition of hardship in regards to this project.

City Attorney Brown replied that the definition of the hardship in the City Code is what needs to be considered when looking at the hardship issue.

Councilors Hogg and Stenberg reviewed that the process was followed in this project and the project was approved on the merits of the project and the process that was followed.

Councilor Ness voiced concern if the definition of hardship has been met in this project and hopefully the developers could have some discussion with the neighborhood and come to some resolution within the next two weeks.

Councilor Edwards moved to call the question on the resolution, which motion was seconded and passed upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Stenberg, Stover and President Gilbert -- 6

Nays: Councilors Ness and Stewart -- 2

Absent: Councilor Fena -- 1

Resolution 00-0627 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, an appeal has been submitted to the city council for a Water Resources Management Ordinance variance to allow a 60 percent impervious surface of the surface area of property described as Lots 238 and 140, Lake Avenue, Upper Duluth, and Lots 235, 237 and 239, Minnesota Avenue, Upper Duluth, and located at 701 Lake Avenue South, 718-720 Minnesota Avenue; and

WHEREAS, the city council finds that the planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan, to protect the environment by use of a sediment basin for run off, to further the intent of Chapter 51 of the City Code and to conserve and to protect property values in the neighborhood if conditions are observed, and that denial of the variance will constitute a hardship to the owner.

NOW, THEREFORE, BE IT RESOLVED, that the city council reaffirms the action of the city planning commission of August 23, 2000, adopts the findings of the commission and grants a Water Resource Management Ordinance variance to allow up to 60 percent impervious surface of the surface area of the property described as Lots 238 and 140, Lake Avenue, Upper Duluth,

and Lots 235, 237 and 239, Minnesota Avenue, Upper Duluth, and located at 701 Lake Avenue South, 718-720 Minnesota Avenue; on the condition that project plans be reviewed and approved by the planning commission prior to the issuance of building permits.

Resolution 00-0627 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg and Stover -- 6

Nays: Councilor Stewart -- 1

Abstention: President Gilbert -- 1

Absent: Councilor Fena -- 1

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

Jeff Urbaniak stated that the Westgate housing project is not a good fit for West Duluth and the developer is not supported by the Spirit Valley Citizens Neighborhood Development Association (SVCNDA). He requested the council to stop the work on the project until all the appeals have been settled in court.

Wally Pfister reviewed laws regarding setbacks of buildings and sewer systems and stated that this project is violating the laws and the regulations set by the city ordinances. He also stated that the developer is changing the plans without going back to the planning commission – as directed by commission. Mr. Pfister requested the council to rescind the permit, as the developer is not following the law.

Councilor Edwards questioned if the council has any legal action available to them to stop this development if the developer has violated the law.

Councilor Hogg reviewed that the council was against this project and voted the project down and then found out that the council had a procedural error which allowed this project to move forward according to the law. He voiced concern that the administration is allowing work to be done on this project and whether it is in the confines of the law because the court has ordered this project to go forward. Councilor Hogg reviewed the Charter, which stated that the council may hire special council for an issue before the council, but would hope that the administration would work with the neighborhood in pursuing any violations that are being committed by the developer.

Councilor Stewart stated that the council does not have the authority to rescind the resolution granting the special use permit but would like to see more response from the administration in the concerns of the neighborhood.

President Gilbert questioned why the city allowed the developer to start filling in the wetlands and pour concrete without waiting for the appeal to be heard.

Mr. Brown replied that he has reviewed and answered any questions that have been brought to his attention and would be willing to work with the public or council on the concerns.

Councilor Ness requested that the administration inform the council of what their options are to review this project and if the city has been acting legally in the process of this development.

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RESOLUTIONS TABLED

President Gilbert moved to remove Resolution 00-0348(a), 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.

Resolution 00-0348(a) was adopted as follows:

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

File #	Applicant Name	Legal Description	Location
00038	Haines Properties	westerly 1/2 of southeasterly 1/4 of southwesterly 1/4 except south 400 feet of west 400 feet (10-2710-2180)	north side of Arrowhead Road approximately 1700 feet east of Haines Road (Duluth Heights)

Resolution 00-0348(b) was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

- - -

President Gilbert moved to remove Resolution 00-0513(a), 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.

Resolution 00-0513(a) was adopted as follows:

BY PRESIDENT GILBERT:

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

File #	Applicant Name	Legal Description	Location
00087	Ken Landwehr	Twp 50, Range 14, Section 7, north half of southwest quarter of southwest quarter of southeast quarter (10-2710-2230) and west half of west half of south half of southwest quarter of southwest quarter of southeast quarter except 13/100 acres for road (10-2710-2245)	north side of Arrowhead Road and west of Swan Lake Road (Duluth Heights)

Resolution 00-0513(a) was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals with any specific restrictions:

Lakeside Lester Park Business Association (Lester River Festival), Lester Park, for September 30, 2000, with Andy Peterson, manager.

Resolution 00-0646 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for the construction of the Bayfront festival park/Phase I - demolition and grading for the city architect division in accordance with specifications on its low specification bid of \$440,700, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C921.

Resolution 00-0657 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

ANIMAL HUMANE BOARD

Lynn Landstrom for a term expiring October 31, 2003, replacing Mary Valentine who resigned.

Mary Wictor for a term expiring October 31, 2005, replacing Patricia Moyer who resigned.

Resolution 00-0569 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of meter mechanic, which were approved by the civil service board on September 5, 2000, and which are filed with the city clerk as Public Document No. 00-0925-20, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range and rates shall remain unchanged, Pay Range 29, Pay Rate \$2,753 to \$3,266.

Resolution 00-0620 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior computer operator, which were approved by the civil service board on September 5, 2000, and which are filed with the city clerk as Public Document No. 00-0925-21, are approved; that said classification shall be subject to the city's collective bargaining agreement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

with its basic unit employees; and that the pay range and rates shall remain unchanged, Pay Range 125, Pay Rate \$2,166 to \$2, 537.

Resolution 00-0621 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Stephen Bianchi for a term expiring June 30, 2003, replacing Philip Rolle.

Resolution 00-0648 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract, on file with the city clerk as Public Document No. 00-0925-22, between the city of Duluth and Hess, Roise and Company for the evaluation and assessment of the feasibility and techniques for rehabilitating granitoid streets in Duluth; total contract amount not to exceed \$8,500, payable from Fund 100-015-2020-MS06.

Resolution 00-0629 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Lombard Street between 40th and 41st Avenues East legally described as: Lombard Street adjacent to Lots 3 through 8, Block 2 and Lots 9 through 12, Block 10, 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 street vacation petition at its September 12, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Lombard Street described above, and as more particularly described on Public Document No. 00-0925-23.

BE IT FURTHER RESOLVED, that a utility easement be retained over the northerly ten feet from the west line of 41st Avenue East to a point 20 feet westerly.

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

Resolution 00-0640 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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BY COUNCILOR NESS:

RESOLVED, that the city of Duluth hereby reimburses the Lake Superior zoological society \$75,000 for monies expended for improvements made to the children's zoo complex during the construction of the Primate Conservation Center in the Fall of 1998.

RESOLVED FURTHER, that the reimbursement shall be made from Fund 450, Agency 015, Organization 1998, Object C813.

Resolution 00-0633 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the library director is hereby authorized to accept a grant from the Northland Foundation to the Duluth public library in the amount of \$9,899 for the Book Time with Your Baby project, which grant agreement is on file in the office of the city clerk as Public Document No. 00-0925-24, and which funds shall be deposited in the General Fund 100-100-1704-4690.

Resolution 00-0642 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the state of Minnesota for the operation and maintenance of traffic control signal systems at Trunk Highway 53 (Trinity Road), Joshua Street at Trunk Highway No. 53/Trunk Highway No. 194, Trunk Highway No. 194 and on Trunk Highway No. 53 at south mall entrance within the corporate limits of Duluth and constructed under State Project No. S.P. 6915-104; said agreement filed as Public Document No. 00-0925-25.

Resolution 00-0630 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide a new 16 inch gas main from TBS1A to 51st Avenue West and Bristol Street; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design, specification, layout, right-of-way, cost estimate, permitting and construction engineering; and

WHEREAS, LHB Engineering and Architects, Inc., has submitted a proposal for such services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$402,127, will be payable from the Gas Bond Fund 521, Dept./Agency 900, Object 5532.

Resolution 00-0647 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved September 25, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Viele Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering construction of a six inch water main extension to serve two lots on West Sixth Street west of Sixth Avenue West in Duluth Proper Third Division for the public works and utilities, water division, in accordance with specifications on its low specification bid of \$32,122, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0649 was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Lyle Brian Nelson and Marcia A. Nelson to petition for the permanent improvement of South 32nd Street from Minnesota Avenue easterly to its platted terminus; said agreement filed as Public Document No. 00-0925-26.

Resolution 00-0623 was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept the dedication of utility easements on Lot 26, Auditors Plat No. 1, hereinafter described from Joseph J. Meese and Cheryl D. Meese, joint tenants:

Permanent easements for utility purposes over, under and across part of Lot 26, Auditors Plat No. 1, said easements more particularly described as follows:

The easterly ten feet of the southerly 190 feet of Lot 26, Auditors Plat No. 1;
and

A strip of land 20 feet in width the centerline of which is described as follows: commencing at the southeast corner of said Lot 26, Auditors Plant No. 1; thence north along east line of said Lot 26 a distance of 175 feet to the POINT OF BEGINNING of the centerline to be described; thence deflecting to the right 52 degrees 18 minutes 36 seconds in a northeasterly direction 75 feet more or less and there terminating, together with access to the above described easement along the driveway to 901 Plum Street.

Resolution 00-0634 was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of 406 feet of 58 inch Span RC arch-pipe storm sewer on Hugo Avenue and Palm Street and 95 feet of 12 inch RC pipe storm sewer on Kingston Street between 49th Avenue East and 50th Avenue East for the engineering division in accordance with specifications on its low

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

specification bid of \$106,478.29, terms net 30, FOB job site, payable out of Storm Utility Fund 535, Dept./Agency 500, Organization 0505, Object 5533.

Resolution 00-0635 was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept the dedication of utility easements on Lots 35 and 36, Auditors Plat No. 1, hereinafter described from Educational Frontiers, Inc.:

Permanent easements for utility purposes over, under and across part of Lots 35 and 36, Auditors Plat No. 1, said easements more particularly described as follows:

The easterly ten feet of Lot 35, Auditors Plat No. 1; and

All that part of Lots 35 and 36, Auditors Plat No. 1, described as follows: beginning at the southwest corner of said Lot 36; thence north along the west line of said Lot 36 a distance of 110 feet; thence east perpendicular to last described line a distance of 30 feet; thence southwesterly to the point of beginning and there terminating.

Resolution 00-0636 was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of economic security, work force services branch, of not to exceed \$40,000 to reimburse the police department's police overtime expenditures related to the police/probation partnership segment of the juvenile accountability incentive block grant; all revenue to be deposited into General Fund 100, Dept. 200, Org. 1620, Revenue Source 4230.

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

Resolution 00-0637 was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city is hereby authorized to accept grant monies of not to exceed \$62,261.96 from the U.S. department of justice, bureau of justice assistance, for bulletproof vest reimbursement during the grant period from March 1, 1999, through September 30, 2004.

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 100, Dept. 200, Org. 1620, Revenue Source 4210.

Resolution 00-0643 was unanimously adopted.
Approved September 25, 2000
GARY L. DOTY, Mayor

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The following resolutions were also considered:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0419, by Councilor Stewart, confirming appointments of John Arotta, Eric Kaiser, Dale M. Johnson and Mary Schlosser to Spirit Mountain recreation area authority replacing David Gaddie, Mary Olson, Stephan Scherer, and Robin Tellor, respectively, was introduced for discussion.

Councilors Stover and Stewart voiced their disappointment that applicants who go through the application process that have more diverse thought patterns regarding Spirit Mountain do not get appointed to the authority.

Councilor Stover moved to split resolution to separate Mary Schlosser from the rest of the appointees, which motion was seconded and unanimously carried.

Resolution 00-0419(a), without Mary Schlosser, was adopted upon the following vote:
BY COUNCILOR STEWART:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

John Arotta, Eric Kaiser and Dale M. Johnson for terms expiring June 30, 2003, replacing David Gaddie, Mary Olson and Stephan Scherer, respectively.

Resolution 00-0419(a) was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg and President Gilbert -- 6

Nays: Councilors Stewart and Stover -- 2

Absent: Councilor Fena -- 1

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0419(b) was adopted as follows:

BY COUNCILOR STEWART:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

Mary Schlosser for term expiring June 30, 2003, replacing Robin Tellor.

Resolution 00-0419(b) was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0631, by President Gilbert, joining with Duluth, Georgia, in a celebration of our common name and heritage, was introduced for discussion.

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

K.L. Lewis stated that these two cities of different cultures could learn a lot from each other.

Resolution 00-0631 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, the cities of Duluth, Minnesota, and Duluth, Georgia, share not only a common name attributable to Daniel Greysolon Sieur du Luth, but also a common bond in that they offer an outstanding quality of life to their residents; and

WHEREAS, Duluth, Georgia, is celebrating this quality of life in its Fall Festival 2000 featuring historic artifacts, arts, crafts, music, food and entertainment of the area; and

WHEREAS, the two Duluths over the years have developed a special relationship to each other which has resulted in visits and other exchanges of goodwill; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the mayor and city council of Duluth, Minnesota, wish to continue and enhance this special relationship; and

WHEREAS, through the generous efforts of Northwest Airlines, Mayor Gary Doty will be able to participate in Duluth, Georgia's, Fall Festival 2000 celebration;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth, Minnesota, hereby joins its southern cousin, Duluth, Georgia, in celebrating our common name and heritage and expresses its desire to continue the special relationship the two cities have enjoyed over the years.

FURTHER RESOLVED, that the city clerk is directed to send a certified copy of this resolution to Mayor Shirley Fanning-Lasseter of Duluth, Georgia.

Resolution 00-0631 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0639, by President Gilbert, granting a special use permit to Cremation Society of Minnesota for the installation of a crematorium on property located at 4102 Grand Avenue, was introduced for discussion.

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

Jeanne Koneczny voiced her opposition to the special use permit for a funeral home and crematorium in this neighborhood. She stated that not a large enough area of the neighborhood was notified of the planning commission meeting in September, and that at the meeting no building or parking plans were discussed. Ms. Koneczny also expressed concern over the fallout of fly ash residue which is covered under the rules of the Minnesota pollution control agency (MPCA).

Councilors Eckenberg and Edwards voiced concern on the fiscal impact that this business would have on locally owned businesses since there are already nine funeral homes and two crematoriums in Duluth. They also questioned if this is an appropriate use of this location.

Councilor Ness stated that it is not the council's decision to decide if a business should start up in Duluth and that only the fit shall survive. He continued by saying that the decision tonight is to decide if a crematorium should be in this location and not if the funeral home should be there.

Councilor Hogg stated that it is not a sound reason to deny this special use permit because of the nature of the business.

Councilor Stover reviewed that the building has been empty for a long time and it is a large building to fill with a business.

Kevin Waterston spoke on behalf of the application. He stated that the Cremation Society of Minnesota currently operates three crematoriums in Minneapolis, but they will be hiring local people to work in this facility. He continued by saying that they will be doing some landscaping and redoing the front of the building. Mr. Waterston stated that they use an afterburner to capture the smoke from escaping the facility and is not aware of fly ash being a problem for the neighborhood.

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At this time, 10:50 p.m., Councilor Stover moved to suspend the rules to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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

Resolution 00-0639 was adopted as follows:

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, Cremation Society of Minnesota has submitted to the city council a request for a special use permit for installation of a crematorium system on property described as Lots 1 and 10, Block 2, Chandler Park Addition Duluth, and Lots 4-8, Block 11, Hazelwood Addition to Oneota, and located at 4102 Grand Avenue; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Cremation Society of Minnesota to allow for the installation and operation of a cremation system at 4102 Grand Avenue, that the city council adopt the finding of the planning commission and staff report on this application and further finds that the proposed use, with the safeguards, will protect property values and the comprehensive plan, will not result in unreasonable noise, traffic, odor or appearance in the area, which currently has a commercial aspect.

Resolution 00-0639 was adopted upon the following vote:

Yeas: Councilors Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 6

Nays: Councilors Eckenberg and Edwards -- 2

Absent: Councilor Fena -- 1

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0645, by President Gilbert, amending the Mount Royal C-3 shopping center district to allow expansion of the Super Valu, was introduced for discussion.

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

Bill Burns spoke on behalf of the grocery store and stated that the owners have agreed not to have the delivery trucks idling between 10:00 p.m. and 7:00 a.m. He added that the owners are prepared to plant three to four foot fast growing evergreens to help buffer the store from the neighborhood.

Councilor Hogg questioned if the boundaries of the commercial zone are changing. He voiced concern of the loss of parking spaces by about 17 percent because of the addition to the store and if the parking would be sufficient for the customers.

Mr. Burns replied that the owners are concerned about that, but there are a number of parking places in the rear of the facility that were intended for the employees that have not been previously used but will be used by them now. He stated that the lot is rarely full in a consistent manner and that the parking lot in front of the library is also used by patrons of the grocery store.

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

Resolution 00-0645 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, HRTV Limited Liability Company has submitted to the city council a request to amend the Mount Royal Shopping Center C-3 Zoning Plan; and

WHEREAS, HRTV (owner) has submitted to the city council a request for approval of a 14,000 square foot addition to the Mount Royal Super Valu Store in the Mount Royal Shopping Center located at 1600 Woodland Avenue; 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 the 14,000 square foot addition as delineated in the drawings entitled, 413 Group, by John Ivey Thomas Associates, Inc., Architects, dated 8/18/00, as identified as Public Document No. 00-0925-28 and subject to the following conditions:

- (a) The C-3 requirements for off street parking are reduced from 463 to 385 spaces;
- (b) The fire and drive lane at the south side of the building be reduced to 25 feet with a parking depth of 20 feet;
- (c) That, prior to the issuance of a building permit, a stormwater plan be developed and approved by the city engineering division, that accommodates the existing as well as the addition to the Super Valu store;
- (d) That the semi-truck delivery area be posted, "NO TRUCK IDLING DURING THE HOURS OF 10:00 P.M. AND 7:00 A.M.";
- (e) Pursue restoration of landscape islands in the parking lot;
- (f) Preserve as much of the landscape island at the northwest of the exiting front entry to the Super Valu store;
- (g) Enhance the landscape along the R-3 and R-1-b zoning boundary, through use of evergreen planting and/or mounding and/or fencing.

Resolution 00-0645 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Ness, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Fena -- 1

Approved September 25, 2000

GARY L. DOTY, Mayor

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Resolution 00-0638, by President Gilbert, granting a work permit to Spirit Mountain recreation area authority for construction of a soccer field on the overflow parking lot at the Grand Avenue frontage of Spirit Mountain (Arrowhead Youth Soccer Association), was introduced for discussion.

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Councilor Ness moved to consider Resolution 00-0632, authorizing a five year license agreement with the Spirit Mountain recreation area authority for construction and operation of a soccer facility, at this time, which motion was seconded and unanimously carried.

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

Nancy Nelson expressed concern if the laws were followed in the planning of this project and questioned if the master plan would need to be changed for this soccer field.

Councilor Stenberg reviewed that the city council approved an amendment to the Spirit Mountain recreation area master plan in November 1997, stating that adding a summer youth recreation area would require a review of the master plan. He then questioned if a soccer field would qualify as a summer youth recreation area and require a revision to the master plan.

Mr. Brown replied that the master plan revision of 1997 does not cover the geographic area where this proposed soccer field is located. He continued by saying that it is the opinion of the attorney's office that this is a change of use of such significance that the master plan should be amended and it is either in the process or will be amended shortly.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilors Stenberg and Stewart stated their support of the soccer field in this location but voiced concern that things have been taken out of order. They stated that the master plan should have been revised before the approval of work permits comes to the council.

Mr. Brown replied that the master plan revision has to be done by the Spirit Mountain recreation area authority board, which is not under the control of the city, but the work permits could be structured to be held until the master plan is changed.

Councilor Hogg reviewed that any changes to the master plan recommended by the authority's board must be approved by the council, but nothing has been before them recently. He also stated that work permits should not be approved until the master plan has been approved and these resolutions should be sent back to the administration until that action has taken place.

Councilor Stover expressed concern that he had a same day notice on the ground breaking for the soccer field by the parks and recreation office and assumed that city staff had followed the proper procedures for this project.

To Councilor Ness' question on what type of changes would require the master plan to be amended, Mr. Brown replied that any significant construction or significant change in land use would require an amendment to the master plan. He continued by saying that the council reviews the changes to the master plan because there is no zoning in the recreation area, and in place of zoning, which zoning issues get appealed to the city council, changes that Spirit Mountain does in land use in operating the facility can be reviewed by the city council to ensure it is consistent with city plan.

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At this time, 11:30 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until Midnight, which motion was seconded and unanimously carried.

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Mike Ellingson, president of Arrowhead Youth Soccer Association, stated that at a meeting with the city planner and attorney, the attorney stated that this soccer field was not part of the Spirit Mountain master plan as this field does not require any construction but just leveling of the dirt and laying sod. He continued by saying that there are fields all over the city, except in West Duluth, and this will help the soccer teams in West Duluth who have been contributing to the soccer association in the past.

Councilor Hogg moved to return both resolutions back to the administration, which motion was seconded and failed upon the following vote:

Yeas: Councilors Eckenberg, Hogg, Stenberg and Stover -- 4

Nays: Councilor Edwards, Ness, Stewart and President Gilbert -- 4

Absent: Councilor Fena -- 1

Resolution 00-0638 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, Chapter 327, Minnesota Laws, 1973, created the Spirit Mountain recreation area authority and gave that body certain powers with respect to developing that area for recreational purposes; and

WHEREAS, said Chapter 327 requires that the Duluth City Council approve a work permit for construction on area property prior to any development; and

WHEREAS, said Chapter 327 requires a public hearing before the city planning commission and park commission prior to such approval and a recommendation to the city council by each of said bodies; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, on September 12, 2000, the planning commission and previously the park commission held public meetings, discussed said project and made a favorable recommendation to the city council.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves the work permit for the soccer field improvements as indicated on the plans on file as city council Public Document No. 00-0925-27.

Resolution 00-0638 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Ness, Stenberg and President Gilbert -- 5

Nays: Councilors Hogg, Stewart and Stover -- 3

Absent: Councilor Fena -- 1

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0632 was adopted as follows:

BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into a five year license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 00-0925-29, with the Spirit Mountain recreation area authority authorizing the city to construct and operate a soccer facility on authority-controlled property adjacent to Grand Avenue, for nominal consideration.

Resolution 00-0632 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stover and President Gilbert -- 7

Nays: Councilor Stewart -- 1

Absent: Councilor Fena -- 1

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the Duluth City Council hereby establishes the following items as its top priorities for 2001 session of the Minnesota state legislature:

Soft center funding;

Aerial Lift Bridge painting funding;

Local government sales tax exemption;

Park Point beach erosion;

Port development assistance;

Property tax reform.

Resolution 00-0644 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0489, authorizing the city to apply for a loan from the Minnesota public facilities authority in the approximate amount of \$1,443,100 to finance the extension and improvements to the municipal sewer utility to serve the Fond du Lac neighborhood; and Resolution 00-0538, authorizing the city to apply for a loan from the Minnesota public facilities authority in the approximate amount of \$1,789,722 to finance the extension and improvements to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

municipal sewer utility to serve the Fond du Lac neighborhood, by Councilor Stover, were introduced for discussion.

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

Todd Pfeffer thanked the council and administration for their help with this project and requested the council vote for Resolution 00-0538, as it defers the cost of the grinder pumps for the neighborhood.

Mr. Winson reviewed that Resolution 00-0489 would ask for a loan to cover only the typical public improvements in a sewer project and not include using public dollars for any private services, such as the grinder pumps. He continued by saying that city staff has concerns about having to maintain 81 individual grinder pumps and setting a precedent throughout the community, and that is why the administration favors this resolution.

In response to Councilor Hogg's questioning, Mr. Winson reviewed that the difference in the money amounts of the two resolutions is the purchase and the cost associated with the installation of grinder pumps. He continued by saying that the cost to the homeowner would be maintenance and eventual replacement of the grinder pumps system and that the community favors a tiered system to be set up by the special assessment board that would favor the homes that only require a gravity service and would pay a lesser assessment.

Resolution 00-0489 failed upon the following vote (Public Document No. 00-0925-30):

Yeas: Councilors Eckenberg, Edwards and Hogg -- 3

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

Absent: Councilor Fena -- 1

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Resolution 00-0538 was adopted as follows:

BY COUNCILOR STOVER:

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

(a) The Fond du Lac neighborhood, which borders on the St. Louis River, is not presently served by the city sewer utility. Residents in the neighborhood have individual sewage treatment systems and holding tanks, most of which are failing or noncomplying systems;

(b) The city is hereby authorized to apply to the Minnesota public facilities authority for a loan from the water pollution control revolving fund for improvements to the wastewater collection system in the Fond du Lac neighborhood as described in the loan application, the form of which is on file in the office of the city clerk as Public Document No. 00-0925-31;

(c) The city estimates the loan amount to be \$1,789,722, or the as-bid cost of the projects;

(d) The city hereby certifies that it has the legal authority to apply for the loan, and the financial, technical and managerial capacity to repay the loan and ensure proper construction, operation and maintenance of the project for its design life;

(e) The city hereby expresses its official intent to use proceeds of this loan to reimburse construction expenditures made prior to the issuance of its general obligation sewer utility revenue bond to the public facilities authority.

Resolution 00-0538 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement in substantially the form and containing substantially the terms of the contract

between the city and RLK-Kuusisto to provide consulting services related to Wallace Avenue improvements, for a cost not to exceed \$4,900; payment from Fund 100-010-1101-5319.

Resolution 00-0659 was unanimously adopted.

Approved September 25, 2000

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY PRESIDENT GILBERT

00-025 - AN ORDINANCE DESIGNATING COLLEGE STREET BETWEEN EIGHTH STREET AND IRVING PLACE AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

President Gilbert moved to return the ordinance back to administration, which motion was seconded and unanimously carried.

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BY PRESIDENT GILBERT

00-031 - AN ORDINANCE AMENDING ORDINANCE 8938, ADOPTED APRIL 17, 1989, AND CHAPTER 28A OF DULUTH CITY CODE CONCERNING HERITAGE PRESERVATION.

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

Councilor Stenberg moved to return the ordinance back to administration, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart and Stover -- 7

Nays: President Gilbert -- 1

Absent: Councilor Fena -- 1

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR STOVER

00-033 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TWO PERMANENT HIGHWAY EASEMENTS AND ONE TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO CONGDON BOULEVARD TO ST. LOUIS COUNTY.

- - -

BY COUNCILOR STENBERG

00-027 - AN ORDINANCE AMENDING CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADOPT THE INTERNATIONAL PROPERTY MAINTENANCE CODE, AS AMENDED, AS THE HOUSING CODE OF THE CITY.

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

Tom Allnew urged the councilors to send a copy of this proposed ordinance to every citizen in Duluth and let the citizens of Duluth vote on this ordinance, which would be a return to real democracy.

K.L. Lewis spoke in favor of having a code that is standardized to international standards.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

00-032 (9460) - AN ORDINANCE CONVEYING TO SSG CORPORATION AN EXISTING CITY SEWER EASEMENT ON LOT 1, RONDING ACRE TRACTS AND ADJACENT PROPERTY IN

THE CITY OF HERMANTOWN AND ACCEPTING FROM SSG CORPORATION THE DEDICATION OF A REPLACEMENT SEWER EASEMENT IN SAID PROPERTY.

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

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The meeting was adjourned at 11:50 p.m.

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

- - -

ORDINANCE NO. 9460

BY COUNCILOR STOVER:

AN ORDINANCE CONVEYING TO SSG CORPORATION AN EXISTING CITY SEWER EASEMENT ON LOT 1, RONDING ACRE TRACTS AND ADJACENT PROPERTY IN THE CITY OF HERMANTOWN AND ACCEPTING FROM SSG CORPORATION THE DEDICATION OF A REPLACEMENT SEWER EASEMENT IN SAID PROPERTY.

The city of Duluth does ordain:

Section 1. The proper city officials, in consideration of the replacement easement dedicated in Section 2 herein, are hereby authorized to convey the easement described in this section by quitclaim deed to SSG Corporation, a Wisconsin corporation with principal offices in Hudson, Wisconsin, and to execute all documents necessary for said conveyance. The easement to be conveyed to SSG Corporation lies entirely within the city of Hermantown, Minnesota, and is described as follows:

In a parcel described as:

The east 333 feet of the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, T. 50 N. of R. 15 W. of the 4th P.M. lying north of Highway No. 53, described as follows: all that part of the E $\frac{1}{2}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 13, T. 50 N. of R. 15 W. of the 4th P.M. according to the Government Survey thereof, lying north of State Highway No. 53, formerly State Highway No. 11, described as follows: commencing at the SE corner of said land, thence in a northerly direction 301.67 feet to the point of beginning; thence at an angle of 57° 36' in a northwesterly direction along the north line of said Highway No. 53, 394.25 feet; thence at an angle of 27° 53' in a southeasterly direction 334.04 feet; thence at an angle of 94° 31' in a southerly direction along the center line of Haines Road 185 feet to the point of beginning;

an easement more particularly described as:

A strip of land 20 feet in width and being ten feet on each side of a line described as follows, including the extension and shortening of the side lines for termination at the property lines: commencing at the southeast corner of the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 13, T. 50 N. of R. 15 W. of the 4th P.M., thence north along the east line of said SE $\frac{1}{4}$ of NE $\frac{1}{4}$ for a distance of 437.17 feet to a point, thence to the left at an angle of 59° 23' for a distance of 38.34 feet to a point on the west line of Haines Road, said point being the point of beginning, thence continuing northwesterly along aforesaid line for a distance of 73.51 feet to a point on the south line of Lot 1, Ronding Acre Tracts, said point being 63.46 feet westerly of the southeast corner of Lot 1, Ronding Acre Tracts;

and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

In Lot 1, Ronding Acre Tracts, an easement more particularly described as: a strip of land 20 feet in width and being ten feet on each side of a line described as follows, including the extension and shortening of the side lines for termination at the property lines: commencing at the southeast corner of Lot 1, Ronding Acre Tracts, thence west along the south line of said Lot 1, for a distance of 63.46 feet to the point of beginning, thence to the right at an angle of 26° 06' for a distance of 181.47 feet to a point, thence to the right at an angle of 28° 47' for a distance of 45.27 feet to a point on the north line of said Lot 1, said point being 57.52 feet east of the northwest corner of Lot 1, Ronding Acre Tracts.

Section 2. The proper city officers are hereby authorized to accept the dedication of a utility easement from SSG Corporation to replace the easement conveyed in Section 1 of this ordinance, said easement described as:

In a parcel described as:

The southerly 185 feet of that part of the easterly 334.04 feet of the SE¼ of the NE¼ of Section 13, Township 50 North, Range 15 West lying north of Highway No. 53;

a utility easement more particularly described as:

A strip of land 20 feet in width and being ten feet on each side of a line described as follows, including the extension and shortening of the side lines for termination at the property lines: commencing at the southeast corner of the SE¼ of NE¼ of Section 13, T. 50 N. of R. 15 W. of the 4th Principal Meridian; thence north along the east line of said SE¼ of NE¼ for a distance of 456.73 feet to a point; thence to the left at an angle of 90° for a distance of 33.00 feet to a point on the west line of Haines Road, said point being the point of beginning; thence at an angle of 149° 20' 07" in a northwesterly direction 6.20 feet; thence at an angle of 149° 16' 52" in a westerly direction 159.00 feet; thence at an angle of 145° 53' 23" in a northwesterly direction 82.50 feet; thence at an angle of 124° 06' 37" in a northerly direction 1.80 feet to a point on the south line of Lot 1 Ronding Acres, said point being 62.66 feet easterly of the southwest corner of Lot 1, Ronding Acre Tracts;

and

In Lot 1, Ronding Acre Tracts, a utility easement more particularly described as: a strip of land 20 feet in width and being ten feet on each side of a line described as follows, including the extension and shortening of the side lines for termination at the property lines: commencing at the southwest corner of Lot 1, Ronding Acre Tracts, thence east along the south line of said Lot 1, for a distance of 62.66 feet to the point of beginning, thence at an angle of 85° 25' 46" in a northerly direction 97.20 feet; thence at an angle of 154° 14' 50" in a northwesterly direction 21.00 feet to a point on the north line of Lot 1, Ronding Acre Tracts, said point being 57.52 feet east of the northwest corner of Lot 1, Ronding Acre Tracts.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 5, 2000)

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

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Absent: Councilor Fena -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 25, 2000
Approved September 25, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, October 2, 2000, 8:35 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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REPORTS OF OFFICERS

00-1002-01 Building official submitting appeal of the BZA denial of appeal of the issuance of building permits for the construction of seven four unit buildings on property located at 6615-6703 West Gate Boulevard. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-1002-02 Board of zoning appeals minutes of September 26, 2000, meeting. -- Received

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MOTIONS AND RESOLUTIONS

Resolutions 00-0684, requiring the completion of an EAW for the Westgate project; and Resolution 00-0685, denying the petition for an EAW for the Westgate project, by President Gilbert, were introduced for discussion.

Councilor Stewart stated it would be prudent to assign the responsible government unit (RGU) tonight, but not to make a determination as to whether an environmental assessment worksheet (EAW) should be completed for the project. He proposed that Resolution 00-0684 be amended as follows:

(a) Change the title to read, "RESOLUTION DESIGNATING THE RGU FOR THE WESTGATE PROJECT";

(b) Amend the body of the resolution to read as follows:
"BE IT RESOLVED, that the city council shall perform the function of the responsible government authority in this matter.

BE IT FURTHER RESOLVED, that Council President Gilbert be authorized to work with the administration to hire a legal consultant to address the issue of whether or not the Westgate project is exempt from preparation of an environmental assessment worksheet."

Councilor Stewart stated that by amending the resolution, all of the concerns raised can be addressed at once.

Responding to Councilor Stewart, City Attorney Brown stated that it is necessary for the planning department to know who the RGU will be within five working days, which means the deadline is October 12, 2000, due to the upcoming holiday; and that it is not appropriate for the council to pass either of the resolutions this evening.

Councilor Hogg stated that the council should wait until October 10, 2000, to act on a resolution appointing a RGU for the following reasons: he believes it is not ethical, because of the notice requirement, to make a change as significant as the one being proposed by Councilor Stewart tonight; he is also uncomfortable taking action because the council does not have the background on this subject to make a decision tonight and that an enormous amount of information on it was just received during the committee meeting this evening; the council has asked for, and should study, additional information on the issue that was requested this evening; and the city attorney has recommended that it is inappropriate to act on the issue at this meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Councilor Fena stated she is uncomfortable considering appointment of the council as the RGU until she has read the state statute to understand what the criteria is that needs to be evaluated.

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

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Resolution 00-0681, by Councilor Ness, supporting passage of the Federal Estuary Restoration Partnership Act, S. 835, was introduced for discussion.

Councilor Ness explained what the status of this bill is with the House of Representatives and the Senate, and that the purpose of this resolution is to encourage a clean bill with no attachments and prompt passage during this session.

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

Lynelle Hanson, representing the St. Louis River Citizens Action Committee, spoke of the history of the St. Louis River area and how the committee will utilize federal funds from this bill to restore and preserve the area and habitat for fish and wildlife. She encouraged support for the resolution.

Resolution 00-0681 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the city of Duluth is located where the St. Louis River enters Lake Superior and forms a natural harbor that defines the character of the city of Duluth more than any other natural feature, and is a great and important natural resource of the city of Duluth, providing substantial economic, recreational and aesthetic benefits to city residents; and

WHEREAS, Duluth harbor and the St. Louis River suffer from environmental degradation including the loss of natural habitat, sedimentation, toxic contamination and water pollution; and

WHEREAS, the quality of life and economic prosperity of the citizens of the city of Duluth suffer due to the environmental degradation of Duluth harbor and the St. Louis River; and

WHEREAS, the city of Duluth, its residents and many private companies and organizations have created and have begun to implement plans to redress the environmental degradation of Duluth harbor and the St. Louis River; and

WHEREAS, the city of Duluth, its residents and many private companies and organizations have worked and continue to work to redress the environmental degradation of Duluth harbor and the St. Louis River and have provided public and private funding and paid and volunteer human resources to this effort; and

WHEREAS, the city of Duluth and communities surrounding the harbor of Duluth lack the financial resources to redress much of the environmental degradation of Duluth harbor and the St. Louis River; and

WHEREAS, the city and harbor of Duluth have provided and continue to provide substantial benefits to national and international shipping and commerce which contribute to the economic welfare of many states in the Great Lakes and the upper Midwest regions of the United States and to the United States as a whole; and

WHEREAS, the Congress of the United States is currently debating passage of the Estuary Restoration Partnership Act of 2000, which if enacted establishes a national commitment to provide over \$315 million in funding to restore one million acres of estuary and Great Lakes near shore habitat through innovative public-private partnerships that advance existing local and regional efforts; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the 12,000 acres of fresh water estuary that encompass the lower St. Louis River and Duluth harbor would be eligible to receive funding under the Estuary Restoration Partnership Act; and

WHEREAS, the citizens of Duluth, in cooperation with neighboring communities, have established a remedial action plan to restore the estuary, the implementation of which depends not on the will of our citizens but in large part on the financial resources available to them;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the city requests that the Congress of the United States immediately enact the Estuary Restoration Partnership Act of 2000, bill S. 835, in order to support the citizens of Duluth in their efforts to improve the natural productivity and beauty of Duluth harbor and St. Louis Bay and the St. Louis River for the benefit of the natural environment in our city and of existing and future generations of citizens.

Resolution 00-0681 was unanimously adopted.

Approved October 2, 2000

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 8:59 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 10, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-1010-01 Robert and Jeanne Pedersen submitting petition to vacate a portion of 66th Avenue West between West Gate Boulevard and Petre Street, Petre Street adjacent to Lots 1-8, Block 4, West Gate Division, and the alley between Block 7 and Block 3, West Gate Division. -- Assessor

00-1010-02 Gwin Whitney, et al. (three signatures), submitting petition to vacate a portion of West Second Street adjoining Lots 8 and 9, Block 1, Oneota Industrial Park. -- Assessor

00-1010-03 Minnesota state auditor submitting management and compliance report for the Duluth economic development authority for the year ended December 31, 1999. -- Received

00-1010-13 Sherman Associates, Inc., and Duluth Townhomes Limited Partnership, by Leonard, Street and Deinard, P.A., submitting letter and supporting documentation regarding the need for completion of an EAW for the West Gate Townhome project (00-0684R and 00-0685R). -- Received

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REPORTS OF OFFICERS

00-1010-04 Assessor submitting:

(a) Letters of sufficiency for the following petitions:

(1) Construction of a sanitary sewer in 41st Avenue East from Regent Street to Regent Street Alley to serve the southerly 94 feet of Lots 7 and 8, Block 24, London Addition to Duluth;

(2) Vacation of a portion of Hubbell Street that borders Lots 15-19 of Woodland Gardens First Addition. -- Received

(b) Affidavit of mailing of notice of public hearing by the special assessment board on October 17, 2000, at 2:30 p.m. for the proposed reassessment of costs for development at 26th Avenue West and 16th Street. -- Clerk

00-1010-05 Building official submitting appeal by James and Gail Leland to reverse the decision of the board of zoning appeals to deny a request to reduce the minimum front yard setback from 60 feet to 16 feet for the construction of a 36 foot x 28 foot detached garage on property located at 10801 State Highway 23. -- Committee 2 (planning)

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REPORTS OF BOARDS AND COMMISSIONS

00-1010-06 Board of zoning appeals minutes of August 22, 2000, meeting. -- Received

00-1010-07 Community development committee minutes of July 25, 2000, meeting. -- Received

00-1010-08 Duluth airport authority: (a) Balance sheet of July 31, 2000; (b) Minutes of August 15, 2000, meeting. -- Received

00-1010-09 Housing and redevelopment authority of Duluth minutes of August 29, 2000, meeting. -- Received

00-1010-10 Planning commission minutes of August 23, 2000, meeting. -- Received

00-1010-11 Special assessment board minutes of September 12, 2000, meeting. -- Received

00-1010-12 Technical design advisory committee for DWMX-D minutes of: (a) May 31; (b) June 20, 2000, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Steve Greenfield reported on the success of the recently completed fifth annual North Shore Inline Marathon and thanked the council for their support. He noted that this is the largest inline marathon in the United States and second largest in the world.

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Deb Anderson expressed her concerns over the process that is being followed with the city's land sale that has been announced. She noted that as the property owner next door to one of those parcels, she was never notified. Ms. Anderson added that this particular parcel is a natural woodland that feeds into Cascade Creek, with wildlife feeding there, and that she had previously wished to purchase it to preserve the natural state of the parcel.

Liz Avery noted that if there was any construction done on the property that the previous speaker referred to, the water runoff would all come into her basement. She added that she also was not notified that the city was going to offer it for sale.

Rita Molitor supported the comments made by Ms. Anderson.

Councilor Stenberg noted that he has received an inquiry relative to the property at 42nd Avenue East and Pitt Street that is proposed for sale, that might have been designated for conservation.

To councilors' concerns relative to the issues raised, Administrative Assistant Winson stated that the city owns a great number of parcels of land and is looking at selling some that have a value so that they can be placed on the tax roles. He concluded by saying that the properties had been reviewed by all city departments and the planning commission before being advertised by various means and that he would look at what means could be used to specifically notify abutting property owners. Mr. Winson added that if the council wished to request that certain parcels be pulled off, the administration would consider it.

Councilors requested that the properties referred to at this time be removed from the sale and that in the future the council discuss the various policy aspects of this practice.

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Kay Lewis commented on various aspects of youth congregating in front of the Holiday Center.

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Tom Allnew noted his feelings on the city consideration of adopting the International Property Maintenance Code and racial profiling.

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At this time, 8:15 p.m., President Gilbert announced that the hearing relative to a proposed business subsidy agreement with SVCNDA, would begin (Public Document No. 00-1010-32).

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At this time, 8:30 p.m., the hearing was declared closed and the regular order of business was resumed.

- - -

At this time a motion was made, seconded and unanimously carried to suspend the rules to consider Resolution 00-0664.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0664, by President Gilbert, rescinding Resolution 00-0470 and authorizing a 2000 HOME program home ownership deferred payment loan agreement with Spirit Valley Citizens' Neighborhood Development Association (SVCNDA) in an amount not to exceed \$61,000, was introduced for discussion.

Resolution 00-0664 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that Duluth City Council Resolution 00-0470 authorizing a 2000 HOME program homeownership initiative grant agreement with SVCNDA is hereby rescinded.

FURTHER 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. 00-1010-25, with SVCNDA in an amount not to exceed \$61,000, payable from 2000 HOME Program Fund 260, Agency 020, Org. 2601, Obj. H012.

Resolution 00-0664 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

At this time, 8:31 p.m., President Gilbert announced that the public hearing relative to proposed business subsidy agreements with NHS, HRA and Northern Communities Land Trust would begin (Public Document No. 00-1010-33).

- - -

At this time, 8:50 p.m., the hearing was declared closed and the regular order of business was resumed.

- - -

At this time a motion was made, seconded and unanimously carried to suspend the rules to consider Resolution 00-0668.

Resolution 00-0668, by President Gilbert, approving DEDA agreements with Neighborhood Housing Services, Inc., Housing and Redevelopment Authority of Duluth, Minnesota, and Northern Communities Land Trust pursuant to DEDA Resolution 00D-49, was introduced for discussion.

Resolution 00-0668 was adopted as follows:

BY PRESIDENT GILBERT:

RESOLVED, that pursuant to city council Resolution No. 99-0239, the agreements between the Duluth economic development authority (DEDA) and the entities listed below in the corresponding amounts as approved by DEDA at its meeting of September 19, 2000, pursuant to DEDA Resolution No. 00D-49, a copy of which is on file in the office of the city clerk as Public Document No. 00-1010-26, are hereby approved:

Neighborhood Housing Services, Inc.	up to \$110,000
Housing and Redevelopment Authority of Duluth, Minnesota	up to \$550,000
Northern Communities Land Trust	up to \$225,000

Resolution 00-0668 was unanimously adopted.

Approved October 26, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

At this time, 9:00 p.m., President Gilbert announced that the public hearing relative to an appeal of a board of zoning appeals decision (Westgate) would begin (Public Document No. 00-1010-34).

- - -

At this time, 10: 00 p.m., the hearing was declared closed and the regular order of business was resumed.

- - -

At this time a motion was made, seconded and unanimously carried to suspend the rules to consider resolutions 00-0692 and 00-0693.

Resolution 00-0692, affirming the decision of the board of zoning appeals related to the Westgate project; and Resolution 00-0693, reversing the decision of the board of zoning appeals related to the Westgate project and denying the issuance of building permits, by President Gilbert, were introduced for discussion.

Councilors discussed this issue at great length, having concerns with: state law taking precedence over city ordinance; clarifying that the 50 foot setback was only a recommendation – not a requirement; that the plan turned down by the council on the night that the special use permit was denied, was the plan that was in compliance with the department of natural resources (DNR); what are other options for appealing the decision of the DNR; possibly the conclusions in Resolution 00-0692 need to be revised; if there was a time limit on this decision; possibly only subsection (g) in the first paragraph is what needs to be addressed; with so many lawsuits going on, there is something wrong with the development process; and the responsibility should be upon the city, not the residents, to see that all the facts are confirmed.

Councilor Stewart moved to amend Resolution 00-0692 as follows:

(a) In the conclusions section; delete subsections (b), (c) and (d);
(b) Relabel Subsections (e) as (b) and delete the words “state department of natural resources and”;

(c) Add a new Subsection (c), that reads as follows:

“The townhouse plan that was before the city council on April 10, 2000, has not been significantly altered,” which motion was seconded and discussed.

Councilor Fena moved to amend the amendment by adding to the conclusions section the following subsection:

“(d) The plans referred to in (c) are the plans that are being implemented at this time,” which motion was seconded and unanimously carried.

The amended amendment carried unanimously.

Councilor Hogg noted that in Resolution 00-0692, the council is specifically addressing Subsection (g).

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and President Gilbert -- 8

Nays: Councilor Stover -- 1

Resolution 00-0692, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

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

(a) A citizen has began construction of a 28-unit residential development at 6615-6703 Westgate Boulevard, Duluth;

(b) The developer has a special use permit for site design;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(c) The proposed use is consistent with applicable zoning restrictions. The special use that required permitting is that the proposal was for seven small buildings on the site, some without frontage on the existing street, rather than one or two buildings with street frontage;

(d) The record in this matter consists of the planning department and planning commission File No. 00046, the materials presented to the city council, and this resolution;

(e) The interested parties have had adequate notice and made timely applications and appeals;

(f) The building official reviewed the site and applications and duly issued building permits for footings and foundations as set out in the file;

(g) The board of zoning appeals, after hearing, approved the granting of the building permits, by written ruling dated September 27, 2000;

(h) The city attorney opined upon what issues were within the jurisdiction of the board of zoning appeals;

(i) The local government unit's findings and conclusions are correct and adopted.

The city council, based upon its findings and the record, makes the following conclusions:

(a) The staff findings and actions of the building official and board of zoning appeals are correct, are hereby adopted, and affirmed;

(b) The project adequately complies with city regulations regarding shorelands and trout streams, the city zoning code, the applicable building code, resource management codes;

(c) The townhouse plan that was before the city council on April 10, 2000, has not been significantly altered;

(d) The plans referred to in (c) are the plans that are being implemented at this time.

Resolution 00-0692, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg and Stewart -- 7

Nays: Councilor Stover and President Gilbert -- 2

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0693 failed upon the following vote (Public Document No. 00-1010-27):

Yeas: Councilor Stover and President Gilbert -- 2

Nays: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg and Stewart -- 7

- - -

A motion was made, seconded and carried to suspend the rules to consider resolutions 00-0697 and 00-0700 at this time.

- - -

At this time, Councilor Stenberg left the meeting.

- - -

Resolution 00-0697, by President Gilbert, assigning the function of responsible governmental unit (RGU) for preparation of and review of environmental documents related to the Westgate project to _____, was introduced for discussion.

Councilor Hogg moved to amend the resolution to insert on the blank lines in the title and last paragraph, the words, "environmental advisory council," which motion was seconded and discussed.

Councilor Stewart voiced his objections to this amendment, suggesting that "city council" should be amended in on this line.

There being no further discussion, the amendment carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stover and President Gilbert -- 7

Nays: Councilor Stewart -- 1

Absent: Councilor Stenberg -- 1

Resolution 00-0697, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, the environmental quality board (EQB) has determined the city of Duluth is the appropriate responsible governmental unit (RGU), as that term is used in Minnesota Rules Chapter 4410, to determine the need for an environmental assessment worksheet (EAW) on the Westgate project as requested by petition to the EQB; and

WHEREAS, the city council has the authority to assign the function of RGU;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth assigns the function of RGU for the Westgate project to the environmental advisory council.

Resolution 00-0697, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Absent: Councilor Stenberg -- 1

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

Councilor Stenberg returned at this time.

- - -

BY PRESIDENT GILBERT:

BE IT RESOLVED, the city council authorizes the hiring of outside counsel for the specific purpose of determining if the Westgate project is exempt from the requirements of Chapter 4410 of the state statutes relating to environmental review for a not to exceed cost of \$2,000, payable from Fund 100-010-1100-5319.

BE IT FURTHER RESOLVED, that the city council planning committee will select the appropriate outside counsel.

Resolution 00-0700 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

At this time, 10:35 p.m., Councilor Fena moved to suspend the rules to extend the council meeting until 11:30 p.m., which motion was seconded and carried by the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Ness, Stewart, Stover and President Gilbert -- 7

Nays: Councilors Hogg and Stenberg -- 2

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY COUNCILOR STEWART

00-0695 - RESOLUTION AMENDING RULE 1(a) AND RULE 7 OF THE STANDING RULES OF THE CITY COUNCIL.

- - -

CONSENT AGENDA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

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

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement (Public Document No. 00-1010-14) with DMG-Maximus to produce an appropriate cost allocation plan for city services that are provided to the public, the various departments of the city, the authorities and the various enterprise and other funds of the city, at a cost to the city of not to exceed \$14,000, which shall be payable from the General Fund 100-015-2020-5319.

Resolution 00-0662 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth adopted a proposed 2000 tax levy on September 11, 2000, in the amount of \$9,658,700, resulting in an estimated tax rate of .261464 for the year 2001, which is higher than the year 2000 tax rate of .26126; and

WHEREAS, the city of Duluth must comply with a new Minnesota state tax law requiring cities to pass a resolution regarding tax rate changes based on last year's levy less the general obligation debt levy compared to the proposed 2001 levy less the general obligation debt levy;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby authorizes the St. Louis County auditor to fix a property tax rate for taxes payable in the year 2001 that is higher than the tax rate calculated pursuant to Minnesota Statutes, Section 204B.135 for the city for taxes levied in 1999, collectible in 2000.

RESOLVED FURTHER, that adoption of this resolution would not prevent the city from certifying a final levy that would result in no tax rate increase or tax rate decrease under the formula set forth in Minnesota Statutes, Section 204B.135.

Resolution 00-0669 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are requested to produce, or cause to be produced, a traffic engineering study of the effect on vehicle volumes, movements and safety of a proposed development of a motel adjacent to the south tower of the Aerial Lift Bridge including:

- (a) How far east an entrance to the proposed development could be located;
- (b) How long a turning lane (if any) could be provided;
- (c) Whether one-way traffic into the proposed development by the Aerial Lift Bridge with an Eighth Street exit would be the most reasonable solution;
- (d) The estimated impact of traffic generated by the proposed development on traffic on Minnesota Point;

for an amount not to exceed \$4,500 payable from Fund 100-500-1930.

Resolution 00-0690 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STEWART:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Yvonne Prettner Solon for a term expiring June 30, 2002, replacing Amy Weidman who resigned.

Resolution 00-0628 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of code/plan review consultant, which were approved by the civil service board on July 7, 2000, and which are filed with the city clerk as Public Document No. 00-1010-15, are approved. This classification remains represented by the basic unit and compensated at Pay Range 27, \$2,531 to \$2,995 per month.

Resolution 00-0650 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of maintenance operations leadworker, which were approved by the civil service board on September 5, 2000, and which are filed with the city clerk as Public Document No. 00-1010-16, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 32, \$3,129 to \$3,720 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 00-0651 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH PUBLIC ARTS COMMISSION

Katie Krikorian for a term expiring September 30, 2003.

Resolution 00-0661 was unanimously adopted.

Approved October 10, 2000

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Catherine Koemptgen for a term expiring September 30, 2002, replacing Fred Youngstrand.

Resolution 00-0674 was unanimously adopted.
Approved October 10, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

TREE COMMISSION

R. Bruce Burton (professional) for a term expiring August 31, 2003, replacing John Pastor.

Resolution 00-0694 was unanimously adopted.
Approved October 10, 2000
GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that Duluth Superior Blacktop Company be and hereby is awarded a contract for furnishing and constructing a basketball court at the Grant recreational center in accordance with specifications on its low specification bid of \$25,750, terms net 30, FOB job site, payable out of CDBG Fund 262, Dept./Agency 621, Object 6116.

Resolution 00-0677 was unanimously adopted.
Approved October 10, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Elizabeth Street located west of the intersection of Waverly Avenue, legally described as: that part of Elizabeth Street and Waverly Avenue lying northeasterly of the northeasterly line of Lot 10, Block 15, Motor Line Division, extended, and a line 66 feet southwesterly of the southwest line of Lot 28, Block 11, said Motor Line Division as it intersects with the north lot line of Lot 1, Block 16, said Motor Line Division and the east edge of Block 15 truncating at the north line of Lot 6, Block 15, said Motor Line Division, extended, all within the city of Duluth, St. Louis County, Minnesota; and

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

WHEREAS, the city planning commission approved unanimously the partial street vacation petition at its September 27, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the partial street vacation of Elizabeth Street and Waverly Avenue described above and as more particularly described on Public Document No. 00-1010-17.

BE IT FURTHER RESOLVED, that excepting the southerly ten feet, the vacated right-of-way be retained for easements for existing utilities and storm sewers.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

Resolution 00-0687 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of 21st Street South legally described as: beginning at the northeast corner of the intersection of Minnesota Avenue and 21st Street South, which is also the southeast corner of Lot 40, Lower Duluth, Minnesota Avenue; thence northerly on and along the southerly line of Lot 40 a distance of 61 feet to the point of beginning; thence turning 90 degrees to the right a distance of seven feet to a point; thence turning 90 degrees to the left a distance of 16 feet to a point; thence turning 90 degrees to the left a distance of seven feet to a point on the southerly line of said Lot 40 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 approved unanimously the partial street vacation petition at its September 27, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the portion of 21st Street South described above, and as more particularly described on Public Document No. 00-1010-18.

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

Resolution 00-0688 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, the Lake Superior and Mississippi Railroad has submitted to the city council a request for a special use permit for a seasonal commercial and recreational use to provide a parking lot and train station on property described as: railroad property lying in Section 13, T 49 N, R15 W. Minnesota Meridian. The point of beginning is the south eastern corner of Lot 11, Block 11, Hunter and Markell's Grassy Point Division, according to the plat thereof on file with the register of deeds, St. Louis County, Minnesota. Beginning at the point of beginning, thence: southwesterly on and along the southeasterly line of Block 11, Hunter and Markell's Grassy Point Division, a distance of approximately 450 feet to the southwesterly corner of Lot 9, Block 12, Hunter and Markell's Grassy Point Division, thence; turning 90 degrees easterly from the southeasterly line of said Block 12, a distance of 100 feet, thence: turning 90 degrees northerly and following a line parallel to and 100 feet distant from the southeasterly line of Blocks 11 and 12, Hunter and Markell's Grassy Point Division, a distance of approximately 450 feet to a point; said point being 100 feet westerly of the point of beginning, thence: turning 90 degrees northwesterly a distance of 100 feet to the point of beginning. The above described property is subject to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

pedestrian and utility easements; and located at Fremont Street 150 feet east of Grand Avenue; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that the city council adopts the staff and planning commission's findings contained in the file and based thereon, and a special use permit is hereby granted to the Lake Superior and Mississippi Railroad for a seasonal commercial and recreational use in accordance with Section 50-32(i), DCC, to allow for the construction and operation of a parking lot and train station at Fremont Street, 150 feet east of Grand Avenue, on the condition that the property be improved and maintained in accordance with the plans submitted by the Lake Superior and Mississippi Railroad as identified as Public Document No. 00-1010-19 and on the condition that the permit is for a period of ten years from the date of this resolution, at which time renewal may be requested.

Resolution 00-0689 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Minnesota army national guard be and hereby is awarded a contract for providing volleyball court rental for the parks and recreation department in accordance with specifications on its low specification bid of \$10,800, terms net 30, FOB destination, payable out of Special League Fund 210, Dept./Agency 030, Organization 2190, Object 5412; to be encumbered out of 2001 budget.

Resolution 00-0658 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources so as to enable the city to receive \$164,000 from said department for use at the Lake Superior Zoo, a copy of which agreement is filed with the city clerk as Public Document No. 00-1010-20, which funds shall be deposited in Special Project Fund 210.

Resolution 00-0663 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

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 desires to construct a full size soccer field at the base of the Spirit Mountain recreation area and has applied for such a grant.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officers are hereby authorized to accept a grant of \$13,300 from the Minnesota department of children, families and learning to assist in the establishment and construction of a 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 to implement said grant and that said grant funds shall be deposited in Capital Improvement Fund 450, Agency 015, Org. 2000.

Resolution 00-0665 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the city desires to acquire the former U. S. naval reserve property on Park Point as the future site of the Duluth Boat Club; and

WHEREAS, the city has applied for and received approval for a matching grant from the Minnesota department of natural resources coastal program in an amount of \$56,294.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 00-1010-21, between the city of Duluth and the state of Minnesota, which awards the city a matching grant in the amount of \$56,294 to be used toward the purchase of the former U.S. naval reserve property on Park Point. Funds to be deposited into Capital Improvement Fund 450, Agency 015, Org. 2000, Rev. 4230, Act. C012.

Resolution 00-0680 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 00-1010-22 granting to Jason Brandt in consideration for undertaking the obligation of performing the services set forth in the agreement, the right to occupy the living quarters at the Chester Bowl Chalet apartment for a gross rental of \$400 per month, which will be adjusted based on satisfactory performance under the terms and conditions of the agreement.

Resolution 00-0683 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

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. 00-1010-23, with the state of Minnesota department of military affairs for the purchase of the following described property on Park Point in St. Louis County, Minnesota, for the sum of \$104,500, payable from Fund 450, Agency 015, Org. 2000, Line Item C012:

Lots 106 through 120, even numbered lots, UPPER DULUTH DIVISION, St. Louis Avenue, including riparian rights.

RESOLVED, that the proper city officials are hereby authorized to execute such documents as are necessary to complete said transaction.

Resolution 00-0682 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved October 10, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0242 to United Piping, Inc., for furnishing gas service to new customers, be amended to increase the amount by \$54,175 for a new total of \$185,000, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 00-0686 was unanimously adopted.

Approved October 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in 41st Avenue East from Regent Street to Regent Street alley to serve the southerly 94 feet of Lots 7 and 8, Block 24, London Addition to Duluth.

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

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

Resolution 00-0672 was unanimously adopted.

Approved October 10, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hallet Dock Company be and hereby is awarded a contract for furnishing and delivering annual road salt contract for 2000-2001 season for the public works street maintenance division, in accordance with specifications on its low specification bid of \$246,500, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 00-0675 was unanimously adopted.

Approved October 10, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide North Shore erosion control Phase II; and
WHEREAS, the city desires to hire a consulting engineer to provide engineering services required for the design and construction administration phases; and

WHEREAS, LHB Engineers and Architects, Inc., has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$19,055, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2168, Object 5530.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0679 was unanimously adopted.
Approved October 10, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 2001; said agreement to be in the form of Public Document No. 00-1010-24 on file in the office of the city clerk.

Resolution 00-0666 was unanimously adopted.
Approved October 10, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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 2712 West Fourth Street;
- front of 411 East Ninth Street;
- front of 1731 West Superior Street;
- front of 321 North 59th Avenue West.

Resolution 00-0667 was unanimously adopted.
Approved October 10, 2000
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 00-0676, by Councilor Eckenberg, awarding contract to A.W. Kuettel and Associates for new roofs on the Arlington, Middle and Woodland pump station and Harrison Community Club, in the amount of \$63,570, was introduced for discussion.

To Mr. Winson's request, Councilor Hogg moved to return the resolution back to the administration, which motion was seconded and unanimously carried.

- - -

Resolution 00-0691, by Councilor Edwards, amending Resolution 00-0524 designating polling places for the November 7, 2000, state legislative general election, was introduced for discussion.

Councilors Hogg and Ness expressed their concern regarding the changing of a polling site between a primary and general election.

City Clerk Jeffrey Cox explained issues of access to the building, limited parking and safety concerns are the reasons for this change.

Resolution 00-0691 was adopted as follows:

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that due to an emergency condition at a polling site that makes it unacceptable to be used, and pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the November 7, 2000, state legislative general election:

POLLING PLACE LIST

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

POLLING PLACE	ADDRESS
1. St. Michael's Catholic Church (lower level)	4901 East Superior Street
2. Portman Square	4601 McCulloch Street
3. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
4. Lutheran Church of the Good Shepherd	45th Avenue East and Colorado
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church (Fellowship Hall)	2105 Woodland Avenue
9. Duluth Congregational Church (lower level)	3833 East Superior Street
10. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
11. Pilgrim Congregational Church (lower level)	2310 East Fourth Street
12. Woodland Middle School (auditorium)	Clover and Eighth Street
13. U.M.D. Kirby Student Center (garden room)	10 University Drive
*14. Kenwood Lutheran Church (lower level)	324 West Cleveland Street
15. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
16. Prince of Peace Fellowship Church	1830 East First Street
17. United Baptist Church (lower level)	830 East First Street
18. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
19. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
20. Peace Church (Tenth Avenue entrance)	1015 East 11th Street
21. First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
22. Central Hillside Community Center	12 East Fourth Street
23. Rainbow Senior Center (auditorium)	211 North Third Avenue East
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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

POLLING PLACE	ADDRESS
28. Lincoln Park 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
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

*NEW

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 November 7, 2000, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the November 7, 2000, 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 00-0691 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Stenberg, Stewart, Stover and President Gilbert -- 7

Nays: Councilors Hogg and Ness -- 2

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0670, by Councilor Ness, authorizing the city to lease antenna space on the Chester Bowl ski jump structure to Northern PCS Services, LLC, for a consideration of \$6,000 per year, was introduced for discussion.

Councilor Ness expressed his preference that there be a small building on the site to allow multiple carriers and reduce the noise generated from these units.

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

Denny Nelson, representing the applicant, reviewed the background of his company, and stated they would support construction of a small building to house other carriers and reduce the noise.

Councilors discussed the merits of the building being landscaped to not be as intrusive as one that has no greenery around it, concern over security and in general, how the city negotiates these types of uses and what the citizens give up.

Councilor Hogg moved to amend the resolution by adding after the words, "said money to be," the words, "used for maintenance and improvement for the Chester Park ski jump and be," which motion was seconded and failed.

Councilor Fena moved to amend the resolution by adding after the words "said money to be," the words "used for maintenance and improvement for the Chester Park recreational area and be," which motion was seconded and unanimously carried.

Resolution 00-0670, as amended, was adopted as follows:

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 00-1010-28, leasing to Northern PCS Services, LLC, a space on the Chester Bowl ski jump for installation of communications antennas and equipment for a consideration of \$6,000 per year; said money to be used for maintenance and improvement for the Chester Park recreational area, and be deposited in General Fund 100-015-1515-4610.

Resolution 00-0670, as amended, was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 00-1010-29, leasing to Northern PCS Services, LLC, a space on the Woodland water tower and adjacent pump house for installation of communications antennas and equipment for a consideration of \$16,200 per year; said money to be deposited in Water Fund No. 510.

Resolution 00-0671 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

At this time, 11:28 p.m., Councilor Stover moved to suspend the rules to extend the meeting until 11:45 p.m., which motion was seconded and unanimously carried.

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Resolution 00-0678, by Councilor Eckenberg, awarding contract to KBJR News 6 for an Energy Wise media campaign, in the amount of \$14,834.43, was introduced for discussion.

Councilor Stenberg moved to amend the resolution by deleting the words, "accordance with specifications on its low specification bid of \$14,834.43, terms net 30, FOB destination," and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

adding in its place the words, "an amount not to exceed \$14,834.43," which motion was seconded and unanimously carried.

Resolution 00-0678, as amended, was adopted as follows:

BY COUNCILOR ECKENBERG:

RESOLVED, that KBJR NEWS 6 be and hereby is awarded a contract for furnishing an energy wise media campaign for the public works and utilities department in an amount not to exceed \$14,834.43, payable out of Home Energy Conservation Fund 555, Dept./Agency 950, Object 5441.

Resolution 00-0678, as amended, was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0673, by Councilor Stover, authorizing an agreement between the city of Duluth, TB Partnership and Jennifer M. Huntley for the construction and assessment of an eight inch PVC sewer main in North Seventh Avenue west from Second Alley to approximately 75 feet northerly, was introduced for discussion.

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At this time, 11:44 p.m., Councilor Stenberg moved to suspend the rules to extend the meeting until 11:50 p.m., which motion was seconded and unanimously carried.

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

Jennifer Huntley stated that irregardless of how the council acts on this resolution, she felt that she has been ignored in getting the public records that she has requested regarding the sewer extension that affects her and that she felt threatened by the means used to make her to sign this agreement.

Tom Allnew expressed his opinion about privileged classes.

Duane Lasley, building official, reviewed the past history of this situation, noting the deadlines that were set.

The administration stated that documents that Ms. Huntley requested, if public and in existence, will be provided to her.

Resolution 00-0673 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth, Jennifer M. Huntley and TB Partnership for the purpose of constructing an eight inch PVC sewer main in North Seventh Avenue West from Second Alley to 75 feet northerly and assessing the cost of said project among the parties to the contract; said agreement filed as Public Document No. 00-1010-30.

Resolution 00-0673 was unanimously adopted.

Approved October 10, 2000

GARY L. DOTY, Mayor

- - -

At this time, 11:48 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:55 p.m., which motion was seconded and unanimously carried.

- - -

Resolution 00-0652, by Councilor Stenberg, amending Resolution 00-0362 authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, was introduced for discussion.

To Mr. Winson's request, Councilor Stenberg moved to table the resolution, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

00-034 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,530,000 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.

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BY COUNCILOR HOGG

00-035 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$570,000 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 STEWART

00-038 - AN ORDINANCE ESTABLISHING A ONE YEAR NONRESIDENTIAL DEVELOPMENT MORATORIUM IN THE MINNESOTA POINT AREA.

- - -

BY PRESIDENT GILBERT

00-036 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ADJACENT TO GARFIELD AVENUE TO DULUTH SEAWAY PORT AUTHORITY FOR THE UPS EXPANSION PROJECT FOR \$13,800.

- - -

BY PRESIDENT GILBERT

00-037 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LINCOLN PARK TO JO-ED PARTNERS FOR \$22,500.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STOVER

00-033 (9461) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TWO PERMANENT HIGHWAY EASEMENTS AND ONE TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO CONGDON BOULEVARD TO ST. LOUIS COUNTY.

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

- - -

BY COUNCILOR STENBERG

00-027 (9462) - AN ORDINANCE AMENDING CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADOPT THE INTERNATIONAL PROPERTY MAINTENANCE CODE, AS AMENDED, AS THE HOUSING CODE OF THE CITY.

Councilor Stenberg moved to amend sections 6 and 11 of the ordinance to read as follows:

"Section 6. That Section 29A-3 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-3. Inspections; enforcement; fees.

(a) For the purposes of attaining uniform acceptable housing standards in the city and enforcing this Chapter the building official is hereby authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m. all dwellings, dwelling units, housekeeping units, rooming units and premises. The building official, prior to making such inspection, shall inform the owner or their agent of the dwelling or dwelling units, housekeeping units, rooming units or premises to be inspected of the date and time of the inspection by letter postmarked not less than 96 hours prior to the time such inspection is made. After written notice has been given, the owner or occupant of such dwelling, dwelling unit, housekeeping unit or rooming unit, or the person in charge thereof, shall give the building official free access to such dwelling, dwelling unit, housekeeping unit or rooming unit and its premises, during such time, for the purpose of such inspection, examination or survey; provided, that such inspection, examination or survey shall not have for its purpose the harassment of such owner or occupant and that such inspection, examination or survey shall be made so as to cause the least amount of inconvenience to the owner or occupant, consistent with an efficient performance of the duties of the building official; provided, that nothing in this Section shall be construed to prohibit the entry of the building official:

(1) At any time when in the opinion of the building official an actual emergency tending to create an immediate danger to public health and safety exists; or

(2) At any time when such inspection, examination or survey may be requested by the owner or occupant;

(b) When an order to correct a condition constituting a violation of this Chapter has been issued, the building official is hereby authorized to enter and reinspect all dwellings, dwelling units, housekeeping units, rooming units and premises for the purpose of determining compliance with the mandates of such order. The reinspection shall be made under the direction of the building official, by the building official, or by a team composed of public officers as deemed appropriate under the circumstances by the building official. The owner or occupant of the dwelling, dwelling unit, housekeeping unit and rooming unit, or the person in charge thereof, shall give free access to such dwelling, dwelling unit, housekeeping unit or rooming unit and its premises for the purpose of such inspection, examination or survey;

(c) Every occupant of a dwelling, dwelling unit or housekeeping unit shall give the owner thereof, or the owner's agent or employee, access to any part of such dwelling or dwelling unit, housekeeping unit or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Article or any lawful order issued pursuant to the provisions of this Article;

(d) There shall be no charge on inspections made in response to complaints. Fees for licensing inspections and other inspections shall be established, from time to time, by resolution of the council. Fees for licensing inspections and other inspections shall be established, from time to time, by resolution of the council."

"Section 11. That Section 29A-29 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-29. Licenses--application, procedure.

(a) All licenses shall be issued by the building official. Applications for licenses shall be made by the owner or manager of the dwelling to the building official upon forms provided by such official, and such applications shall be accompanied by the required

license fee. Applications for renewals of licenses and licenses for new dwellings shall be made at least 60 days prior to the time the current license will expire or the units will be offered for rent. Upon receipt of a completed application and fees the building official shall issue a temporary license permitting the temporary rental of the dwelling until such dwelling has been inspected by the building official. New dwellings, dwelling units, housekeeping units, rooming units or rental units which comply with the State Building Code shall be issued a license upon completion of construction inspections, issuance of a certificate of occupancy and receipt of a completed application and fees by the building official. Buildings which comply with the State Building Code and have been completed and certified for occupancy by the building official within one year of the certification of occupancy and receipt of a completed application and fees by the building official shall also be issued a license for the initial licensing period without further inspection. All other multiple dwellings, rooming houses and rental units shall be inspected before a license is issued. If the inspection by the building official discloses that there are violations in the building, the temporary license may be extended for a reasonable period of time, not to exceed 120 days, so that the violations can be corrected and the building reinspected by the building official. The building official shall not extend a temporary license more than twice. No license shall be issued unless the premises or portions of the premises to be licensed have been found by the building official to comply with the provisions of this Chapter and all other applicable ordinances of the city. If only a portion of a building is licensed, no unlicensed portion shall be rented. Renting any unlicensed portion of a building shall result in revocation of the license and issuance of a notice to vacate the building;

(b) If, after issuance of a temporary license for an establishment, the building official is denied access to such establishment, or any portion thereof, at any reasonable time while attempting to inspect the premises, the building official may revoke such temporary license upon written notice to the applicant, subject to the applicant's right to appeal as provided in this Article,"

which motion was seconded and unanimously carried.

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At this time, 11:57 p.m., Councilor Ness moved to suspend the rules to extend the meeting until Midnight, which motion was seconded and unanimously carried.

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A motion was made, seconded and carried to suspend the rules to hear a speaker on the ordinance.

Tom Allnew suggested that if the council passed this ordinance they would regret it forever.

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

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The meeting was adjourned at 11:59 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9461

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TWO
PERMANENT HIGHWAY EASEMENTS AND ONE TEMPORARY

CONSTRUCTION EASEMENT ADJACENT TO CONGDON BOULE-
VARD TO ST. LOUIS COUNTY.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby grants and conveys two permanent and one temporary easement for highway purposes to St. Louis County, Minnesota in the form of Public Document Nos. 00-1010-31(a) and (b), over the following described land in St. Louis County, Minnesota:

All that part of Lots one (1), two (2) and three (3) and of the Southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4) of Section Nineteen (19), in Township Fifty-one (51), north of Range Twelve (12), west of the Fourth Principal Meridian, described as follows: Commencing at the northwest corner of said Lot two (2) of Section Nineteen (19); thence easterly twenty-four hundred thirty-five (2,435) feet along the north line of said Lots two (2) and one (1) to point of beginning; thence southwesterly eight hundred ninety-five (895) feet, at angle of one hundred twenty-eight (128) degrees and six (6) minutes to the right; thence southwesterly twenty-six hundred eighty-two and sixty-seven one-hundredths (2,682.67) feet on a curve to the left, with a radius of ninety-one hundred seventy-two and thirty-nine one-hundredths (9,172.39) feet; thence southwesterly eight hundred eighteen and five-tenths (818.5) feet, tangent to last described curve; thence southwesterly eleven hundred fifty-eight and thirty-three one-hundredths (1,158.33) feet on a curve to the right, with a radius of twenty-eight hundred sixty-four and ninety-three one-hundredths (2,864.93) feet; thence southwesterly seventy (70) feet tangent to last described curve, to the west line of said Lot three (3); thence southerly one hundred eighty-two (182) feet, more or less, along the west line of said Lot three (3) to the water line of Lake Superior; thence northeasterly fifty-nine hundred forty-two (5,942) feet, more or less, along the water line of Lake Superior to the north line of said Lot one (1) thence westerly two hundred one (201) feet, more or less, along the north line of said Lot one (1) to point of beginning; containing 19.761 acres, more or less;

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 northwesterly of a line which lies 100.00 feet southeasterly of the following described line:

Commencing at the southeast corner of Lot 19, Block 2, Greenwood Beach, located within Section Nineteen (19), Township Fifty-one (51), Range Twelve (12) West; thence south 56 degrees 26 minutes 43 seconds east a distance of 50.00 feet to a point on centerline in CSAH 61; thence northeasterly along a tangential curve, concave to the southwest with a radius of 7,639.44 feet and a central angle of 00 degrees 03 minutes 35 seconds, a distance of 7.98 feet to the point of beginning; thence continuing northeasterly along a tangential curve, concave to the southwest with a radius of 7,639.44 feet and a central angle of 1 degree 21 minutes 00 seconds, a distance of 180.00 feet, and said line there terminating.

Said permanent easement contains approximately 0.187 acres of additional highway right-of-way.

And as shown on Exhibit A (Public Document No. 00-1010-31(a)); and

A permanent easement for highway purposes over, under and across that part of the above described property lying northwesterly of a line which lies 100.00 feet southeasterly of the following described line:

Commencing at the Northeast Corner of Lot 14, Block 4, Greenwood Beach, located within Section Nineteen (19), Township Fifty-one (51), Range Twelve (12) West; thence North 54 degrees 45 minutes 06 seconds west a distance of 50.00 feet to a point on centerline in CSAH 61;

thence northeasterly along a tangential curve, concave to the southwest with a radius of 7,639.44 feet and a central angle of 00 degrees 24 minutes 53 seconds, a distance of 55.31 feet to a point hereinafter designated as "Point A"; thence continuing northeasterly along a tangential curve, concave to the southwest with a radius of 7,639.44 feet and a central angle of 00 Degrees 45 minutes 00 seconds, a distance of 100.00 feet to the point of beginning; thence continuing northeasterly along a tangential curve, concave to the southwest with a radius of 7,639.44 feet and a central angle of 00 degrees 45 minutes 00 seconds, a distance of 100.00 feet, and said line there terminating.

Said permanent easement contains approximately 0.105 acres of additional highway right-of-way; and

A temporary easement for highway construction purposes over, under and across that part of the first above-described property lying northwesterly of a line which lies 120.00 feet southeasterly of the following described line:

Beginning at Point A in the above described permanent easement; thence northeasterly along a tangential curve, concave to the southwest with a radius of 7,639.44 feet and a central angle of 2 degrees 37 minutes 30 seconds, a distance of 350 feet, and said line there terminating.

Said temporary easement contains approximately 0.432 acres and shall expire on December 31, 2001.

And as shown on Exhibit B (Public Document No. 00-1010-31(b)).

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 19, 2000)

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

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

Nays: None -- 0

Passed October 10, 2000
Approved October 10, 2000
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9462

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 29A OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADOPT THE INTERNATIONAL PROPERTY MAINTENANCE CODE, AS AMENDED, AS THE HOUSING CODE OF THE CITY.

The city of Duluth does ordain:

Section 1. That Section 29a-1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-1. IPMC adopted.

The city of Duluth does hereby adopt by reference the year 2000 edition of the International Property Maintenance Code, as hereinafter amended pursuant to this ordinance, as the Housing Code of the city of Duluth.

Section 2. That the year 2000 edition of the International Property Maintenance Code adopted by this ordinance is hereby modified by deleting the following sections therefrom: sections 103.2; 103.3; 103.5; 108.6; 111.2 through 111.8; 302.4; 502.3; 502.4; 502.4.1; and 503.3.

Section 3. That the year 2000 edition of the International Property Maintenance Code adopted by this ordinance is hereby amended by modifying the following-denominated sections thereof to read as hereinafter set forth:

101.1 Title. For the purposes of this article, these regulations shall be known as the Property Maintenance Code of the City of Duluth, hereinafter referred to as this Code.

101.2 Scope. The provisions of this Code shall apply to all existing residential structures and premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

102.2 Maintenance. Equipment, systems, devices and safe-guards required by this Code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. Equipment, systems, devices and safe guards shall not be shut off except as required to facilitate repairs. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this article to be removed from or shut off from or discontinued for any occupied dwelling let or occupied, except for such temporary interruption as may be necessary while repairs or alterations are in progress. The requirements of this Code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Minnesota State Building Code. Nothing in this Code shall be construed to cancel, modify or set aside any of the provisions of Chapter 50 of the Duluth City Code, 1959, as amended regulating zoning.

102.7 Referenced codes and standards. The codes and standards referenced in this Code shall be those that are listed in Chapter 8 and considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and the referenced standards, the provisions of the referenced standards shall apply.

102.8 Requirements not covered by Code. Requirements for the strength, stability or proper operation of an existing fixture, structure or equipment or for the public safety, health and general welfare, not specifically covered by this Code, shall be established by the code official, based on appropriate codes pertaining to such existing fixture, structure or equipment. Said determinations of the code official shall be communicated to the owner of the affected property or his or her designated agent in writing upon their request.

103.1 Enforcement. Responsibility for enforcement of this Code shall be vested in the city's building official's office. The city's building official is hereby appointed as the code official for the purposes of this Code and employees acting under his or her direction and control shall be deemed to be deputy code officials.

103.6 Fees. The fees for activities and services performed by the department carrying out its responsibilities under this Code shall be established pursuant to Section 29A-3 of the Duluth City Code, 1959, as amended.

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this Code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special and individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modification, including said reasons and said findings, shall be recorded in writing and entered in the department files.

106.3 Prosecution of violation. Subject to applicable court rules, the charging authority may, in the exercise of his or her discretion, charge any person failing to comply with a notice of violation or order served in accordance with Section 107 with an ordinance violation, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official may institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of the Code or of the order or direction made pursuant thereto.

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure may be condemned pursuant to the provisions of this Code.

108.5 Prohibited occupancy. Any occupied structure condemned and so designated and placarded by the code official, shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner of any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this Code.

SECTION 110

Demolition

110.1 General. The code official may order the owner of any premises upon which is located any structure, which in the Code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

110.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code official may cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal may be collected by any available legal means including, but not limited to, being charged against the real estate upon which the structure is located, in which case such charges shall be a lien upon such real estate.

Section 111

Means of Appeal

111.1 Application for Appeal. Any person directly affected by a decision of the Code official or a notice or order issued under this Code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed as provided for in Section 10-5 of the Duluth City Code, 1959, as amended.

SECTION 201

GENERAL

201.5 Parts. Whenever the words “dwelling unit”, “dwelling”, “premises”, “building”, “rooming house”, “rooming unit”, “housekeeping unit”, or “story” are stated in this Code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202

GENERAL DEFINITIONS

202.1 Definitions. For the purposes of this Chapter, the following terms shall have the meanings hereinafter ascribed to them:

Approved. Approved by the Code official.

Basement. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

Bathroom. A room containing plumbing fixtures including a bathtub or shower.

Bedroom. Any room or space used or intended to be used for sleeping purposes.

Code Official. The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

Condemn. To adjudge unfit for occupancy.

Dwelling. Any building or portion thereof which is designed for or used for residential purposes; provided, that temporary housing as hereinafter defined shall not be regarded as a dwelling.

Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Exterior Property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

Floor area-dwelling unit. The area inside the exterior or fire walls of a building, exclusive of vent shafts, courts and public areas.

Floor area-room. The net area within the finished walls of a room.

Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Guard. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

Habitable Space. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

Hotel. Every building or structure kept, used, maintained, advertized or held out to the public to be a place where sleeping or rooming accommodations are furnished to the general public for a shorter period of time than one week, with or without meals.

Housekeeping Unit. A room or group of rooms forming a single habitable unit equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such unit, a toilet, lavatory and bathtub or shower.

Imminent Danger. A condition which could cause serious or life threatening injury or death at any time.

Infestation. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

Labeled. Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

Landlord. An owner, agent of an owner or other person who rents or leases a dwelling unit, housekeeping unit or rooming unit to a tenant under a rental agreement.

Let for Occupancy or Let. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, housekeeping unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

Multiple dwelling. A building designed for or occupied exclusively by three or more families.

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Occupant. Any individual living or sleeping in a building, or having possession of a space within a building.

Openable Area. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person. An individual, corporation, partnership or any other group acting as a unit.

Plumbing. All of the following supplied facilities and equipment: Gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures together with all connections to water, sewer or gas lines.

Premises. A lot, plot or parcel of land including any structures thereon.

Rental agreement. An oral or written agreement covering a definite or indefinite period of time of one week or more between a landlord and a tenant for the renting or leasing of a dwelling, dwelling unit, housekeeping unit or rooming unit.

Rental unit. Any dwelling unit, housekeeping unit or rooming unit that is rented or leased or offered for rent or lease under a rental agreement.

Rooming house. Any dwelling or any part of any dwelling housing five or more roomers but not including licensed nursing homes operated under the Laws of Minnesota.

Rooming Unit. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Rubbish. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Solid Waste. Garbage, refuse or any other discarded solid organic or inorganic materials.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet (1829 mm) above grade, as defined herein, for more than 50 percent of the total perimeter or is more than 12 feet (3658 mm) above grade, as defined herein, at any point, such usable or unused under-floor space shall be considered as a story.

Story, First. The lowest story in a building that qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet (1219 mm) below grade, as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet (2438 mm) below grade, as defined herein, at any point.

Strict Liability Offense. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

Structure. That which is built or constructed or a portion thereof.

Supplied. Paid for, furnished or provided by or under the control of the owner or operator.

Temporary Housing. Any tent, trailer or structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Toilet Room. A room containing a water closet or urinal but not a bathtub or shower.

Ventilation. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Water and Sewer System. Whenever the phrase "water and sewer system approved by the Code official" appears in the Code, it shall be defined to include private well, public water utility mains, private septic tanks, sewage disposal systems and public sewer mains.

Workmanlike. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without adjacent work.

Yard. An open space on the same lot with a structure.

SECTION 301

GENERAL

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

SECTION 302

EXTERIOR PROPERTY AREAS

302.7.1 Gates. Gates which are required to be self-closing and self-latching in accordance with the Minnesota state building Code shall be maintained such that the gate will positively close and latch when released from a still position of 6 inches (152 mm) from the gatepost.

303.14 Insect screens. During the period from May 15 to October 15, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

SECTION 304
INTERIOR STRUCTURE

304.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in sanitary condition. Every occupant shall keep that part of the structure which such occupant occupies or controls in a clean and sanitary condition. Every owner of a structure containing a rooming house, a dormitory, two or more dwelling units, rooming units or housekeeping units shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

304.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected. See Section 503.4 for additional requirements for toilet room floor surfaces.

SECTION 305
RUBBISH AND GARBAGE

305.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage in accordance with the provisions of this Section and Chapters 24, 28 and 30 of the Duluth City Code, 1959, as amended.

SECTION 404
OCCUPANCY LIMITATIONS

404.1 Privacy. Dwelling units, rooming units, housekeeping units and dormitory units shall be arranged to provide privacy and be separate from adjoining spaces.

404.3 Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

Exceptions:

(a) In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.

(b) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

(c) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

(d) Dwelling units approved at 6 feet 9 inches under previous Code editions prior to the adoption of this Code.

SECTION 502
REQUIRED FACILITIES

502.2 Rooming houses and housekeeping units. At least one water closet, lavatory and bathtub or shower shall be provided for each four rooming or housekeeping units.

SECTION 503
TOILET ROOMS

503.2 Location. Toilet rooms and bathrooms serving dwelling units, rooming units, housekeeping units or dormitory units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

SECTION 602
HEATING FACILITIES

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms using -21° F (-29 ° C) as the winter outdoor design temperature. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

602.3. Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, housekeeping unit, dormitory or guest room on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to May 15 to maintain a temperature of not less than 68° F (20° C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below -21° F (-29 ° C), maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

602.4. Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 15 to May 15 to maintain a temperature of not less than 68° F (20° C) during the period the spaces are occupied.

Exceptions:

(a) Processing, storage and operation areas that require cooling or special temperature conditions.

(b) Areas in which persons are primarily engaged in vigorous physical activities.

SECTION 604
ELECTRICAL FACILITIES

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the ICC Electrical Code. Dwelling units shall be served by a three-wire, 120-240 volt, single phase electrical service having a rating of not less than 60 amperes.

Exception: Legally installed, existing 50 ampere services for dwelling units in dwellings containing three or more units.

CHAPTER 7
FIRE SAFETY REQUIREMENTS

702.4 Emergency escape Openings. Every sleeping room located below the third story in residential and group home occupancies shall have at least one openable window or exterior door approved for emergency egress or rescue, or shall have access to not less than two approved independent exits. Required emergency and escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates, or

similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the Minnesota State Building Code and such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening. Where such bars, grilles, grates, or similar devices are installed in existing buildings, smoke detectors shall be installed in accordance with Section 704.

CHAPTER 8
REFERENCED STANDARDS

800 General References. When ever this Code refers to the International Building Code, the ICC Electrical Code, the International Fire Code, the International Mechanical Code, or the International Plumbing Code, such references shall be deemed to the comparable applicable Code as adopted by the State of Minnesota. Whenever this Code shall refer to the International Zoning Code, such references shall be deemed to be to Chapter 50 of the Duluth City Code, 1959, as amended.

Section 4. That the Year 2000 Edition of the International Property Maintenance Code adopted by this Ordinance is hereby amended by adding the following denominated sections thereof which read as follows:

108.4.1 Placard removal. The Code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code official shall be subject to the penalties provided by this Code.

303.18 Building security. Doors, windows or hatchways for dwelling units, rooming units or housekeeping unit shall be provided with devices designed to provide security for the occupants and property within.

303.18.1 Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented or leased shall be equipped with a dead bolt lock meeting specifications set forth herein. Such dead bolt locks shall be operated only by the turning of a knob or a key and shall have a lock throw of not less than one inch. For the purpose of this section, a sliding bolt shall not be considered an acceptable dead bolt lock. Such dead bolt locks shall be installed according to manufacturers specifications and maintained in good working order. All dead bolt locks required by this section shall be designed and installed in such a manner so as to be operable from the inside of the dwelling unit or rooming unit without the use of a key, tool, combination or any other special knowledge or effort.

303.18.2 Windows. Operable windows located in whole or in part within 12 feet above ground level or a walking surface below providing access to a dwelling unit, rooming unit and housekeeping unit that is rented or leased shall be equipped with window sash locking devices.

303.18.3 Basement hatchways. Basement hatchways providing access to a dwelling unit, rooming unit and housekeeping unit that is rented or leased shall be equipped with a device that secures the unit from unauthorized entry.

503.4 Floor surface. Every toilet room floor surface and bathroom floor surface shall be constructed and maintained to be impervious to water and to permit such floor to be easily kept in a clean and sanitary condition.

702.5 Handrails. Every exterior and interior flight of means of egress stairs serving any building or portion thereof having more than two risers shall have a handrail on at least one side of the stair. Handrails shall comply with the requirements of the state building Code.

702.6 Guards. Every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have

guards. Guards shall not be less than 36 inches (914 mm) high above the floor of the landing, balcony, porch, deck, ramp or other walking surface.

Exceptions:

(a) The top of guardrails for stairways, exclusive of their landings, may have a height as specified in section 702.5 for handrails.

(b) Existing guards a minimum of 30 inches (762mm) high above the floor of the landing, balcony, porch, deck, ramp or other walking surface that were legally installed in accordance with a previous building Code that are in good repair.

Section 5. That Section 29A-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-2. Applicability of article.

This Article shall apply to dwellings, dwelling units, housekeeping units, rooming units, rental units and premises located within the city, except that it shall not apply to suites and sleeping rooms in hotels which are let to the public for periods of less than one week nor to common areas in such hotels.

Section 6. That Section 29A-3 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-3. Inspections; enforcement; fees.

(a) For the purposes of attaining uniform acceptable housing standards in the city and enforcing this Chapter the building official is hereby authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m. all dwellings, dwelling units, housekeeping units, rooming units and premises. The building official, prior to making such inspection, shall inform the owner or their agent of the dwelling or dwelling units, housekeeping units, rooming units or premises to be inspected of the date and time of the inspection by letter postmarked not less than 96 hours prior to the time such inspection is made. After written notice has been given, the owner or occupant of such dwelling, dwelling unit, housekeeping unit or rooming unit, or the person in charge thereof, shall give the building official free access to such dwelling, dwelling unit, housekeeping unit or rooming unit and its premises, during such time, for the purpose of such inspection, examination or survey; provided, that such inspection, examination or survey shall not have for its purpose the harassment of such owner or occupant and that such inspection, examination or survey shall be made so as to cause the least amount of inconvenience to the owner or occupant, consistent with an efficient performance of the duties of the building official; provided, that nothing in this Section shall be construed to prohibit the entry of the building official:

(1) At any time when in the opinion of the building official an actual emergency tending to create an immediate danger to public health and safety exists;
or

(2) At any time when such inspection, examination or survey may be requested by the owner or occupant;

(b) When an order to correct a condition constituting a violation of this Chapter has been issued, the building official is hereby authorized to enter and reinspect all dwellings, dwelling units, housekeeping units, rooming units and premises for the purpose of determining compliance with the mandates of such order. The reinspection shall be made under the direction of the building official, by the building official, or by a team composed of public officers as deemed appropriate

under the circumstances by the building official. The owner or occupant of the dwelling, dwelling unit, housekeeping unit and rooming unit, or the person in charge thereof, shall give free access to such dwelling, dwelling unit, housekeeping unit or rooming unit and its premises for the purpose of such inspection, examination or survey;

(c) Every occupant of a dwelling, dwelling unit or housekeeping unit shall give the owner thereof, or the owner's agent or employee, access to any part of such dwelling or dwelling unit, housekeeping unit or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Article or any lawful order issued pursuant to the provisions of this Article;

(d) There shall be no charge on inspections made in response to complaints. Fees for licensing inspections and other inspections shall be established, from time to time, by resolution of the council. Fees for licensing inspections and other inspections shall be established, from time to time, by resolution of the council.

Section 7. That Section 29A-4 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-4. Service of notices and orders.

(a) Issuance; form of notice. Whenever the building official determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, notice of such alleged violation shall be given to the person responsible therefore, as hereinafter provided.

Such notice shall:

- (1) Be put in writing;
- (2) Include a statement of the points of noncompliance with this

Article;

(3) Allow a reasonable time for the performance of any act it requires. In determining a reasonable time for performance the building official shall consider along with all other pertinent factors the nature and extent of the work involved, the season of the year, and the existence of any immediate danger to public health and safety;

(4) Be served upon the owner or the owner's agent and the occupant as the case may require; provided, that such notice shall be deemed to be properly served upon such owner or agent and upon such occupant if a copy thereof is served personally, or if a copy thereof is sent by United States mail, postage prepaid, to the last-known address, or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice, or if a copy thereof is served by any other method authorized or required under the Laws of Minnesota;

(5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article;

(b) Notices served pursuant to this Section automatically become an order; exception. Any notice served pursuant to Subsection (1) of this Section shall automatically become an order if a written petition for a hearing is not filed in the office of the building official within 15 days after such notice is served. All orders shall be complied with; provided, that in the alternative, except for condition or

situation amounting to a condemnation order, the use of the premises may be discontinued as a place of human habitation;

(c) Issuance of emergency orders without notice. Whenever the building official finds that an emergency exists which requires the immediate action to protect the public health and safety, the building official may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency notwithstanding the other provisions of this Article. Such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

Section 8. The Sections 29A-6 through 29A-15 of the Duluth City Code, 1959, as amended, are hereby repealed in their entirety.

Section 9. That Section 29A-27 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-27. Definitions.

The definitions contained in Sections 201 and 202 of the year 2000 edition of the International Property Maintenance Code, as adopted by Section 29A-1 of this Chapter, shall apply to this Article.

Section 10. That Section 29A-28 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-28. License required.

No person, whether an owner, manager, agent or sublessor, shall operate or permit the operation of a dwelling, structure or rooming house or rent or lease or offer to rent or lease any rental unit unless such dwelling, structure, rooming house, housekeeping unit or rental unit has been granted a license from the building official as provided herein. No owner of any dwelling shall permit or allow any rental unit in such dwelling to be rented or leased unless such unit is licensed as provided herein. If, during the licensing period, the number of dwelling units in a dwelling or beds in a rooming house is increased, no person shall rent or cause to be rented such additional units or beds, or permit the same to be occupied, until the building official has inspected the premises and approved them for occupancy. If found to be renting or causing to be rented a dwelling, dwelling unit, housekeeping unit, rooming unit or rental unit without a proper license, an investigation fee as established by resolution of the city council shall be paid by the owner whether or not the dwelling, dwelling unit, housekeeping unit, rooming unit or rental unit is subsequently licensed.

Section 11. That Section 29A-29 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-29. Licenses--application, procedure.

(a) All licenses shall be issued by the building official. Applications for licenses shall be made by the owner or manager of the dwelling to the building official upon forms provided by such official, and such applications shall be accompanied by the required license fee. Applications for renewals of licenses and licenses for new dwellings shall be made at least 60 days prior to the time the current license will expire or the units will be offered for rent. Upon receipt of a completed application and fees the building official shall issue a temporary license permitting the temporary rental of the dwelling until such dwelling has been inspected by the building official. New dwellings, dwelling units, housekeeping units,

rooming units or rental units which comply with the State Building Code shall be issued a license upon completion of construction inspections, issuance of a certificate of occupancy and receipt of a completed application and fees by the building official. Buildings which comply with the State Building Code and have been completed and certified for occupancy by the building official within one year of the certification of occupancy and receipt of a completed application and fees by the building official shall also be issued a license for the initial licensing period without further inspection. All other multiple dwellings, rooming houses and rental units shall be inspected before a license is issued. If the inspection by the building official discloses that there are violations in the building, the temporary license may be extended for a reasonable period of time, not to exceed 120 days, so that the violations can be corrected and the building reinspected by the building official. The building official shall not extend a temporary license more than twice. No license shall be issued unless the premises or portions of the premises to be licensed have been found by the building official to comply with the provisions of this Chapter and all other applicable ordinances of the city. If only a portion of a building is licensed, no unlicensed portion shall be rented. Renting any unlicensed portion of a building shall result in revocation of the license and issuance of a notice to vacate the building;

(b) If, after issuance of a temporary license for an establishment, the building official is denied access to such establishment, or any portion thereof, at any reasonable time while attempting to inspect the premises, the building official may revoke such temporary license upon written notice to the applicant, subject to the applicant's right to appeal as provided in this Article.

Section 12. That Section 29A-30 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-30. Fees.

Fees for rental licenses shall be established by resolution of the city council.

Section 13. That Section 29A-32 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-32. Licenses--terms and conditions.

(a) Each license shall be displayed in a conspicuous place within the common way or entrance of the dwelling and shall state the name and address of the owner and the person or managing agency which is managing the dwelling. No license shall be transferred to another dwelling or rental unit;

(b) If there is a change in either ownership or management of a dwelling, the person or agency managing such dwelling prior to such change in ownership or management shall give written notice of the name and address of the new owner and/or manager to the building official;

(c) A new license shall be issued to the dwelling for the remainder of the license period with the name of the new manager and/or owner upon payment of the required fee and submission of all required application forms.

Section 14. That Section 29A-33 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-33. Inspections of licensed premises--suspensions.

(a) All premises licensed pursuant to this Article shall be made available for inspection by the building official at any reasonable time. If the building official

is denied access to any licensed premises, such official may suspend the license of the dwelling or rental unit upon written notice to the licensee, subject to the right to appeal as provided in this Article, and any such suspension shall remain in effect until inspection has been permitted;

(b) If, upon inspection of licensed rental units for which the license has been suspended, the building official finds that any rental unit does not comply with the provisions of this Article, or other applicable ordinances of the city, a written notice shall be served by the building official upon the licensee stating the nature of any violation and a reasonable time, not to exceed 90 days, in which the violations must be corrected or the affected premises vacated. At the end of said time, the building official shall reinspect the premises. If the premises are not vacated or the violations are not corrected, the building official may suspend the license of the dwelling or any rental units therein, subject to licensee's right of appeal as provided in this Article. The licensee may, after such suspension, pay a reinspection fee and request reinspection and reinstatement of the license with respect to the entire dwelling or to rental units within the dwelling not affected by the violation. If the building official inspects the premises and determines that the violations have been corrected, the license for the entire structure shall be reinstated upon payment of a reinstatement fee;

(c) In any case where the building official suspends a license pursuant to this Section, written notice of such suspension shall be served on the licensee and posted in a conspicuous place in the dwelling or rental unit, and both such notices shall order the vacation of the dwelling or rental unit within a reasonable time. After receipt of such notice, and if no appeal is taken within the period for appeals, it shall be unlawful for the licensee to rent or lease any rental unit or bed until the license for said unit is reinstated. Licensee shall, within ten days after receiving such notice of suspension, give notice in writing to the tenants stating the contents of the vacation order issued by the building official.

Section 15. That Section 29A-34 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-34. Notices.

No license shall be issued pursuant to this Section unless the applicant designates in writing to the building official at an address located in the city of Duluth where notices issued by the building official may be delivered. All notices issued by the building official regarding a particular license shall be sent by first class mail or personally delivered to the address specified by the licensee, and for purposes of this Article delivery by such means shall constitute service of such notice on the licensee.

Any person who receives an order from the building official denying, suspending or revoking a license may appeal such denial, suspension or revocation to the building appeal board under the procedures set forth in Section 10-5 of the Duluth City Code, 1959, as amended. Request for such appeal shall be made in writing to the building official within 15 days after the day the notice was served. If an appeal is filed, no denial, suspension or revocation shall take effect until after the appeal is heard and determined as provided herein. The building official shall then set a time and place for such appeal to be heard and notify the appellant of said time and place. No appeal shall be set for hearing less than ten days or later than

40 days from the date the appeal is filed. At the hearing, appellant may be represented by counsel, may produce witnesses, and may testify in their own behalf. The building appeal board may administer oaths, take testimony and subpoena witnesses and papers at such hearing. After hearing all the evidence and arguments, and after due deliberation, the building appeal board shall affirm, reverse or modify the action of the building official. Notice of the building appeal board's decision shall be served on the appellant within 48 hours after such decision is rendered. Any action taken by the board shall be final.

Section 16. That Section 29A-35 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-35. Statement of purpose; scope.

It is the purpose of this Article to protect and promote the general health, safety and welfare of the citizens of Duluth by providing tenants an effective remedy against loss of heat, water, electricity, gas, security or basic fire and life safety. This Article shall apply to all units enumerated in Section 29A-2 of this Chapter which are rented or held out for rent to another.

Section 17. That Section 29A-36 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-36. Emergency conditions, loss of heat, water, electricity, etc.

(a) If, contrary to the rental agreement, the landlord fails to provide heat as required by Section 602 of the Code, adopted by Section 29A-1 above, running hot and cold water, electricity, gas or operable toilet or bathing facilities as required by law, the tenant may immediately notify the landlord and the building official, either orally or in writing, of the condition. The building official shall, as soon as possible thereafter, inspect the premises to ascertain whether such violation exists. If the building official finds the violation to exist, the building official shall immediately notify the landlord orally of the condition and cause written notice of the violation to be sent. If the landlord has not remedied the situation within 24 hours after receiving notice of the deficiency from the building official, the tenant may then correct the deficiency by paying a utility bill or causing the necessary repairs or corrections to be made, and may then deduct the amount of money actually used to correct the deficiency from future rent. All repairs made shall be made in conformance with applicable codes by persons who are licensed to perform the required work. In cases involving major repair or replacement of a heating plant, electric service, water service or sewer, where the apparent cost of the work exceeds \$500, the landlord shall have the right to approve the method of repair and to choose the contractor if, and only if, the landlord supplies temporary heat, water or electricity to the dwelling unit in accordance with this Chapter and if a written repair contract is signed within seven days after notice is given by the building official;

(b) If the landlord fails to provide deadbolt locks or smoke detectors as required by law, the tenant may notify the landlord and the building official in accordance with Subsection (a) above and the building official shall inspect and notify the landlord of violations in accordance with said subsection. If the landlord fails to provide required deadbolt locks or smoke detectors within five days after receiving notice from the building official, the tenant may cause the corrections to be made and deduct the cost of such corrections from the rent as provided in said Subsection (a).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 18. This ordinance shall take effect on January 1, 2001. (Effective date: January 1, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 10, 2000
Approved October 10, 2000
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 23, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-1023-01 Dale F. Loushin, et al. (six signatures) submitting petition to construct an alley ditch below Kingston Street between 51st Avenue East and 52nd Avenue East for a stormwater conveyance to 52nd Avenue East storm sewer. -- Assessor

00-1023-21 Tom Allnew submitting communication regarding the International Property Maintenance Code (Ordinance 9462). -- Received

00-1023-22 The following submitting communications regarding the proposed one year nonresidential development moratorium in the Minnesota Point area (00-038-O): (a) Duluth airport authority; (b) Warren M. Howe; (c) Jan Karon; (d) Keith J. Stauber; (e) Marty Weintraub. -- Received

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REPORTS OF OFFICERS

00-1023-02 Assessor submitting letters of sufficiency regarding petitions to: (a) Vacate that portion of West Second Street adjoining Lots 8 and 9, Block 1, Oneota Industrial Park; (b) Vacate 66th Avenue West between West Gate Boulevard and Petre Street adjacent to Lots 1-8, Block 4, West Gate Division, and the alley between Block 7 and Block 3, West Gate Division; (c) Construct an alley ditch below Kingston Street between 51st Avenue East and 52nd Avenue East for stormwater conveyance to 52nd Avenue East storm sewer. -- Received

00-1023-03 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Regents of the University of Minnesota on February 14 and February 24, 2001; (raffles); (b) Rotary Club of Duluth on April 4, 2001 (raffle); (c) St. Benedict's Church on November 11, 2000 (bingo). -- Received

00-1023-23 Community development and housing division manager submitting 2001 CDBG funding requests. -- Received

00-1023-04 Engineering division submitting monthly project status report of October 1, 2000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-1023-05 Commission on disabilities minutes of September 6, 2000, meeting. -- Received

00-1023-06 Duluth housing commission minutes of: (a) June 8 (includes Duluth housing trust fund board); (b) September 28, 2000, meetings. -- Received

00-1023-07 Duluth/North Shore sanitary district board minutes of October 3, 2000, meeting. --Received

00-1023-08 Duluth transit authority: (a) Financial statement summary of August 2000; (b) Minutes of August 30, 2000, meeting. -- Received

00-1023-09 Parking commission minutes of June 6, 2000, meeting. -- Received

00-1023-10 Planning commission minutes of September 12, 2000, meeting. -- Received

00-1023-11 Seaway Port authority of Duluth minutes of August 23, 2000, meeting. -- Received

00-1023-12 Tree commission minutes of September 12, 2000, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah requested that the signal lights be uniform throughout the city allowing the same amount of time for people to cross the street at the intersection.

- - -

KL Lewis voiced concern on safety issues throughout the city.

- - -

RESOLUTIONS TABLED

President Gilbert moved to remove Resolution 00-0684, requiring the completion of an EAW for the Westgate project; and Resolution 00-0685, denying the petition for an EAW for the Westgate project, from the table, which motion was seconded and unanimously carried.

President Gilbert moved to return both resolutions to the administration, which motion was seconded and unanimously carried.

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Councilor Stenberg moved to remove Resolution 00-0652, amending Resolution 00-0362 authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, from the table, which motion was seconded and unanimously carried.

Administrative Assistant Winson requested the council to remove Parcel 7 from the resolution until a hearing is held before the city council.

Councilor Hogg moved to split the resolution to reflect Mr. Winson's request, which motion was seconded and unanimously carried.

Resolution 00-0652(a), without Parcel 7, was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcels of property, grounds of condemnation being the buildings are structurally unsound, open to trespass and a menace to the neighborhood; and

WHEREAS, notices of condemnation were served as follows:

Parcel 1 - 118-1/2 Park Avenue, aka north 28 feet x 80 feet including five feet of vacated avenue adjoining Lot 4, Block 70, Myers Rearr., Block 70, Duluth Proper Second Division, by certified mail on Donald D. Soderlund, 118-1/2 Park Avenue, Duluth, MN 55806, signed by Donald D. Soderlund on June 23, 2000; and

Parcel 2 - 119 Park Avenue, aka south 30 feet x 80 feet including five feet of vacated avenue adjoining Lot 8, Block 70, Myers Rearr., Block 70, Duluth Proper Second Division, by certified mail on John Adams, Park Point Manor, 1601 St. Louis Avenue, Duluth, MN 55802, signed for John Adams by Jessica Wahlsten, care giver, on June 22, 2000, and by legal notice in the Duluth News-Tribune to James Adams, moved, left no address, address unknown, on July 13 and 14, 2000; and

Parcel 3 - 211 South 16th Avenue East, aka southerly 30 feet of Lots 7 and 8, Block 39, Endion Division, by certified mail on Todd Judnick, 1632 East Fourth Street, Duluth, MN 55812, signed by T. Judnick on July 3, 2000, and by legal notice in the Duluth News-Tribune to Doris J. Erkenbrack and David J. Roper, address unknown, on July 13 and 14, 2000; and

Parcel 4 - 5812 Elinor Street, aka easterly 27 feet of Lots 1 and 2, Block 72, West Duluth Sixth Division, by certified mail on Scott Occhino, land staff appraiser, 607 Government Services Center,

320 West Second Street, Duluth, MN 55802, signed by Lynn Kamphendal, mail room, on June 28, 2000; and

Parcel 5 - 114 East Seventh Street, aka west 1/2 of Lot 24, Duluth Proper First Division, East Seventh Street, by certified mail on Scott Occhino, land staff appraiser, 607 Government Services Center, 320 West Second Street, Duluth, MN 55802, signed by Lynn Kamphendal, mail room, June 22, 2000; and

Parcel 6 - 2706-08 West Third Street - garage only - aka east 38 feet of Lot 436, Block 84, Duluth Proper Second Division, by certified mail on William C. Drake and Joann Stevens, 2708 West Third Street, Duluth, MN 55806, signed by William C. Drake on December 17, 1998.

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever proper and legal 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, cost to city, if any, to be paid from budgeted amount in Fund 100-020-1201-5453.

Resolution 00-0652(a) was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to table Resolution 00-0652(b) (Parcel 7 only), which motion was seconded and unanimously carried.

- - -

UNFINISHED BUSINESS

BY COUNCILOR STEWART:

RESOLVED, that Rule 1(a) of the standing rules of the Duluth City Council be amended to provide that all regular Duluth City Council meetings shall begin at 7:00 p.m., rather than 7:30 p.m.

RESOLVED FURTHER, that the amendment to Rule 1(a) shall take effect December 1, 2000.

Resolution 00-0695 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement containing the terms and in substantially the form of the contract on file with the clerk as Public Document No. 00-1023-13, which agreement amends the collective bargaining agreement currently in force.

Resolution 00-0728 was unanimously adopted.

Approved October 23, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 issuance of said license; and

WHEREAS, the Duluth City Council has no objection to the issuance of said license to transact the business of a currency exchange.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a license to conduct the business of a currency exchange at 101 East Superior Street to Cash Station, LLC, dba Money Xchange.

Resolution 00-0701 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, Pawn America Minnesota, LLC, has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 339 East Central Entrance; and

WHEREAS, the Duluth City Council has received a copy of the license application from the director of licensing of the department of commerce and can object to the issuance of said license; and

WHEREAS, the Duluth City Council has no objection to the issuance of said license to transact the business of a currency exchange.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a license to conduct the business of a currency exchange at 339 East Central Entrance to Pawn America Minnesota, LLC.

Resolution 00-0702 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

WHEREAS, the Duluth City Council has received 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 following organizations and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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	Date Application Filed
1. International Brotherhood of Electrical Workers	September 27, 2000
2. Duluth Art Institute	October 6, 2000

Resolution 00-0704 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Portman Recreation Association (Parent Get Together), 4601 McCulloch Street, for October 28, 2000, with Jim Heilig, manager.

Resolution 00-705 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license, for the period ending April 30, 2001, subject to departmental approvals and the payment of sales and property taxes:

AAD Temple, 201 East First Street.
Resolution 00-0706 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and on sale wine license, for the period ending April 30, 2001, and August 31, 2001, respectively, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Sigee's, LLP (Sigee's Restaurant), 3904 Grand Avenue, with Fred Doolittle, 50 percent owner and Brian Coulson, 50 percent owner.

Resolution 00-0707 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Billman Construction, Inc., be and hereby is awarded a contract for the filling of Slip #1 at Bayfront Festival Park for the city architect division in accordance with specifications on its low specification bid of \$93,375, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C602.

Resolution 00-0723 was unanimously adopted.
Approved October 23, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of operations manager for water and gas supply, which were approved by the civil service board on October 4, 1999, and which are filed with the city clerk as Public Document No. 00-1023-14, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said classification shall be 1115 to 1130, Pay Rate \$4,335 to \$5,594 per month.

Resolution 00-0655 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of chief engineer transportation, which were approved by the civil service board on November 2, 1999, and which are filed with the city clerk as Public Document No. 00-1023-15, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said classification shall be 1115 to 1130, Pay Rate \$4,335 to \$5,594 per month.

Resolution 00-0656 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

NEIGHBORHOOD ADVISORY COMMITTEE

Karen Erickson (parks and recreation commission) for a term expiring March 1, 2001, replacing Allen Willman.

Resolution 00-0719 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the city council hereby reappoints Thomas E. Grosser to the Seaway Port authority of Duluth for a term expiring October 10, 2006.

Resolution 00-0729 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the city of Duluth through the Duluth public library is hereby authorized to act as the fiscal agent for a grant from the Northland Foundation to the Fond du Lac's Center for American Indian Resources (CAIR) at no cost to CAIR to support the Book Time With Your Baby program, which grant agreement is on file in the office of the city clerk as Public Document No. 00-1023-16, said funds to be deposited in the General Fund 100-100-1704-4690.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0708 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that A.W. Kuettel and Associates be and hereby is awarded a contract for furnishing and delivering new roofs on the Arlington, Middle and Woodland pump stations and Harrison Community Club to be paid from Capital Improvement Fund 450, Agency 015, Object C002, \$7,015; and Utility Fund 510, Agency 900, Object 5401, \$56,555.

Resolution 00-0676 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Roberts-Hamilton Company be and hereby is awarded a contract for furnishing and delivering gas appliance/furnace repair parts for the gas service division in accordance with specifications on its low specification bid of \$31,606.88, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 00-0718 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Rovanco Piping System be and hereby is awarded a contract for furnishing and delivering hot water supply and return lines equipment for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$41,515.17, terms net 30, FOB job site, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1490, Object 5580.

Resolution 00-0722 was unanimously adopted.
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete design engineering services; and
WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design phase and contract administration for the rehabilitation of bridge number L8498 over LaMaggie Creek at 39th Avenue West and Eighth Street; and
WHEREAS, L.H.B. Architects and Engineers, Inc., has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$20,004, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2111, Object 5530.

Resolution 00-0715 was unanimously adopted.
Approved October 23, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete design engineering services; and
WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design phase for the rehabilitation of bridge number L8505 over Amity Creek on Seven Bridges Road; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$23,892, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2110, Object 5530.

Resolution 00-0716 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for reconstruction of brick arch on Brewery Creek tunnel, located at Fifth Street Alley for the city engineering division in accordance with specifications on its low specification bid of \$59,418.50, terms net 30, FOB job site, payable out of Stormwater Utility Fund 535, Dept./Agency 500, Organization 0505, Object 5533.

Resolution 00-0717 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a \$5,000 grant from the federal emergency management agency and to execute the grant contracts filed as Public Document No. 00-1023-17, for the city of Duluth fire department's juvenile firesetter-exemplary practices program.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into Fund 210, Agency 030, Org. 2101, Revenue Source 4210.

Resolution 00-0696 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 00-0710, by Councilor Hogg, requesting procedures for the sale of certain lands, was introduced for discussion.

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

- - -

BY PRESIDENT GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the act), the city of Duluth, Minnesota (the city) is a suballocator of low income housing tax credits (LIHTCs); and

WHEREAS, it is anticipated that the city's 2001 allocation of LIHTC will be \$165,351; 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 2001 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city has received one complete application for the LIHTCs from Center City Windwood Partners for its Windwood Townhomes project requesting an allocation of 2001 LIHTCs in the amount of \$165,351 (the project); and

WHEREAS, the application for the project has been scored in accordance with the plan; and

WHEREAS, the Duluth housing commission has recommended allocating 2001 LIHTCs to Center City Windwood Partners in the amount of \$165,351 for the project; and

WHEREAS, the city has entered into a joint powers agreement (the agreement) with the Minnesota housing finance agency (MHFA), pursuant to which MHFA has agreed to allocate its LIHTCs to the city's highest ranking project, if the project requires an allocation of LIHTCs in excess of the amount reserved for the city; and

WHEREAS, the amount of allocation of LIHTCs requested for the project is in excess of the amount reserved for the city.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) The city hereby finds and determines that the application for the project is complete in all material respects and meets the selection criteria set forth in the plan;

(b) The request for the 2001 LIHTC allocation in the amount of \$165,351 for the project does not exceed the amount which is necessary for the project's financial feasibility and viability as a qualified low-income housing project throughout the ten year credit period;

(c) In making the determination set forth above, the city considered the following with respect to the application submitted:

(1) The sources and uses of funds and the total financing planned for the project;

(2) Any proceeds or receipts expected to be generated by reason of tax benefits;

(3) The percentage of the housing credit dollar amount used for costs of the project other than the cost of intermediaries;

(4) The reasonableness of the developmental and operational costs of the project;

(d) The city council of the city of Duluth hereby expresses its intent to allocate \$165,351 of the city's 2001 LIHTC allocation to Center City Windwood Partners for the project, subject to Minnesota housing finance agency (MHFA) approval of the financing of the entire project;

(e) Staff is authorized and directed to work with MHFA and Center City Windwood Partners to secure an allocation in the anticipated amount of \$181,729 of MHFA's 2001 LIHTCs for the project.

Resolution 00-0703 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0709, by President Gilbert, authorizing a HOME program loan agreement and a community development block grant loan agreement with Center City Windwood Partners

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

in the amount of \$58,364 and \$69,000 respectively and waiving repayment by Center City Housing Corporation of \$2,435.83 in 1997 HOME program monies loaned, was introduced for discussion.

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

- - -

At this time, 8:10 p.m., President Gilbert called the public hearing regarding the building appeal board appeal (Anderson) to order (Public Document No. 00-1023-24).

- - -

At this time, 8:45 p.m., President Gilbert closed the public hearing and the regular order of business was resumed.

- - -

President Gilbert moved to consider Resolution 00-0724, affirming the decision of the building appeal board to deny an appeal to lift the condemnation for demolition orders and allow a further extension of time to develop a plan for complete renovation at 222-224 West Third Street and 226 West Third Street, Duluth, Minnesota; Resolution 00-0725, reversing the decision of the building appeal board to deny a request to lift the condemnation for demolition orders and allow a further extension of time to develop a plan for complete renovation at 222-224 West Third Street and 226 West Third Street, Duluth, Minnesota; Resolution 00-0726, allowing a period of time to develop a plan for complete renovation at 222-224 West Third Street, Duluth, Minnesota; and Resolution 00-0727, allowing a period of time to develop a plan for complete renovation at 226 West Third Street, Duluth, Minnesota, at this time, which motion was seconded and unanimously carried.

Councilor Edwards moved to amend Resolution 00-0726 as follows:

- (a) In the first paragraph:
 - (1) Strike the address "226" and replace it with "222-224" West Third Street;
 - (2) Strike "\$40,000" and replace it with "\$240,000";
- (b) In the second paragraph, strike "\$150,000" and replace it with "\$1,500,000";
- (c) In the statement of purpose, correct the address to read 222-224 West Third Street,

which motion was seconded and unanimously carried.

Councilors Stewart, Ness and Edwards agreed that while the property owners have had the opportunity to demonstrate their good faith willingness to improve the building and not done so, the council's decision on whether to order the demolition of their property should only be given after the council has shown good faith by giving them time to try to repair the building.

Resolution 00-0724 was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, Roy and Mary Anderson have appealed to the city council the decision of the building appeal board to deny a request to lift the condemnation for demolition order at 222-224 West Third Street and 226 West Third Street, Duluth, Minnesota; and

WHEREAS, the city council has considered this appeal and determined that the required findings for the granting of an appeal to set aside the demolition orders of December 1, 1999, cannot be made in this case, based upon the fact that the building appeal board found that there is no evidence to justify any conclusion other than that the property is structurally substandard, that the cost to repair 222-224 West Third Street would exceed \$705,076 and that the cost to repair 226 West Third Street would exceed \$156,235 and the cost to replace 222-224 West Third Street would not exceed \$1,294,000 and the cost to replace 226 West Third Street would not exceed \$142,267, and that the demolition orders are valid and to uphold the decision of the

building official, and the city council adopts the building appeal board's findings and independently makes the same findings, and reaches the same conclusion.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the building appeal board's decision of May 10, 2000, is hereby affirmed by the city council and the appeal is denied, and the record in this matter consists of the city file, the materials presented by the owners, and the city council proceedings.

Resolution 00-0724 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Stenberg, Stover and President Gilbert -- 6

Nays: Councilors Edwards, Ness and Stewart -- 3

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to remove Resolutions 00-0725, 00-0726 and 00-0727 from the agenda, which motion was seconded and unanimously carried.

- - -

Resolution 00-0698, by President Gilbert, affirming, and Resolution 00-0699, reversing, respectively, the decision of the board of zoning appeals to deny a request to reduce the minimum front yard setback from 60 feet to 16 feet for the construction of a 36 feet x 28 feet detached garage on property located at 10801 State Highway 23, were introduced for discussion.

Councilor Hogg moved to table Resolution 00-0698, which motion was seconded and unanimously carried.

- - -

Councilor Hogg moved to return Resolution 00-0699 back to the administration, which motion was seconded and unanimously carried.

- - -

Resolution 00-0660, by Councilor Fena, amending Resolution 00-0522 relating to business subsidy criteria, was introduced for discussion.

Councilor Stenberg voiced support of this resolution and reviewed that Duluth has lost over 4,000 people in the last decade, but yet Duluth is setting criteria making it more difficult for new businesses to receive a business subsidy.

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Stewart, Stover and President Gilbert -- 7

Nays: Councilors Ness and Stenberg -- 2

- - -

Resolution 00-0720, by Councilor Fena, amending Resolution 00-0522 relating to business subsidy criteria, was introduced for discussion.

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

- - -

BY COUNCILOR FENA:

WHEREAS, the Duluth City Council passed Resolution 00-0333(a) on May 22, 2000, which was amended by Resolution 00-0522 on July 31, 2000, adopting criteria that apply to a business that requests a business subsidy from the city of \$25,000 or more (Resolution 00-0333(a) and Resolution 00-0522 herein after referred to as the "business subsidy resolution"); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the Duluth City Council desires to further amend the business subsidy resolution in order to exempt certain federal and state housing program assistance from said resolution.

NOW, THEREFORE, BE IT RESOLVED, that the business subsidy resolution is amended to read as follows:

"BE IT RESOLVED, that the Duluth City Council adopts, effective May 22, 2000, the following mandatory and preferential criteria for businesses receiving assistance from the city of \$25,000 or more. The following assistance shall be exempt from the requirements of this resolution:

(a) Federal community development block grant program assistance until the assistance has been repaid to, and reinvested by, the city;

(b) Federal emergency shelter grant (ESG) and HOME investment partnership program assistance until the assistance has been repaid to, and reinvested by, the city;

(c) Minnesota housing finance agency - community revitalization fund and innovative housing loan program.

Mandatory criteria. All projects receiving assistance of \$25,000, or more, must satisfy the following seven criteria:

(a) Public purpose criteria. The project must meet two of the following five public purpose criteria:

(1) High quality jobs. If the project results in the creation of new jobs, then the jobs must be predominantly full-time jobs that pay at least a living wage (as defined by Duluth's living wage ordinance) and provide health insurance and other benefits;

(2) Job retention. If the recipient can demonstrate that job loss is imminent without a business subsidy, then the recipient must present a plan which shows that a significant number of the existing jobs will be retained for at least five years after completion of the subsidy;

(3) Economic diversity. The project must contribute to the economic diversity of the city by reducing dependency upon declining industries, participating in fast growing industries, or supporting existing industries of manufacturing, education, health care, retail sales, tourism and service and technology;

(4) Quality of life. The project must enhance the quality of life of the city's residents by investing in neglected neighborhoods or business areas, utilizing in-fill areas rather than contributing to urban sprawl, benefitting the environment, or redeveloping blighted or polluted areas;

(5) Tax base. The city must realize a reasonable rate of return on its public investment in the project in the form of an increase in tax base or other monetary return;

(b) Specific goals. The project will have measurable, specific and tangible goals as they relate to the stated public purpose;

(c) Equal opportunity. The recipient will abide by all local, state and federal laws prohibiting discriminatory hiring and employment practices and agree to affirmatively seek out participation in the project by members of protected classes;

(d) Project feasibility and disclosure. The recipient must demonstrate to the satisfaction of the city that it has adequate financing for the project and that the project will be completed in a timely fashion;

(e) Wage policy. If the project results in the creation of any job, the wage for each part-time and full-time job created must be in compliance with Duluth's living wage ordinance and at least equal to the prevailing wage for like or similar projects within the area or such greater amount as required by the city for a specific project;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

(f) Report to the council. At the time the city council reviews a project development agreement calling for assistance of \$25,000 or more, a report shall be submitted to councilors summarizing the information necessary for them to exercise their due diligence, as determined by the city council;

(g) Applicable laws. The recipient will agree to satisfy all requirements of Minnesota's business subsidy law as defined in Minnesota Statutes §116J.993-§116J.995 and Duluth's living wage ordinance, as amended, in Article 26, Chapter 2 of the Duluth City Code.

Preferential criteria. Businesses that meet any or all of the following criteria shall be given preference for receiving assistance over other businesses that meet the mandatory criteria but not any of the preferential criteria.

(a) Locally owned businesses. Preference shall be given to locally owned businesses or to projects that make extensive use of local businesses for support;

(b) Hiring low-income people. Preference shall be given to businesses with a commitment and plan to hire people earning at or below 200 percent of the poverty line;

(c) Protected class business owners. Preference shall be given to businesses owned in whole or in part by members of protected classes;

(d) Quality of life businesses. Preference shall be given to businesses that are environmentally responsible and enhance the overall quality of live in the city."

Resolution 00-0731 was unanimously adopted.

Approved October 23, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0712, by Councilor Stover, authorizing the execution of an amendment to an agreement with Hardesty and Hanover, LLP for engineering services provided in the rehabilitation of the Aerial Lift Bridge; increasing the contract amount by \$150,000, was introduced for discussion.

Councilor Edwards stated that the taxpayers should not be responsible for the overruns of a project and the parties responsible for the cost overruns should pay for them.

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

Yeas: Councilors Edwards, Hogg, Ness and Stenberg -- 4

Nays: Councilors Eckenberg, Fena, Stewart, Stover and President Gilbert -- 5

Councilor Stewart called the question on the resolution, which motion was seconded and unanimously carried.

Resolution 00-0712 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to Agreement No. 18574, approved by city council Resolution 99-0596, with Hardesty and Hanover, LLP for engineering services necessary in connection with rehabilitation of the Aerial Lift Bridge to increase the amount of said contract \$150,000 for additional work done beyond the contemplated scope of said Contract 18574; the revised contract amount of an estimated \$800,000 payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303; reimbursable by the municipal state aid fund; said amendment to be substantially in the form of that certain agreement on file in the office of the city clerk as Public Document No. 00-1023-18.

Resolution 00-0712 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Stewart, Stover and President Gilbert -- 5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Nays: Councilors Edwards, Hogg, Ness and Stenberg -- 4
Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it is deemed necessary for the public conveyance and safety that the Aerial Lift Bridge over the Duluth Ship Canal be renovated; and

WHEREAS, the renovation of the Aerial Lift Bridge is a very unique, complex, and difficult project that had to be performed under strict time deadlines because of effect of the bridge on the maritime shipping industry and ingress and egress to Duluth's Park Point residents; and

WHEREAS, unforeseen complications and difficulties incurred during the project necessitated Hardesty and Hanover, the project engineering consultants, to provide unanticipated services in the areas of material and fabrication inspections and reviews, additional shop drawing approvals, construction engineering assistance to the contractor, materials research, project coordination and survey data review; and

WHEREAS, Minnesota Rules Section 8820.1500 subpart 6 provides that project development and construction engineering costs must be limited to 25 percent of the eligible construction costs to qualify for municipal state aid reimbursement; and

WHEREAS, because of the difficulties, time deadlines, and unforeseen complications on the Aerial Lift Bridge renovation project, the total engineering costs of the project will exceed 25 percent of the project's eligible construction costs and necessitated \$150,000 being added to the compensation in Hardesty and Hanover's engineering services contract, with their total compensation exceeding 25 percent of the contract eligible construction costs by approximately \$86,000;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests that the commissioner of transportation grant a variance from the provisions of Minnesota Rules Section 8820.1500 subpart 6 to allow eligible engineering costs of over 25 percent of the eligible construction costs on the Aerial Lift Bridge renovation project in Duluth.

Resolution 00-0713 was unanimously adopted.

Approved October 23, 2000
GARY L. DOTY, Mayor

- - -

Resolution 00-0730, by Councilor Stenberg, dedicating proceeds from the Lester Park golf course cellular communications facilities lease to Lester Park golf course operations and maintenance, was introduced for discussion.

Councilor Hogg moved to table the resolution for a committee meeting on October 30, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Stenberg -- 1

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT GILBERT

00-039 - AN ORDINANCE ABOLISHING THE DULUTH HOUSING TRUST FUND; REPEALING SECTION 20-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR HOGG

00-034 (9463) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,530,000 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

00-035 (9464) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$570,000 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 STEWART

00-038 - AN ORDINANCE ESTABLISHING A ONE YEAR NONRESIDENTIAL DEVELOPMENT MORATORIUM IN THE MINNESOTA POINT AREA.

Councilor Hogg moved to send the ordinance to the administration, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hogg and Stewart -- 2

Nays: Councilors Eckenberg, Edwards, Fena, Ness, Stenberg, Stover and President Gilbert -- 7

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

- - -

BY PRESIDENT GILBERT

00-036 (9465) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ADJACENT TO GARFIELD AVENUE TO DULUTH SEAWAY PORT AUTHORITY FOR THE UPS EXPANSION PROJECT FOR \$13,800.

Councilor Hogg moved to amend all references of "Seaway Port authority of Duluth" (SPAD) and change them to read "Duluth Seaway Port authority," which motion was seconded and unanimously carried.

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

- - -

BY PRESIDENT GILBERT

00-037 (9466) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LINCOLN PARK TO JO-ED PARTNERS FOR \$22,500.

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

- - -

The meeting was adjourned at 10:00 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9463

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,530,000 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 \$1,530,000 for the purpose of paying costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold general obligation water utility revenue bonds dated November 1, 1992, now outstanding in the amount of \$265,000, dated June 1, 1995, now outstanding in the amount of \$785,000, general obligation water utility revenue bonds dated September 1, 1997, now outstanding in the amount of \$2,020,000, and dated May 1, 1998, the water utility portion of such bonds now outstanding in the amount of \$1,955,000. 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, and May 1, 1998.

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 \$1,530,000, 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: November 26, 2000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

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

Nays: None -- 0

Passed October 23, 2000
Approved October 23, 2000
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9464

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$570,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Sections 115.46 and 444.075 and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue General Obligation Sewer Utility Revenue Bonds in the amount of \$570,000 for the purpose of paying costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold general obligation sewer utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$1,570,000; dated June 1, 1995, now outstanding in the amount of \$1,000,000; dated December 1, 1995, now outstanding in the amount of \$415,000; dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$530,000; dated December 1, 1998, now outstanding in the amount of \$995,000; and dated December 1, 1999, now outstanding in the amount of \$1,745,000. 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, and December 1, 1999.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the amount of \$570,000 plus such additional amounts of bonds, if any, up to a maximum of 2 percent of the amount of bonds herein authorized, as the city council shall by resolution determine to issue as additional obligations representing interest as authorized by Minnesota Statutes, Section 475.56, and pledges the full faith and credit and taxing powers of the city irrevocably for

the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. Terms of bonds.

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

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. Certification of proceedings.

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 26, 2000)

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

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

Nays: None -- 0

Passed October 23, 2000

Approved October 23, 2000

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9465

BY PRESIDENT GILBERT:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
ADJACENT TO GARFIELD AVENUE TO DULUTH SEAWAY PORT
AUTHORITY FOR THE UPS EXPANSION PROJECT FOR \$13,800.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to execute a deed, in substantially the form of Public Document No. 00-1023-19, selling and conveying the described property thereon in St. Louis County, Minnesota, by quit claim deed, to the Duluth Seaway Port authority, for the sum of \$13,800, payable to Fund 100-015-1515-4644, facilities management, and execute all documents necessary with regard to said conveyance.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 3, 2000)

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 0

Nays: None -- 0

Passed October 23, 2000

Approved October 23, 2000

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9466

BY PRESIDENT GILBERT:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN LINCOLN PARK TO JO-ED PARTNERS FOR \$22,500.

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 JO-ED Partners, a Minnesota partnership, for the sum of \$22,500, funds to be deposited in Permanent Improvement Fund 411, and execute all documents necessary with regard to said conveyance:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

That portion of Lots 305, 307, 309, 311, 313, 315, 317 and 319, Block 16, DULUTH PROPER Second Division shown as shaded on Exhibit A (Public Document No. 00-1023-20) and lying northwesterly of the following-described line:

Beginning at the north corner of Lot 305, Block 16, DULUTH PROPER Second Division; thence south 00°26'41" east for a distance of 37.61 feet; thence south 39°56'17" west for a distance of 343.96 feet; thence north 87°27'00" west for a distance of 45.94 feet, more or less, to the westerly corner of Lot 319 of said Block 16, and there terminating.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 3, 2000)

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

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

Nays: None -- 0

Passed October 23, 2000
Approved October 23, 2000
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 13, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-1113-01 Penny Hinnenkamp, et al. (nine signatures), submitting petition to construct 120 feet of sanitary sewer main on a ten foot utility easement between 60th Avenue West and 60th Avenue West Alley, to serve Lots 1, 2, 3 and northerly 15 feet of Lot 4, Block 92, West Duluth Fourth Division. -- Assessor

00-1113-14 Evensen Dodge, Inc., submitting presale analysis regarding sale of \$2,100,000 G.O. water and sewer utilities revenue bonds, Series 2000B; \$325,000 G.O. steam utility revenue bonds, Series 2000C; \$1,985,000 G.O. equipment certificates of indebtedness, Series 2000D. -- Received

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REPORTS OF OFFICERS

00-1113-02 Assessor submitting:

(a) Letter of sufficiency of petition to construct 120 feet of sanitary sewer main on a ten foot utility easement between 60th Avenue West and 60th Avenue West Alley, to serve Lots 1, 2, 3 and northerly 15 feet of Lot 4, Block 92, West Duluth Fourth Division. -- Received

(b) Affidavit of mailing of notice of public hearing by the special assessment board on November 21, 2000, regarding reassessment of demolition for Contract No. 5325, Plat-Parcel 1480-10560. -- Clerk

00-1113-03 Building official submitting appeal of Edward Kale to reverse the decision of the building appeal board regarding demolition order to demolish garage at 23 East Seventh Street. -- Committee 2 (Planning)

00-1113-04 Community development and housing division submitting HRA housing rehabilitation report for September, 2000. -- Received

00-1113-05 Purchasing agent submitting emergency purchase order awarded to RJ Falk Company for the hot water loop equipment to Canal Park Inn from Duluth Steam District No. 1. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

00-1113-06 Civil service board minutes of: (a) September 5; (b) September 11, 2000, meetings. -- Received

00-1113-07 Community development committee minutes of August 22, 2000, meeting. -- Received

00-1113-08 Duluth airport authority: (a) Balance sheet of August 31, 2000; (b) Minutes of September 19, 2000, meeting. -- Received

00-1113-09 Environmental advisory council minutes of September 6, 2000, meeting. -- Received

00-1113-10 Heritage preservation commission minutes of September 6, 2000, meeting. -- Received

00-1113-11 Planning commission minutes of September 27, 2000, meeting. -- Received

00-1113-12 Special assessment board minutes of: (a) October 17, 2000, meeting; (b) October 17, 2000, hearing regarding reinstatement of assessments at 26th Avenue West and 16th Street. -- Received

00-1113-13 Technical design advisory committee for DWMX-D minutes of September 26, 2000, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Allnew stated that the council has followed a consistent pattern of voting on matters that come from the administration for their own private agenda, which the council is not allowed to investigate because of time constraints.

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Elijah voiced his concern on global warming and urged the city to work with other large companies to educate the public on the benefit of car pooling.

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KL Lewis stated she has seen improvement on the bus service in the Target area.

- - -

Ed Kale requested the council investigate the actions of the building official and his relationship with the community.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 00-0710, requesting procedures for the sale of certain lands, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution by deleting the first sentence and inserting the following:

“BE IT RESOLVED, that when the city proposes to sell land, other than individual platted lots in an area zoned for residential uses, it shall inform the environmental advisory council of the proposed sale. The environmental advisory council may then review the proposed sale and, at its discretion, make a recommendation to the planning commission,” which motion was seconded for discussion.

To Councilor Fena’s questioning, Councilor Hogg replied that this affects all land sales other than the individual sale of individually platted residential lots.

Councilor Fena expressed concern that with the number of land sales the city has each year, it would take a lot of the environmental advisory council’s time and they would be the third governmental body reviewing the same issue.

The amendment passed unanimously.

Resolution 00-0710, as amended, was adopted as follows:

BY COUNCILOR HOGG:

BE IT RESOLVED, that when the city proposes to sell land, other than individual platted lots in an area zoned for residential uses, it shall inform the environmental advisory council of the proposed sale. The environmental advisory council may then review the proposed sale and, at

its discretion, make a recommendation to the planning commission. The recommendation shall be delivered to the planning commission and the city council.

Resolution 00-0710, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Fena -- 1

Approved November 13, 2000

GARY L. DOTY, Mayor

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President Gilbert moved to remove Resolution 00-0698, affirming the decision of the board of zoning appeals to deny a request to reduce the minimum front yard setback from 60 feet to 16 feet for the construction of a 36 feet x 28 feet detached garage on property located at 10801 State Highway 23, from the table, which motion was seconded and unanimously carried.

President Gilbert moved to return the resolution back to the administration, which motion was seconded and unanimously carried.

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Councilor Stenberg moved to remove Resolution 00-0652(b), amending Resolution 00-0362 authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, from the table, which motion was seconded and unanimously carried.

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

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Councilor Stenberg moved to remove Resolution 00-0730, dedicating proceeds from the Lester Park golf course cellular communications facilities lease to Lester Park golf course operations and maintenance, from the table, which motion was seconded and unanimously carried.

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

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

Councilor Eckenberg 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, as follows:

(a) Authorization of 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 \$1,985,000 general obligation equipment certificates of indebtedness, Series 2000D (the "certificates"), for the purpose of providing funds to purchase capital equipment, as permitted by Minnesota Statutes, Sections 410.32 and 412.301 (the "act"), having an expected useful life at least as long as the term of the certificates, pursuant to the act and Minnesota Statutes, Chapter 475, and the City Charter;

(b) Issuance and sale of certificates. The terms and conditions of the certificates and the sale thereof are set forth in the official terms of offering (Public Document No. 00-1113-15).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the certificates and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the certificates;

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

Resolution 00-0749 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$325,000 general obligation steam utility revenue bonds, Series 2000C, for the purpose of providing funds for improvements to the city's central steam utility located in the Downtown area of Duluth, pursuant to Section 55 of the Duluth City Charter, Minnesota Laws, 1979, Chapter 113, and Minnesota Statutes, Section 475, as amended, and Ordinance No. 9459 adopted September 11, 2000;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering (Public Document No. 00-1113-16(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 herein 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 November 30, 2000, pursuant to Section 147(f) of the Internal Revenue Code. The form of the notice of public hearing (Exhibit B) is on file in the office of the city clerk as Public Document No. 00-1113-16(b);

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

Resolution 00-0750 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$2,100,000 general obligation water and sewer utilities revenue bonds, Series 2000B, for the payment of the costs of improvements to the municipal water utility and the municipal sewer utility,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

pursuant to Ordinance Nos. 9463 and 9464, adopted October 23, 2000, Minnesota Statutes, Chapter 475, and Section 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering (Public Document No. 00-1113-17). Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

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

Resolution 00-0752 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

Section 1. Recitals.

1.01. The city, the town of Duluth and the town of Lakewood, Minnesota (the "towns") (the city and the towns are herein referred to collectively as the "municipalities") worked cooperatively through a joint powers board referred to as the North Shore wastewater board created pursuant to Minnesota Statutes, Section 471.59, to plan, design and construct a wastewater collection system for the North Shore planning area (the "wastewater collection system").

1.02. The municipalities submitted a petition to the Minnesota pollution control agency for the creation of the Duluth/North Shore Sanitary District (the "district") to own and operate the wastewater collection system pursuant to Minnesota Statutes, Sections 115.18 through 115.37.

1.03. Local funds contributed by the municipalities were used to produce a wastewater facilities plan in 1998, but additional funds were needed to complete planning and design of the wastewater collection system in advance of creation of the district.

1.04. In order to secure funds needed to complete planning and design of the wastewater collection system in advance of creation of the district, the city applied to the Minnesota public facilities authority (the "lender") on behalf of the municipalities, for financial assistance in the amount of \$225,000 to be used for the reimbursement or payment of design, engineering and legal costs incurred in anticipation of construction of the wastewater collection system (the "project") and creation of the district.

1.05. Pursuant to a joint powers agreement dated as of February 8, 2000, among the municipalities (the "joint powers agreement") and a public facilities authority project loan agreement and general obligation revenue bond purchase agreement dated December 16, 1999 (the "loan agreement"), between the lender and the city, the city agreed to borrow the sum of \$225,000 from the lender in order to pay the cost of the project through the issuance of its general obligation revenue note, Series 2000, in the original principal amount of \$225,000 and dated February 8, 2000 (the "note"). At the time of approval of the joint powers agreement, the loan

agreement and the note, it was anticipated that the district would assume the city's obligations to the lender upon its creation.

1.06. Pursuant to the joint powers agreement, the town of Duluth agreed to pay its proportionate share of the debt service on the Note in the event the district was not created. Saint Louis County made an appropriation of funds to pay the town of Lakewood's proportionate share of the debt service on the note in the event the district was not created.

1.07. The district was created on March 1, 2000, and now desires to assume the obligations of the city with respect to the payment of principal and interest on the note and the city's obligations under the loan agreement.

1.08. An assumption agreement among the city, the district and the lender (the "assumption agreement"), pursuant to which the district assumes the obligations of the city under the loan agreement and agrees to issue its \$225,000 general obligation revenue note, Series 2000A (the "Series 2000A note") to the lender in replacement of the note, has been presented to the council.

Section 2. Finding. It is hereby found and determined to be necessary and in the best interest of the city to terminate its obligations under the note and loan agreement through the approval and execution of the assumption agreement and to release the towns from their obligations under the joint powers agreement.

Section 3. Approval, execution and delivery of assumption agreement.

3.01. The assumption of the city's rights and obligations under the loan agreement and the note by the district is approved and the city assigns its rights and obligations under the loan agreement to the district.

3.02. The assumption agreement is hereby approved in substantially the form presented to the council and on file with the clerk.

3.03. The assumption agreement will be prepared for execution in accordance with the approved form and signed by the manual signature of the mayor and the manual signature of the clerk. If any officer whose signature appears on the assumption agreement ceases to be an officer before delivery of the assumption agreement, such signature will nevertheless be valid and sufficient for all purposes, as if such officer had remained in office until delivery.

3.04. The officers of the city are authorized and directed to furnish to the lender and bond counsel for the district certified copies of proceedings and information in their official records relevant to the authorization, execution and delivery of the assumption agreement, and all such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations and recitals of the city as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

3.05. In the event of the absence or disability of the mayor or the clerk, such officers or members of the council as in the opinion of the city's attorney, may act in their behalf, must without further act or authorization, execute and deliver the assumption agreement, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Section 4. Termination of joint powers agreement; release of towns; termination of accounts and covenants.

4.01. Subject to the approval, execution and delivery of the assumption agreement by the city and the district and acceptance thereof by the lender, the 2000 state public facilities authority note construction fund and the 2000 state public facilities authority note debt service fund within the city's sewer utility operating account within the public service sewer utility fund are terminated.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

4.02. Subject to the approval, execution and delivery of the assumption agreement by the city, the district and acceptance thereof by the lender, the pledge of the city's full faith and credit for payment of the note is terminated.

4.03. Subject to the approval, execution and delivery of the assumption agreement by the city, the district and acceptance thereof by the lender, the joint powers agreement is terminated and the towns are released from their obligations thereunder.

Resolution 00-0771 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 100, Dept./Agency 015, Organization 2500, Object 5402.

Resolution 00-0761 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Goodin Company be and hereby is awarded a contract for furnishing and delivering furnace replacement for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$10,840.63, terms 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C707.

Resolution 00-0762 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of manager, utility operations, which were approved by the civil service board on August 8, 2000, and which are filed with the city clerk as Public Document No. 00-1113-18, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said classification shall be 1115 to 1130, Pay Rate \$4,335 to \$5,594 per month.

Resolution 00-0653 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of manager, customer service, which were approved by the civil service board on August 8, 2000, and which are filed with the city clerk as Public Document No. 00-1113-19, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said classification shall be 1115 to 1130, Pay Rate \$4,335 to \$5,594 per month.

Resolution 00-0654 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Approved November 13, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ANIMAL HUMANE BOARD

Cherie Franzen for a term expiring October 31, 2005.

Resolution 00-0768 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the Duluth City Council hereby approves, subject to the approval of the U.S. Army corp of engineers, the acquisition by the Duluth airport authority (DAA) of 3.31 acre wetland replacement credits from BDT Investments, Inc., for the purchase price of \$52,960 relating to the 1,000 foot improvement to the runway safety area of Runway 03-21, payable from the DAA construction fund.

Resolution 00-0625 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, James and Gail Leland applied to the board of zoning appeals for a variance to reduce the minimum front yard setback from 60 feet to 16 feet for the construction of a 36 feet by 28 feet detached garage; and

WHEREAS, the board of zoning appeals denied the variance to reduce the front yard setback applicable to said property because it found that no physical characteristic peculiar to the property prevented the owner from exercising a substantial property right, and that granting a variance would result in negative impacts on the surrounding neighborhood; and

WHEREAS, James and Gail Leland have appealed the decision denying the variance to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and has determined that the facts of this case do justify a reduction in the required front yard setback requirement, the property contains a 150 feet state highway easement, the existing buildings are located with a 30 feet setback from the front property line, the board of zoning appeals granted a variance to 30 feet in 1997, the 30 feet setback will allow the garage to be located by existing buildings; and

WHEREAS, the city council of Duluth has considered this appeal and determined that the facts of this case do justify a reduction in the front yard setback from State Highway 23 from 60 feet to 30 feet because a physical characteristic peculiar to the property, including the location of existing buildings and the highway easement, prevented the owner from exercising a substantial property right, and that granting a variance would not result in negative impacts on the surrounding neighborhood; and granting the variance is necessary for the preservation of the substantial property right of constructing a building allowed by zoning; the granting of the variance will not deprive neighbors of light or ventilation, increase traffic or congestion, cause any danger, lower property values in the area, or in any way impair the health, safety or welfare of inhabitants of the city. The requirements of City Code 50-47 are met.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth modifies the board of zoning appeals' decision of September 26, 2000, and allows a variance from enforcement of the front yard setback to a 30 feet setback for construction of this garage building.

Resolution 00-0699 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the city council has created the environmental advisory council to advise them on matters regarding natural resource protection and enhancement; and

WHEREAS, the environmental advisory council has created the natural resources inventory committee that has developed a work plan for assembling an inventory of natural resources for use by the city of Duluth in preparation of the comprehensive plan; and

WHEREAS, the natural resources inventory committee has submitted an application to the University of Minnesota Northeast Region Sustainable Development Partnership board of directors for funding to undertake a natural resources public perceptions and values survey, and that board has offered to fund this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to accept a grant in the amount of \$13,000 from the University of Minnesota, Northeast Region Sustainable Development Partnership, which shall be used to complete a natural resources public perception and values survey, to be deposited in Fund 210, Agency 030, Org. 2176, Source 4259.

Resolution 00-0732 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a high priority has been placed on the development of a comprehensive natural resources inventory in the city; and

WHEREAS, a more complete inventory of wetlands has been identified as a critical element of the inventory; and

WHEREAS, the city council authorized Resolution 00-0229, submission of a grant application on April 10, 2000; and

WHEREAS, the city has successfully applied for and been offered a \$31,500 coastal management grant as a part of a \$45,000 project to more precisely delineate the wetlands.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to accept the \$31,500 grant, such funds to be deposited in Fund 210, Ag. 030, Org.2175, Obj. 4230.

Resolution 00-0734 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Richard L. Williams has submitted to the city council a request for renewal of a special use permit for a privately owned and operated community building in a residential zone for property located at 101 West Peary Street; and

WHEREAS, the city council did, on November 21, 1994, adopt Resolution No. 94-0971, conditionally granting a special use permit for said community building and on January 16, 1996,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

did adopt Resolution No. 96-0005 conditionally renewing, for a period of five years, the special use permit; and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the special use permit granted to Richard Williams to allow for the operation of a privately owned and operated community building located at 101 West Peary Street is hereby renewed on the following condition:

That the allowable uses within the privately operated community building shall include: social hall, meeting room, classroom, receptions area, kitchen and dining area, with the following condition:

(a) The permit is issued for a period of five years, from the effective date of this resolution, following which renewal may be petitioned for and considered based on the performance of the terms of this permit;

(b) The following uses shall be permitted to be conducted within the basement level only of the building: social hall, meeting room, classroom and receptions;

(c) That no alcohol of any type be permitted on the premises;

(d) That the hours of operation be limited to 8:00 a.m. to 11:00 p.m. weekdays and 8:00 a.m. to 12:00 a.m. on Fridays and Saturdays;

(e) That the premises not be used for any other commercial use;

(f) That the signage be limited to the existing masonry display reader panel located on the corner of the property.

Resolution 00-0735 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Duncan R. Puffer, has submitted to the city council a request for a special use permit for a clinic of less than 10,000 square feet in floor area on property described as: the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian; except the west 740.00 feet of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian; except the east 250.00 feet of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian; except the north 33.00 feet of the E $\frac{1}{2}$ of the N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian and located at 3625 West Arrowhead 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 city planning commission unanimously approved this request at its meeting of October 25, 2000; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Duncan R. Puffer to allow for the construction and operation of a dental clinic of less than 10,000

square feet in the floor area on property located at 3617 West Arrowhead Road, on the following condition:

That the property be developed based on the plans submitted by Blesener-Dahlberg-Prestidge Architects, entitled "Northern Oral & Maxillofacial Surgeons" dated 9-18-2000, as identified as Public Document No. 00-1113-20, subject to the following conditions being completed and approved in writing by the planning department prior to the issuance of any permits:

(a) That on site (free standing) signage be limited to not more than 32 square feet and non-illuminated;

(b) That storm drainage plans be approved in writing by the city engineer.

Resolution 00-0736 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of portions of 66th Avenue West; 66th Alley and Petre Street legally described as: 66th Avenue West adjoining Lots 16 through 23, Block 3, and Lots 2 through 11, Block 7; Petre Street adjoining Block 4, Lots 1 and 2, Block 7, and Lot 16, Block 3; and the alley adjoining Lots 14 through 23, Block 3, all in West Gate 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 October 25, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 66th Avenue West; 66th alley and Petre Street described above, and as more particularly described on Public Document No. 00-1113-21.

BE IT FURTHER RESOLVED, that the west 1/2 of 66th Avenue West the southerly 20 feet of Petre Street adjoining Lots 1 through 11, Block 7, West Gate Division, be retained as utility easement.

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

Resolution 00-0737 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of West Second Street legally described as: West Second Street adjoining Lots 8 and 9, Block 1, Oneota Industrial Park, and Lots 9 through 16, Block 72, Oneota 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

WHEREAS, the city planning commission approved unanimously the vacation petition at its October 25, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of West Second Street described above, and as more particularly described on Public Document No. 00-1113-22.

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

Resolution 00-0738 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, Demolition Landfill Services, L.L.C., submitted to the city council a request for a special use permit for a permit by rule-demolition debris disposal facility on property described as:

starting at the SE corner of the NW¼ of the SE¼ of Sec 4, T48N, R15W; thence 111.24 feet @ N87° 34' 56"W, to the point of beginning; thence 656.84 feet @ N2° 46' 54"E; thence 545.32 feet @ N87° 42' 10"W; thence 656.68 feet @ S2° 43' 08"W; thence 544.59 feet @ S87° 34' 56"E to the point of beginning; containing a total of 8.21 acres; and located at 1100 West Gary 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 failed to approve said request by a tie vote which was subsequently reported to the city council; and

WHEREAS, the application was previously rejected by the city council on November 23, 1998, and the city council approved its findings of fact on December 7, 1998, Resolution 98-1012; and

WHEREAS, the applicant appealed denial of the application to the St. Louis County District Court, Court File No. C8-99-601467, which court entered judgment for the city on November 18, 1999; and

WHEREAS, the applicant appealed to the Minnesota Court of Appeals, Appeal No. C7-00-81, which court in its decision filed July 25, 2000, reversed the decision of the district court, holding that the city's denial of the application failed to comply with Minnesota Statute Section 15.99, and ordered the city to issue a permit; and

WHEREAS, the appellate court did not reverse the district court judgment on the merits of the application, and did not find that the landfill complied with City Code; and

WHEREAS, the city filed its petition for review to the Minnesota Supreme Court, which court denied the petition on October 17, 2000; and

WHEREAS, all appeals have been exhausted; and

WHEREAS, the application has not been found to comply with city of Duluth Zoning Code, Section 50-35(z), solid waste disposal facility; and

WHEREAS, the city council does not find that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed; and

WHEREAS, this approval is made for the sole purpose of complying with the judgment entered in favor of the applicant;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Demolition Landfill Services, L.L.C., to allow for the operation of a permit by rule-demolition debris disposal facility at 1100 West Gary Street, on the condition that the facility be operated, maintained and closed in accordance with plans submitted by DLS, LLC. and Wenck Engineering entitled, "Permit Application for Demolition Landfill" for Demolition Landfill Services, Inc., Sheets 1 and 2 of 2, dated September, 1998, as identified as Public Document No. 00-1113-23, and the following conditions:

(a) That the requirements of Minnesota Rule 7035.285 and WLSSD permits be complied with;

(b) That only demolition debris (as defined by Minnesota Rule 7035.0300 Subp. 30) will be placed in the fill area;

(c) That the total amount of demolition debris deposited in the site shall include all amounts deposited prior to the approval of this special use permit;

(d) That Demolition Landfill Services shall provide appropriate certification to the city of the amount of material deposited on site prior to the approval of this special use permit, and that such certification shall be delivered to the office of the building official, no later than November 30, 2000;

(e) Landfill inspection reports shall be sent to all organizations or individuals who file a written request with the office of the building official to be on a service list, including without limitation the city building official, city planning, city council, city attorney, WLSSD, MPCA, Gary-New Duluth community club and citizens' coalition;

(f) Quarterly recycling reports which identify the amount and percentage of material brought to the site that is being recycled, including year to date recycling amounts and percentages. These report shall be distributed to the same list in item (e) above;

(g) Two certified demolition debris landfill operators shall be maintained on the operating face of the landfill during all hours of operation;

(h) The recycling facility and the landfill shall be visually screened, by planting and maintaining vegetative cover, from all property lines;

(i) That Demolition Landfill Services shall file with the city planning division a certified land survey which establishes the footprint and boundaries of the landfill and provides a legal description of such boundaries prior to initiation of landfill activities;

(j) Issuance of this permit shall not be deemed evidence that such landfill activity is appropriate for this site, and that any future applications must be judged on their own merits without reference to this permitted activity.

Resolution 00-0742 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Points North Consulting, Inc.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Points North Consulting, Inc.

Resolution 00-0748 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

WHEREAS, the natural resources inventory committee has been working diligently to secure adequate funding to prepare appropriate documentation of the natural resources in the city as a part of the comprehensive plan; and

WHEREAS, funding has been offered to the city through the Lake Superior coastal program in an amount of \$31,500 with a city match of \$13,500 to undertake a more detailed wetlands inventory; and

WHEREAS, the Natural Resources Research Institute has expressed an interest in performing such services; and

WHEREAS, the Natural Resources Research Institute is qualified to provide the products needed.

NOW, THEREFORE, BE IT RESOLVED, that Contract #18638 with the University of Minnesota-NRRI be amended not to exceed \$63,298, such contract commencing September 5, 2000, and ending November 30, 2001; such contract to be payable from Fund 210, Ag. 030, Org. 2175.

Resolution 00-0751 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a neighborhood matching grants fund agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 00-1113-24, with The Hillsider - A Community Newsletter in an amount not to exceed \$10,000, payable from Fund 100, Agency 700, Org. 1417, Obj. 5490.

Resolution 00-0765 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Change Order No. G-1 to Contract No. 18756, with Duluth-Superior Erection, Inc., be and hereby is authorized, in an amount of \$17,500, payable from General Fund 100, Dept. 700, Org. 1418, Obj. 1002, for additional masonry services in connection with Kingsbury Creek retaining wall repairs.

Resolution 00-0741 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

		12 years or older	4 - 11 years old	0 - 3 years old
Rates:	Regular	\$6.00	\$2.50	Free
	Group	\$5.50	\$2.00	Free

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

(b) Groups of school children on school sponsored zoo tours shall be admitted at a rate of \$2 per person;

(c) Groups of persons with bona fide special needs or disabilities may apply to the director of the zoo for a special rate of \$2 per person;

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

RESOLVED FURTHER, all previous rate resolutions inconsistent with this resolution are hereby rescinded.

Resolution 00-0758 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

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. 00-1113-25, 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 00-0770 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the city of Proctor authorizing the sale of a maximum daily average of 55,000 cubic feet of water to Proctor for a consideration as set forth in the rate schedule of said agreement; said agreement filed as Public Document No. 00-1113-26; monies received under this contract shall be deposited in the Water Utility Fund No. 510.

Resolution 00-0744 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the city of Hermantown authorizing the sale of a maximum daily average of 75,000 cubic feet of water to Hermantown for a consideration as set forth in the rate schedule of said

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

agreement; said agreement filed as Public Document No. 00-1113-27; monies received under this contract shall be deposited in the Water Utility Fund No. 510.

Resolution 00-0745 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the town of Rice Lake authorizing the sale of a maximum daily average of 12,000 cubic feet of water to Rice Lake for a consideration as set forth in the rate schedule of said agreement; said agreement filed as Public Document No. 00-1113-28; monies received under this contract shall be deposited in the Water Utility Fund No. 510.

Resolution 00-0746 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that United Rental of Minneapolis be and hereby is awarded a contract for furnishing rental of 18 trench boxes for the public utilities water division in accordance with specifications on its low specification bid of \$28,445.53, terms net 30, FOB shipping point, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 00-0755 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to request a proposal for steam absorption chilled water facility/Phase I; and

WHEREAS, the city desires to hire a consulting engineer to provide engineering services required for the projection of the cooling loads for the St. Louis County Courthouse, state of Minnesota Government Services Building, city of Duluth City Hall and federal building; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$10,500, will be payable from the Steam District #1 Fund 540, Dept./Agency 920, Organization 1490, Object 5580; to be reimbursed in the amount of \$3,500 from state of Minnesota department of administration and \$3,500 from St. Louis County property management.

Resolution 00-0756 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0091 to Lake Superior Office Furniture for furnishing office furniture for the engineering division, be amended to increase the amount by \$24,182.01, for a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

new total of \$79,829.12, payable out of various funds, various depts./agencies, Organization 0505, Object 5580.

Resolution 00-0759 was unanimously adopted.
Approved November 13, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to request a proposal for specifications, design, drawings and installation management of fly ash silo; and

WHEREAS, the city desires to hire a consulting engineer to provide engineering services required for the fly ash silo; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$5,570, will be payable from the Steam District #1 Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 00-0763 was unanimously adopted.
Approved November 13, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0531 to Duluth-Superior Erection, Inc., for furnishing replacement steam vault at Lake Avenue and Superior Street, be amended to increase the amount by \$17,160 for a new total of \$82,160, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1460, Object 5310.

Resolution 00-0764 was unanimously adopted.
Approved November 13, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that A.G. O'Brien Plumbing and Heating be and hereby is awarded a contract for installation of hot water lines and equipment for Canal Park Inn for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$220,611, terms net 30, FOB job site, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1490, Object 5580.

Resolution 00-0769 was unanimously adopted.
Approved November 13, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the city of Duluth hereby accepts a roadway easement hereinafter described from I.Q. Development Limited Liability Company at no cost to the city; said easement necessary for the reconstruction of Joshua Avenue as a part of state Project 6915-104:

An easement for roadway purposes in, under, over, upon, across and along the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

following described tract or parcel of land lying and being in the county of St. Louis, state of Minnesota, described as follows, to-wit:

Handy Garden Tracts and the Southeast Quarter of the Northeast Quarter of the Northeast Quarter, Section 19, Township 50 North, Range 14 West, of the Fourth Principal Meridian;

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

Beginning at the northeast corner of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter; thence on an assumed bearing of north 90 degrees 00 minutes 00 seconds west along the north line of said Northeast Quarter a distance of 33.00 feet; thence south 00 degrees 00 minutes 00 seconds east 247.95 feet; thence south 30 degrees 50 minutes 00 seconds west 62.16 feet to the point of beginning; thence continuing south 30 degrees 50 minutes 00 seconds west 14.65 feet; thence north 59 degrees 10 minutes 00 seconds west 24.55 feet; thence north 90 degrees 00 minutes 00 seconds east 28.59 feet to the point of beginning and there terminating.

RESOLVED FURTHER, that the city of Duluth hereby accepts temporary construction easements from I.Q. Development Limited Liability Company as shown on Exhibit A (Public Document No. 00-1113-31) necessary for the reconstruction of Joshua Avenue.

Resolution 00-0733 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay \$9,587.06 to Sharon Forse and \$4,317.07 to Michael Turner in settlement of all claims arising out of a sewer backup on September 13, 2000; payment to be made from self insurance fund.

Resolution 00-0767 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that pursuant to the authorization of Chapter 29A of the Duluth City Code, 1959, as amended, the following charges are hereby established for services provided for administration and enforcement of the city housing code and the rental housing licensing program provided for therein:

(a) Fees:

- | | |
|--|-------|
| (1) Rental housing license--per building for a new license for an existing structure or renewal of an existing license; includes initial inspection and up to two re-inspections if necessary: | \$175 |
| (A) Plus per unit fee for each dwelling unit or housekeeping unit: | \$8 |
| (B) Plus per bed fee for each bed within a rooming unit: | \$5 |
| (2) Third and subsequent reinspections and or any initial inspections requested by the owner of a structure or his or her authorized agent: | \$150 |

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

- (3) Reinspection upon the request of any owner or his or her authorized agent of structure whose rental housing license has been suspended or revoked: \$150
- (4) Issuing a new license in conjunction with issuing a certificate of occupancy: \$25
- (5) Reissuing an existing license with the name and address of a new owner and/or manager for the remainder of the licensing period for a structure with a valid license: \$25
- (6) A per unit investigation fee for each occupied rental unit in a structure being operated as rental housing that is not licensed in accordance with the housing code: \$100
- (7) For each failure of any owner or owner's authorized agent to appear at the date, time or place agreed to by said owner or agent for the purpose of conducting an inspection or reinspection of a structure which is licensed or which the building official believes should be licensed under Article II of Chapter 29A of the Duluth City Code, 1959, as amended: \$50
- (8) Inspections made in response to citizen complaints: -0-
- (9) Services rendered pursuant to contract: As per contract

(b) Rebates:

- (1) Rebate to applicant if a nontemporary license under subparagraph (1) of paragraph (a) above is issued without requiring a second reinspection: \$100

Resolution 00-0743 was unanimously adopted.
Approved November 13, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, the Greater Downtown Council will be partnering with KDLH-TV and a number of Superior Street merchants in a Downtown holiday season promotion, and they have requested the city to cover certain Downtown parking meters and provide Downtown shoppers with one day of two hour free parking before the holidays; and

WHEREAS, the city agrees that this program would have a positive effect on the Downtown area by encouraging Downtown shopping near the holidays;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby authorizes the covering of parking meters on Superior Street from Fifth Avenue West to Fourth Avenue East on December 8, 2000.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED FURTHER, that during this period two hour limit parking shall be enforced on this covered meter parking area.

Resolution 00-0760 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that D.C. Enterprises, Inc., be and hereby is awarded a contract for demolition of five structures for the building inspection division in accordance with specifications on its low specification bid of \$36,200, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 020, Organization 1201, Object 5453.

Resolution 00-0766 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to enter into a joint powers agreement with St. Louis County of Minnesota, under which the city and the county will be permitted to purchase goods and services from competitively bid contracts entered into by the city or St. Louis County with vendors.

Resolution 00-0721 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program loan agreement and a community development block grant (CDBG) loan agreement substantially in the form of those on file in the office of the city clerk as Public Document Nos. 00-1113-29(a) and 00-1113-29(b), with Center City Windwood Partners for the rehabilitation of property at 739 Upham Road (Windwood Townhomes) in amounts as follows:

\$50,000 payable from 1999 HOME Program Fund 260, Agency 020, Org. 2682, Obj. H003;

\$8,364 payable from 1997 HOME Program Fund 260, Agency 020, Org. 2662, Obj. H010;

\$69,000 payable from 2000 CDBG Fund 262, Agency 623, Obj. 6302.

FURTHER RESOLVED, that the city of Duluth hereby waives repayment by Center City Housing Corporation of \$2,435.83, relating to a 1997 HOME program CDBG project specific loan agreement in the amount of \$10,800.

Resolution 00-0709 was unanimously adopted.

Approved November 13, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0747, by Councilor Fena, authorizing an agreement between the city of Duluth and St. Louis County including plan approval for the installation and maintenance of traffic signals, street lights and traffic signage on Rice Lake Road at the United HealthCare entrance, was introduced for discussion.

Administrative Assistant Winson reviewed the traffic study for that area and how it reflects the need of traffic control at the peak hours during the day.

To Councilor Stewart's question, Mr. Winson replied that United HealthCare is contributing to the cost of the signal lights, but will not be involved with the on-going maintenance for the traffic signals as the city's policy is not to require businesses to assist with the maintenance for traffic signals.

President Gilbert voiced concern that he has forwarded on requests from constituents in his district for stop signs where there are issues of safety of pedestrians and children in neighborhoods and the administration does not respond to those needs, but responds immediately when there are developments that need traffic control.

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

KL Lewis encouraged the administration to make sure that the signal lights are high enough to allow buses through the intersection.

Resolution 00-0747 was adopted as follows:

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for the installation and maintenance of traffic signals, street lights and traffic signage on Rice Lake Road at the United HealthCare entrance; said agreement filed as Public Document No. 00-1113-30.

RESOLVED FURTHER, that the plans and specifications for the above mentioned project are hereby approved.

Resolution 00-0747 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 8

Nays: President Gilbert -- 1

Approved November 13, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0739, affirming, and Resolution 00-0740, reversing, respectively, the decision of the building appeal board to deny an appeal to allow a further extension of time on a garage demolition order to the end of summer 1999 to completely renovate the garage, including a new foundation, to house vehicles, at 23 East Seventh Street, Duluth, Minnesota, by Councilor Stenberg, were introduced for discussion.

Councilor Stenberg moved to return both resolutions back 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 PRESIDENT GILBERT

00-040 - AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY NEAR CENTRAL ENTRANCE AND EBONY AVENUE FROM THE STATE OF MINNESOTA FOR \$7,794.25, AND SALE THEREOF TO LAKEVIEW CHRISTIAN ACADEMY FOR \$7,794.25, SUBJECT TO USE IN CONJUNCTION WITH THE SCHOOL.

- - -

BY PRESIDENT GILBERT

00-042 - AN ORDINANCE DESIGNATING THE KILLORIN RESIDENCE AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

The following entitled ordinance was read for the second time:

BY PRESIDENT GILBERT

00-039 (9467) - AN ORDINANCE ABOLISHING THE DULUTH HOUSING TRUST FUND;
REPEALING SECTION 20-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 9:00 p.m.

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

- - -

ORDINANCE NO. 9467

BY PRESIDENT GILBERT:

AN ORDINANCE ABOLISHING THE DULUTH HOUSING TRUST
FUND; REPEALING SECTION 20-23 OF THE DULUTH CITY CODE,
1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 20-23 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 date of passage and publication. (Effective date: December 31, 2000)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed November 13, 2000
Approved November 13, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 27, 2000, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: Councilor Fena -- 1

- - -

The minutes of council meetings held on July 10, 24 and 31, 2000, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-1127-21 Steve Patterson submitting communication (supported by 51 signatures) requesting the reduction of the speed limit on Arrowhead Road from Myers Avenue to Rice Lake Road. -- Received

- - -

REPORTS OF OFFICERS

00-1127-01 Assessor submitting:

(a) Affidavit of mailing of notice of public hearings regarding Fond du Lac sanitary sewer improvement by the special assessment board on November 28, 2000, at 6:00 p.m. at Fond du Lac Community Church and the City Council on December 4, 2000, at 7:30 p.m., council chambers;

(b) Assessment roll levied to defray the assessable portion of Contract 5332, for resurfacing 48th Avenue East from Peabody Street to 140 feet northerly (total assessable - \$3,045.50). -- Clerk

00-1127-02 Engineering division submitting monthly project status report of November 1, 2000. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

00-1127-03 Alcohol, gambling and tobacco commission minutes of: (a) September 12; (b) October 10, 2000, meetings. -- Received

00-1127-04 Duluth housing commission minutes of: (a) October 12; (b) October 19, 2000, meetings. -- Received

00-1127-05 Duluth transit authority minutes of: (a) August 17; (b) August 23; (c) August 24; (d) August 30; (e) September 20, 2000, meetings. -- Received

00-1127-06 Environmental advisory council minutes of October 4, 2000, meeting. -- Received

00-1127-07 Parking commission minutes of October 10, 2000, meeting. -- Received

00-1127-08 Parks and recreation commission minutes of: (a) August 9; (b) September 13; (c) October 11, 2000, meetings. -- Received

00-1127-09 Seaway Port authority of Duluth minutes of September 27, 2000, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis spoke of her concerns about the people that do not shovel their sidewalks and Miller Hill area bus access for handicapped individuals and pedestrians.

- - -

Steve Patterson presented a map and communication (Public Document No. 00-1127-21) relative to what is felt by the neighborhood as a public traffic safety issue. On behalf of those supporting the communication, he requested that the stretch of highway between Myers Avenue and Rice Lake Road be returned back to 30 m.p.h. and that other steps be initiated to improve safety. Mr. Patterson noted that commercial activity has increased and that, along with the 40 m.p.h. speed limit, it has made it very difficult to make a left hand turn off of Arrowhead Road, especially at the Apple Ridge Drive intersection.

Sandra Fossen supported the comments made by Mr. Patterson, noting that, in addition, the poor visibility of pulling out onto Arrowhead Road when there are high snowbanks.

Various councilors requested that the administration look at the issues raised to see what could be done, possibly similar to what was done on the stretch on London Road between 26th and 40th Avenues East, with the reduction of lanes and adding a center turn lane.

- - -

Mary Garmer spoke of her frustration of not being able to get a final building inspection before her business can open up and requested to have a conditional approval until the inspectors could return.

- - -

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

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to contract with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling prevention and education program during year 2001, at a cost to the city of \$148,096, which shall be payable from General Fund 100, Dept./Agency 015, Organization 2040, Object 5490; to be encumbered out of year 2001 budget.

Resolution 00-0754 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals, application fee of \$200, and any specific restrictions:

ALS Association, Northland Chapter (Eggebrecht Chevrolet ALS fund raiser), Army National Guard building, for January 20, 2001, with David Kolquist, manager.

Resolution 00-0783 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale nonintoxicating malt liquor license for the period beginning December 1, 2000, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

ending April 30, 2001, subject to departmental approvals and the payment of sales and property taxes:

D&C Letourneau, Ent. (D&C Sixth Avenue Milk House), 906 East Central Entrance, from Tom Potter, Inc. (Milk House), same address.

Resolution 00-0784 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license and on sale Sunday license, for the period ending August 31, 2001, subject to departmental approvals, and the payment of sales and property taxes:

Pickwick, Inc. (Pickwick Restaurant), 508 East Superior Street, with Christopher Wisocki, president and 100 percent stockholder, transferred from Pickwick, Inc. (Pickwick Restaurant), same address.

Resolution 00-0785 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that St. Mary's Medical Center Occupational Services be and hereby are awarded contract for furnishing medical services for the administrative services division in accordance with specifications on their proposal and unit cost for a total of \$65,000, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations and objects; to be encumbered out of year 2001 budget.

Resolution 00-0792 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that St. Luke's Hospital Occupational Medicine be and hereby are awarded contract for furnishing medical services for the administrative services division in accordance with specifications on their proposal and unit cost for a total of \$70,000, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations and objects; to be encumbered out of year 2001 budget.

Resolution 00-0793 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that P.S.R., Inc., c/o I.B.M. Credit Corporation, be and hereby is awarded a contract for furnishing and installing I.B.M./390 integrated server equipment for the M.I.S. division in accordance with specifications on its low specification bid of \$143,523, terms net 30, FOB Duluth.

BE IT FURTHER RESOLVED, that proper city officials be authorized to enter into an agreement with I.B.M. Credit Corporation (I.C.C.) to finance the purchase of the integrated server

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

equipment at the rate of \$4,361.75 per month for 36 months, payable out General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 00-0801 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of electrician, which were approved by the civil service board on November 7, 2000, and which are filed with the city clerk as Public Document No. 00-1127-10, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range and rates shall remain unchanged, Pay Range 29, Pay Rate \$2,753 to \$3,266.

Resolution 00-0773 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of graphics coordinator, which were approved by the civil service board on November 7, 2000, and which are filed with the city clerk as Public Document No. 00-1127-11, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range and rates shall remain unchanged, Pay Range 131, Pay Rate \$2,766 to \$3,269.

Resolution 00-0774 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water and gas service leadworker, which were approved by the civil service board on October 3, 2000, and which are filed with the city clerk as Public Document No. 00-1127-12, are approved. This classification remains represented by the basic unit and compensated at Range 32, \$3,129 to \$3,720 per month.

Resolution 00-0775 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

TREE COMMISSION

Margaret Scheibe for a term expiring August 31, 2003, replacing Heidi Dulebohn who resigned.

Resolution 00-0780 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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BY COUNCILOR STEWART:

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

PARKS AND RECREATION COMMISSION

Jean Brozic (District 10) for a term expiring February 13, 2004, replacing Suzanna Didier who resigned.

Resolution 00-0781 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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. 00-1127-15, under which agreement the city will receive up to \$4,000 to reimburse it for costs incurred in maintaining cross country ski trails in the city of Duluth during the 2000-2001 ski season; the reimbursement should be deposited in General Fund 100, Agency 500, Org. 1920, Revenue Source 4232.

Resolution 00-0776 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Billman Construction, Inc., be and hereby is awarded a contract for construction of a watermain, excavation, backfill and street restoration at Trinity Road for the city engineering division in accordance with specifications on its low specification bid of \$29,256.90, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5310.

Resolution 00-0788 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 00-1127-16, between the city of Duluth and the Housing Access Center for services in implementing the 3MP intervention program, which provides notice to residents in multiple family dwellings of utility bill delinquencies for their building, for a consideration of not to exceed \$8,500, payable as follows: 30 percent from Water Fund 510, Agency 900, Org. 0500, Obj. 5310; 44 percent from Gas Fund 520, Agency 900, Org. 050, Obj. 5310; 18 percent from Sewer Fund 530, Agency 900, Org. 0500, Obj. 5310; and eight percent from Stormwater Fund 535, Agency 900, Org. 0500, Obj. 5310.

Resolution 00-0794 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that the proper city officers are hereby authorized and directed to execute a lease with the North Star Steel Company for the lease of a 4.55 acre storage site located between Garfield Avenue and the St. Louis Bay for a five year period, for a consideration of \$4,800 per year, to be paid from General Fund No. 100-500-2000; said lease to be substantially in the form of the lease filed as Public Document No. 00-1127-17.

Resolution 00-0772 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Lakehead Electric Company, Inc., be and hereby is awarded a contract for installing traffic signal system for Rice Lake Road at United HealthCare for the engineering division in accordance with specifications on its low specification bid of \$128,692, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2228, Object 5530.

Resolution 00-0789 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a grant from the U.S. department of justice, C.O.P.S. M.O.R.E. 2000 program, in the amount of \$29,375 for the grant year January 1, 2001, to December 31, 2001, for salaries and benefits related to the hiring of a community liaison officer; all grant funds will be deposited in Fund 100, Agency 200, Org. 1620, Revenue Source 4210.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department.

Resolution 00-0790 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a grant from the U.S. department of justice in the amount of \$85,080 for a grant period of September 21, 2000, to December 31, 2002, for expenditures related to police personnel expenses, technology and crime prevention initiatives and training; all grant funds will be deposited in Fund 215, Agency 200, Org. 2461, Revenue Source, 4210.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department.

Resolution 00-0791 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are authorized to pay to the estate of Stanley A. Lepak, the unknown heirs of Stanley A. Lepak, Skip's Warehouse Sales, Rice Lake Lumber, Inc.,

Michael S. Lepak, Stanley R. Lepak, Richard S. Lepak, Cathleen S. Manning, Marilyn S. Esselstrom, Mary Kay S. Jones, John S. Lepak and their attorneys, Charles N. Nauen and Jeffrey R. Brauchle, a sum not to exceed \$750,000, including all sums paid to them or to escrow for their use to date in the matter pending in the St. Louis County district court, pursuant to the terms and conditions set forth in that document entitled "settlement agreement" filed as Public Document No. 00-1127-18, and further authorizes the proper city officials to execute on behalf of the city of Duluth the "release" filed as Public Document No. 00-1127-18, and which shall constitute full and final settlement of all claims which arise out of the remediation and condemnation of that parcel of land known as Dumpsite #1 as described in city council Resolution No. 98-0820, *city of Duluth, a political subdivision of the state of Minnesota, petitioner v. the estate of Stanley A. Lepak, the unknown heirs of Stanley A. Lepak, Skip's Warehouse Sales, Rice Lake Lumber, Inc., Michael S. Lepak, Stanley R. Lepak, Richard S. Lepak, Cathleen S. Manning, Marilyn S. Esselstrom, Mary Kay S. Jones, John S. Lepak, and all other persons unknown claiming any right, title, estate, interest, or lien in the real estate described in the petition herein, respondents*, St. Louis County district court File No. C1-98-602367, and *Rice Lake Lumber, Inc., a Minnesota corporation, Michael S. Lepak, Stanley R. Lepak, Richard S. Lepak, Cathleen S. Manning, Marilyn S. Esselstrom, Mary Kay S. Jones and John S. Lepak, plaintiffs v. city of Duluth, a municipal corporation, defendant*, federal district court, district of Minnesota, Case No. 99-153 (DWF/RLE); payment to be made from the self insurance fund.

Resolution 00-0787 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

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Resolution 00-0778, by Councilor Stewart, confirming appointment of Jim Schwerdt to building appeal board replacing Gwin Whitney, was introduced for discussion.

To councilors' questions regarding a residency requirement, City Attorney Brown noted that he would need to review the City Code to see if there was a requirement on this matter.

There being no further discussion, there was motion to table the resolution, which motion was seconded and unanimously carried.

- - -

Resolution 00-0779, by Councilor Stewart, confirming appointments of David Boe and Carol Wiggin to Duluth public arts commission replacing Suzanna Didier and Adu Gindy, was introduced for discussion.

Councilor Stewart noted that one of the applicants being considered stated that she could not serve at this time, therefore he moved to amend the resolution by deleting the names of "Carol Wiggin" and "Adu Gindy" from the title and body of the resolution, which motion was seconded and unanimously carried.

Resolution 00-0779, as amended, was adopted as follows:

BY COUNCILOR STEWART:

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

DULUTH PUBLIC ARTS COMMISSION

David S. Boe for a term expiring September 30, 2003, replacing Suzanna Didier.

Resolution 00-0779, as amended, was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR STEWART:

WHEREAS, subject to the approval of the mayor and the city council, the administrative assistant has appointed Mark McShane to the position of director of the administrative services department effective December 4, 2000; and

WHEREAS, such appointment has been approved by the mayor;

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Mark McShane to the position of director of the administrative services department is hereby approved.

Resolution 00-0782 was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0786, by President Gilbert, granting a special use permit to Keith and Patricia Olson for a bed and breakfast homestay for property located at 2426 East Superior Street, was introduced for discussion.

Councilor Hogg moved to amend the resolution by changing, in the third line of the first paragraph, the number "six" to "five," which motion was seconded and unanimously carried,

Resolution 00-0786, as amended, was adopted as follows:

BY PRESIDENT GILBERT:

WHEREAS, Keith and Patricia Olson have submitted to the city council a request for a special use permit for a bed and breakfast homestay, consisting of five guest rooms, on property described as: Lots 5, 6, 7 and 8, Block 9, Harrison 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 the city council adopts and approves the findings of the planning commission, as set out in its records and in the statement of purpose of this resolution, these findings are the basis of the conclusion that a special use permit is hereby granted to Keith and Patricia Olson to allow for the operation of a bed and breakfast homestay, consisting of five guest rooms, at 2426 East Superior Street, subject to the condition that the property be maintained in perpetual compliance with Section 50-35(d) of the Code, and as identified as Public Document No. 00-1127-13 and the following terms and conditions:

- (a) Issuance of certificate of occupancy by the building inspection division;
- (b) Issuance of health license by St. Louis County;
- (c) The parking lot be surfaced with crushed limestone (rather than bituminous) and the parking area construction plans be reviewed (for drainage purposes) and approved in writing by the city engineering division;
- (d) That a planting plan, for additional shrubs between the parking lot and Superior Street, be approved by planning staff prior to the issuance of an occupancy permit;
- (e) Any future signage be reviewed and approved by planning staff for compliance with Section 50-35(d)(3)(J).

Resolution 00-0786, as amended, was unanimously adopted.

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0811, by President Gilbert and Councilor Edwards, memorializing the recommendation of the city council for improvements to Wallace Avenue, was introduced for discussion.

Councilor Edwards discussed possible amendments to the resolution to help resolve this issue, to which President Gilbert stated that he would support.

Councilor Hogg felt that given the detail of these amendments, they should be presented in writing and that there should be time to review and discuss them.

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

- - -

Resolution 00-0777, by Councilor Ness, authorizing a memorandum of understanding with Minnesota Power and Hartley Nature Center Corporation, was introduced for discussion.

Administrative Assistant Winson stated that, given that there was a request for additional information and that some items be reworded, he would suggest tabling the resolution.

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

- - -

Resolution 00-0711, by Councilor Edwards, authorizing a five-year lease with the U.S. environmental protection agency for covering part of Outlot "D," Edgshore Park Division, was introduced for discussion.

Some councilors raised concerns of: the philosophy of receiving no monetary revenue for leasing city property; this will be a five year lease; at least the tax value should be charged; being locked in for the full five years, what if the city found a new use for the property; potentially, if this was approved, the leasee has the option for three additional five year periods, therefore, up to 20 years, to extend the lease without coming back to the council; and whether the city used any effort to propose any monetary income, even token, from this leasee.

Mr. Brown noted that there is an option for the city to give a 90 day notice, to use the land and that "legal consideration" does not have to be in the form of monetary value.

Resolution 00-0711 was adopted as follows:

BY COUNCILOR EDWARDS:

WHEREAS, the city owns a property parcel described as Outlot "D," Edgshore Park Division; and

WHEREAS, the United States environmental protection agency located at 6201 Congdon Boulevard desires to continue utilizing said property for the collection of zoo plankton, natural water, and the holding of native species of frogs and other aquatic invertebrates.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute a lease agreement substantially in the form attached for a period of five years with the United States environmental protection agency, covering a portion of Outlot "D," Edgshore Park Division; said renewal to be in the form of that certain document on file in the office of the city clerk as Public Document No. 00-1127-14.

Resolution 00-0711 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Ness, Stewart and President Gilbert -- 5

Nays: Councilors Hogg, Stenberg and Stover -- 3

Absent: Councilor Fena -- 1

Approved November 27, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0805, by Councilor Stover, recommending approval of preliminary layout for the improvement of a part of Trunk Highway Number 53 renumbered as Trunk Highway 106 within the corporate limits of the city of Duluth from south of Fourth Street to 0.25 miles north of Skyline Parkway, was introduced for discussion.

To Mr. Winson's request, councilors moved to refer this resolution back to the administration so that more information and a presentation can be prepared, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT GILBERT

00-043 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN EXCESS CITY PROPERTY TO VARIOUS PARTIES.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT GILBERT

00-040 (9468) - AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY NEAR CENTRAL ENTRANCE AND EBONY AVENUE FROM THE STATE OF MINNESOTA FOR \$7,794.25, AND SALE THEREOF TO LAKEVIEW CHRISTIAN ACADEMY FOR \$7,794.25, SUBJECT TO USE IN CONJUNCTION WITH THE SCHOOL.

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

- - -

BY PRESIDENT GILBERT

00-042 (9469) - AN ORDINANCE DESIGNATING THE KILLORIN RESIDENCE AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

- - -

The meeting was adjourned at 8:48 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9468

BY PRESIDENT GILBERT:

AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY NEAR CENTRAL ENTRANCE AND EBONY AVENUE FROM THE STATE OF MINNESOTA FOR \$7,794.25, AND SALE THEREOF TO LAKEVIEW CHRISTIAN ACADEMY FOR \$7,794.25, SUBJECT TO USE IN CONJUNCTION WITH THE SCHOOL.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to purchase the herein-after-described property in St. Louis County, Minnesota, from the state of Minnesota for the amount of not to exceed \$7,794.25, payable from Fund 255, subject to the execution of the agreement described in Section 2 below:

Lots 13 through 21 inclusive, Block 29, DULUTH HEIGHTS Sixth Division, according to the recorded plat thereof.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 2. That the proper city officials are hereby authorized to enter into an agreement, in the form of that which is on file in the office of the city clerk as Public Document No. 00-1127-19, for the sale of the hereinbefore described property, by quit claim deed, to Lakeview Christian Academy, for the sum of \$7,794.25 or the city's cost, whichever is greater, said sum to be deposited in Fund 255, and execute all documents necessary with regard to said conveyance.

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 7, 2001)

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

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Absent: Councilor Fena -- 1

Passed November 27, 2000
Approved November 27, 2000
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9469

BY PRESIDENT GILBERT:

AN ORDINANCE DESIGNATING THE KILLORIN RESIDENCE AS A
DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the Killorin residence as a Duluth heritage preservation landmark; said landmark is described in Public Document No. 00-1127-20 on file with the city clerk and is described as follows:

Lots 1-4, portions of Lots 5, 6 and 12, and all of Lots 13-16, and adjacent vacated alley, Block 28, Harrisons Division of Duluth.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 7, 2001)

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

Yeas: Councilors Eckenberg, Edwards, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

Absent: Councilor Fena -- 1

Passed November 27, 2000
Approved November 27, 2000
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council meeting held on Thursday, November 30, 2000, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-1130-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement regarding sale of \$2,100,000 G.O. water and sewer utilities revenue bonds, Series 2000B; \$325,000 G.O. steam utility revenue bonds, Series 2000C (AMT); \$1,985,000 G.O. equipment certificates of indebtednes, Series 2000D. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 00-0802, providing for the issuance, sale and delivery of \$1,985,000 general obligation equipment certificates of indebtedness, Series 2000D; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 00-0803, providing for the issuance, sale and delivery of \$325,000 general obligation steam utility revenue bonds, Series 2000C; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 00-0804, providing for the issuance, sale and delivery of \$2,100,000 general obligation water and sewer utilities revenue bonds, Series 2000B; establishing the terms and form thereof; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

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

Kathy Kardell, senior vice president from Evensen Dodge, Inc., reviewed that the bid results were favorable as the market has been relatively stable over the past couple of weeks. She continued by saying that the city still has very good ratings from Moody's and Standard and Poors and recommended awarding the bids to the low bidders.

- - -

At this time, 5:10 p.m., President Gilbert called the public hearing regarding the sale of \$325,000 G.O. steam utility bonds to order (Public Document No. 00-1130-02).

- - -

At this time, 5:38 p.m., President Gilbert closed the public hearing and the regular order of business was resumed.

- - -

Resolutions 00-0802, 00-0803 and 00-0804 were adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

1.02 The city council adopted Resolution No. 00-0749 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,985,000 to finance the purchase of capital equipment authorized by the Act. It is hereby certified that the amount of the certificates of indebtedness to be issued by the City pursuant to this resolution is less than 0.25 percent of the market value of the taxable property of the City.

1.03 The city council hereby determines that it is necessary and expedient to issue \$1,985,000 General Obligation Equipment Certificates of Indebtedness, Series 2000D, 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 U.S. Bancorp Piper Jaffray of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$1,973,090, plus accrued interest on the total principal amount from December 20, 2000, 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 20, 2000, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Certificates shall mature on December 20 in the respective years and amounts stated and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount
2001	\$360,000
2002	380,000
2003	395,000
2004	415,000
2005	435,000

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

2.03 The interest shall be payable semiannually on June 20 and December 20 in each year (each referred to herein as an "Interest Payment Date"), commencing June 20, 2001. 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. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 2000D

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
%	December 20, ____	December 20, 2000	

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 20, 2000, 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 20 and December 20 of each year (each referred to herein as an "Interest Payment Date") commencing on June 20, 2001. 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 \$1,985,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 30, 2000 (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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

to and in the issuance of this Certificate in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest thereon when due, without limitation as to rate or amount; and that the issuance of this Certificate does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Certificate to be executed in its name by the facsimile signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Certificates, dated as of the original date of delivery of and payment for the Certificate.

City Clerk

REGISTRATION CERTIFICATE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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.

Date	Registered Owner	Signature of Bond Registrar
12/20/00	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 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 \$1,985,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, from the proceeds for the Certificates, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for "capital equipment," as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least five years, and costs of issuance of the Certificates, as such payments become due.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Certificates as such principal and interest respectively become due as set forth on Exhibit A attached hereto.

(b) A separate debt service account is hereby created and designated as the "2000 G.O. Equipment Certificates Debt Service Account" (the "Debt Service Fund") within the City's debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Certificates; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited all of the proceeds of the Certificates in excess of \$1,985,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Certificates.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Certificates, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into the Debt Service Fund. Said taxes shall be irrevocable until the Certificates and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and the amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Certificates and the interest thereon, in accordance with the terms set forth in this resolution.

3.05 Proceeds of the Certificates on deposit in the acquisition account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Section 475.66; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Certificates when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Certificates that the City will (i) take all action on its part necessary to assure that the interest on the Certificates will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Certificates and

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

4.02 (a) No portion of the proceeds of the Certificates shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Certificates were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Certificates or \$100,000. To this effect, any proceeds of the Certificates and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Certificates) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Certificates, the following schedule will be met: (i) at least 15% of the gross proceeds of the Certificates will be allocated to expenditures for the governmental purpose of the Certificates within six months of the date of issue of the Certificates; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Certificates, and that 100% of the available proceeds of the Certificates will be allocated within 30 months from the date of issue of the Certificates.

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

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

Section 6. Certificates of Proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the Certificates herein authorized have been duly entered on the county auditor's register.

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

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Certificates and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

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

Resolution 00-0802 was unanimously adopted.

Approved November 30, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota 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 steam utility located in the downtown area of Duluth (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the utility and are payable primarily from net revenues to be derived from the operation of such municipal steam utility and pledged for their payment.

1.02 The city council has, by Ordinance No. 9459 adopted on September 11, 2000, 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 \$325,000.

1.03 As required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the City has, on November 30, 2000, 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 to at least five firms determined by Evensen Dodge, Inc. to be prospective bidders on the General Obligation Steam Utility Revenue Bonds, Series 2000C (the "Bonds") at least two days (omitting

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 Dain Rauscher, Inc. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$325,250.85, plus accrued interest on the total principal amount from December 1, 2000, 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, 2000, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount	Year	Amount
2002	\$25,000	2007	\$35,000
2003	25,000	2008	35,000
2004	30,000	2009	35,000
2005	30,000	2010	40,000
2006	30,000	2011	40,000

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

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2001. 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. 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.

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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 2000C

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2000	

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, 2000, 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, 2001. 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 \$325,000, 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 November 30, 2000 (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 redemption and prepayment before maturity.

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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
12/__/00	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 \$325,000 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 \$325,000, 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 00-0803 was unanimously adopted.

Approved November 30, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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. 9463 adopted October 23, 2000, ordered the issuance, sale and delivery of \$1,530,000 general obligation water utility revenue bonds of the City, for the payment of the costs of improvements to the municipal water utility (the "Water Portion of the Bonds") and for payment of part of the interest cost 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.

1.04 The city council has, by Ordinance No. 9464 adopted October 23, 2000, ordered the issuance, sale and delivery of \$570,000 general obligation sewer utility revenue bonds of the City, for the payment of the costs of improvements to the municipal sewer utility (the "Sewer Portion of the Bonds") and for payment of part of the interest cost of the Bonds.

1.05 The city council has determined that it is necessary and expedient that the City issue such municipal utilities bonds in a single issuance of \$2,100,000 General Obligation Water and Sewer Utilities Revenue Bonds, Series 2000B (the "Bonds").

1.06 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.

1.07 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 eBondTrade, LLC of Walnut Creek, California (the "Purchaser"), to purchase the Bonds at a cash price of \$2,080,013.20, plus accrued interest on the total principal amount from December 1, 2000, 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.

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2.01 The Bonds to be issued hereunder shall be dated December 1, 2000, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates as set forth on Exhibit A:

Year	Water Portion of the Bonds	Sewer Portion of the Bonds	Total
2002	\$60,000	\$20,000	\$ 80,000
2003	75,000	30,000	105,000
2004	80,000	30,000	110,000
2005	85,000	30,000	115,000
2006	85,000	30,000	115,000
2007	90,000	35,000	125,000
2008	95,000	35,000	130,000
2009	100,000	35,000	135,000
2010	105,000	40,000	145,000
2011	110,000	40,000	150,000
2012	115,000	45,000	160,000
2013	120,000	45,000	165,000
2014	130,000	50,000	180,000
2015	135,000	50,000	185,000
2016	145,000	55,000	200,000

2.02 The Bonds maturing in the years 2002 through 2008 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2009 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter, in whole or in part, in 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, 2001. 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. 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

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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 WATER AND SEWER UTILITIES REVENUE BOND
SERIES 2000B

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2000	

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, 2000, 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, 2001. 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 \$2,100,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted on November 30, 2000, by the governing body of the City (the "Resolution"). The Bonds consist of two issues:

(i) That portion of the Bonds (\$1,530,000) 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 thereunto enabling, and pursuant to Ordinance No. 9463 adopted on October 23, 2000, for the purpose of providing funds for improvements to the municipal water 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 water utility are payable primarily 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 (\$570,000) 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. 9464 adopted October 23, 2000, 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.

The Bonds of this series maturing in the years 2002 through 2008 are not subject to redemption before maturity, but those maturing in the year 2009 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2008, and on any date thereafter upon 30 days' notice, in whole or in part, in such order of maturities as selected by the City and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

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

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

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

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

IN WITNESS WHEREOF, the City of Duluth, 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

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Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/00	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

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

Dated: _____

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 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. The portion of the maturities of the Bonds and debt service allocated to the Water Portion of the Bonds are set forth on Exhibit B.

B. The City has created a separate construction account within the Public Utility Water Fund to which there shall be credited \$1,530,000 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 \$1,530,000, 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. The portion of the maturities of the Bonds and debt service allocated to the Sewer Portion of the Bonds are set forth on Exhibit C.

B. The City has created a separate construction account within the Public Utility Sewer Fund to which there shall be credited \$570,000 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 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 utility. The treasurer shall credit to the Sewer Debt Service Fund all proceeds of the Sewer Portion of the Bonds in excess of \$570,000, 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 utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.03 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 Funds will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

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

Section 5. Continuing Disclosure.

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

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representation of the facts and representations made therein as of the date of the official statement.

Resolution 00-0804 was unanimously adopted.

Approved November 30, 2000

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:40 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 4, 2000, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Edwards, Fena, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 8

Absent: Councilor Ness -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-1204-11 Edmunds Company submitting communication regarding improvements to Wallace Avenue (00-0811R). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

00-1204-01 Duluth/North Shore sanitary district board minutes of November 8, 2000, meeting. -- Received

00-1204-02 Planning commission minutes of: (a) October 10; (b) October 25, 2000, meetings. -- Received

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At this time, 7:00 p.m., the public hearing regarding the 2001 levy and budget began (Public Document No. 00-1204-12).

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At this time, 7:15 p.m., the public hearing was closed.

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At this time, 7:15 p.m., the public hearing regarding the Seaway Port Authority 2001 levy increase began (Public Document No. 00-1204-13).

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At this time, 7:20 p.m., the public hearing was closed and the regular order of business was resumed.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jan Grover addressed the council regarding her concerns of safety aspects of the intersection of 18th Avenue East and Jefferson Street.

- - -

Kay L. Lewis expressed her concern regarding accident recording and Lakewalk snow removal.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 00-0778, confirming appointment of Jim Schwerdt to building appeal board replacing Gwin Whitney, from the table, which motion was seconded and unanimously carried.

Councilors Eckenberg, Hogg and Stover opposed the resolution as they felt that the person appointed should be a city resident.

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

Resolution 00-0778 was adopted as follows:

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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

BUILDING APPEAL BOARD

Jim D. Schwerdt (building materials supply) for a term expiring February 1, 2004, replacing Gwin Whitney who resigned.

Resolution 00-0778 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Stenberg, Stewart and President Gilbert -- 5

Nays: Councilors Eckenberg, Hogg and Stover -- 3

Absent: Councilor Ness -- 1

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

At this time, 7:35 p.m., the public hearing on the Fond du Lac sanitary sewer began (Public Document No. 00-1204-14).

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At this time, 7:50 p.m., the public hearing was closed and the regular order of business was resumed.

- - -

Councilor Edwards moved to remove Resolution 00-0811, memorializing the recommendation of the city council for improvements to Wallace Avenue, by President Gilbert and Councilor Edwards, from the table, which motion was seconded and unanimously carried.

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

Barb Koth expressed concerns over the greenspace area above Eighth Street and that not all the options have been explored.

Molly Thibodeau spoke in support of the resolution and getting the project done correctly at this time.

The council had extensive discussion on aspects of the project.

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

Yeas: Councilors Fena, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 6

Nays: Councilors Eckenberg and Edwards -- 2

Absent: Councilor Ness -- 1

- - -

Councilor Hogg moved to remove Resolution 00-0777, authorizing a memorandum of understanding with Minnesota Power and Hartley Nature Center Corporation, by Councilor Ness, from the table, which motion was seconded and unanimously carried.

Councilor Stover opposed the resolution because of the work that needs to be done at existing city buildings. He stated that the program should be citywide.

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

Bill Meier reviewed the extent of the Hartley Nature Center and how their teaching is throughout the city.

Resolution 00-0777 was adopted as follows:

BY COUNCILOR HOGG (Introduced by Councilor Ness):

WHEREAS, the city of Duluth has a lease agreement with the Hartley Nature Center Corporation; and

WHEREAS, Minnesota Power has agreed to provide funding for the purchase and first year maintenance for distributive energy systems for the future Hartley Nature Center building facility; and

WHEREAS, the city will become the recipient of said distributive energy systems with the Hartley Nature Center Corporation;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute a memorandum of understanding substantially to be in the form of that certain document on file in the office of the city clerk as Public Document No. 00-1204-03.

Resolution 00-0777 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and President Gilbert -- 7

Nays: Councilor Stover -- 1

Absent: Councilor Ness -- 1

Approved December 4, 2000

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

BY COUNCILOR EDWARDS:

RESOLVED, that Superior Glass, Inc., be and hereby is awarded a contract for furnishing and installing power door operators and controls for ADA improvements at the main library's Superior Street entrance and Michigan Street entrance for the city architect in accordance with specifications on its low specification bid of \$12,302, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C917.

Resolution 00-0828 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH HOUSING COMMISSION

Debra Branley (CDBG neighborhood) and Robert Reichert (at large) for terms expiring November 8, 2003.

Resolution 00-0796 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ENVIRONMENTAL ADVISORY COUNCIL

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Glenn L. Evavold and Brian L. Fredrickson (environmental) for terms expiring January 5, 2004.

Resolution 00-0797 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PLANNING COMMISSION

Thomas Shefchik and Roger Wedin for terms expiring December 31, 2004.

Resolution 00-0798 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DEFERRED COMPENSATION PLAN COMMISSION

Larry Jeneson (treasurer) and Martin Mehling (fire) for terms expiring December 31, 2004.

Resolution 00-0817 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the HOME program grant agreement, substantially in the form of that on file of that in the office of the city clerk as Public Document No. 00-1204-04, with Northern Communities Land Trust relating to its Homeland project.

Resolution 00-0800 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY PRESIDENT GILBERT:

WHEREAS, the environmental advisory council has created the natural resources inventory committee which has developed a work plan for an environmental resources inventory for the city of Duluth in preparation for the comprehensive land use plan; and

WHEREAS, the city of Duluth has selected a consultant to develop the land use plan; and

WHEREAS, it is critical for natural resources information to be a basic data source for the land use plan; and

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 purposes of mapping and inventorying forest resources in the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 \$12,632, federal share funding (60 percent).

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any and all of the grant agreements necessary for the implementation of said grant and that the city of Duluth does agree, upon offer of the grant, to obligate the \$8,422 from Fund 100, Org. 020, Ag. 1200, Obj. 5310, local share funding (40 percent) required to satisfactorily complete the proposed project and become eligible under the terms and conditions of the coastal management assistance grant program.

Resolution 00-0812 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that, pursuant to city council Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and the state of Minnesota in an amount not to exceed \$50,000, as approved by the DEDA board at its meeting of November 21, 2000, pursuant to DEDA Resolution No. 00D-63, a copy of which is on file in the office of the city clerk as Public Document No. 00-1204-05, is hereby approved.

Resolution 00-0822 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Arrowhead Regional Development Commission for the furnishing of meals for eligible senior citizens during the period from January 1, 2001, through December 31, 2001, said agreement filed as Public Document No. 00-1204-06.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 272, Dept./Agency 031, Organization 6301.

Resolution 00-0795 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that St. Louis County social services be and hereby is awarded a contract for furnishing and delivering approximately 67,100 hot meals for a 12 month period for the parks and recreation department in accordance with the specifications on its proposal of \$2.45 per regular meal for meals delivered from January 1, 2001, to December 31, 2001, approximate total cost of \$165,407.50, payable out of Senior Nutrition Fund 272, Dept./Agency 031, Organization 6308, objects 0070, 0071, 0072, 0073; to be encumbered out of year 2001 budget.

Resolution 00-0806 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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. 00-1204-07, 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, 2001, through December 31, 2001, for the operation of the Duluth senior dining program at a cost of \$6,804, payable at \$567 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 272, Dept. 031, Org. 6301.

Resolution 00-0813 was unanimously adopted.
Approved December 4, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, Lake Superior Center authority has offered the city of Duluth the use of certain grounds for a sliding hill, hayrides and parking for the city's Warmer by the Lake celebration on January 1, 2001, and for the city's Holiday Sing-Along to be held on December 14, 2000; and

WHEREAS, as a condition for the use of said grounds, both parties agree that the city of Duluth should hold the Lake Superior Center authority harmless from any injuries or accidents that would happen in conjunction with the above-mentioned programs;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute the agreement filed as Public Document No. 00-1204-08, with the Lake Superior Center authority holding it harmless from any damages that might occur out of the city of Duluth's use of its grounds for the above-mentioned programs.

Resolution 00-0829 was unanimously adopted.
Approved December 4, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized to apply for and to execute a grant agreement with the Minnesota department of natural resources, pursuant to its coastal zone management program, in the amount \$14,400, payable to Fund 210, Agency 030, Org. 2177, to defray 60 percent of the cost of developing a land use plan for Park Point.

Resolution 00-0809 was unanimously adopted.
Approved December 4, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the stormwater utility of the city of Duluth and the department of planning and development has developed a plan for mapping the tributaries of trout streams in Duluth; and

WHEREAS, the mapping project will address planning and development requirements and provide required information for the development of the surface water management plan and for development of a NPDES Phase II permit for the city of Duluth; and

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 and pilot testing of the program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 \$12,000 for a 60 percent federal share of funding for the trout stream tributary mapping project.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to execute any and all of the grant agreements necessary for the implementation of said grant and that the city of Duluth does agree to provide local matching funds of \$8,000 from Fund 535, Org. 0585, Obj. 5303, if the grant is awarded. Such funds shall be deposited into Fund 535, Revenue Source 4230.

Resolution 00-0815 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the stormwater utility of the city of Duluth has developed a plan for designing a watershed education program which will provide a pre-Kindergarten through Sixth grade curriculum available to local schools to be piloted at Stowe School in Duluth; and

WHEREAS, the city has met with Stowe School, University of Minnesota Duluth Center for Environmental Education and Great Lakes Aquarium to develop a plan for designing and administering the program; and

WHEREAS, the education program will address requirements for the educational informational component for development of a NPDES Phase II permit for the city of Duluth; and

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 and pilot testing of the program.

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 \$27,000 for a 60 percent federal share of funding for the watershed education program.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to execute any and all of the grant agreements necessary for the implementation of said grant and that the city of Duluth does agree to provide local matching funds of \$18,000 from Fund 535, Org. 0585, Obj. 5303 if the grant is awarded. Such funds shall be deposited into Fund 535, Revenue Source 4230.

Resolution 00-0816 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, by the resolution of intent Numbered 00-0672, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in 41st Avenue East from Regent Street to Regent Street Alley (City Job No. 9295SA00); 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

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 \$21,500, payable from the Special Assessment Fund 810, Agency 038, Organization 5334, Object 5530; that all of the cost of said 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 00-0808 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to that agreement with the state of Minnesota approved by Resolution No. 00-0581, a copy of which amendment is on file in the office of the city clerk as Public Document No. 00-1204-09, for the construction of turning lanes, traffic control signals and utilities at the intersection of Trunk Highway No. 53 and Trunk Highway No. 194 and for the revision of the Joshua Avenue intersection at the above-mentioned intersection under State Project No. 6915-104 and State Aid Project No. 118-010-023, decreasing the amount payable by the city to state thereunder by \$135,000.

Resolution 00-0807 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 99-0674 to Short Elliot Hendrickson, Inc., for professional engineering services for Trinity Road/Central Entrance Intersection and Trinity Road turn lanes, be amended to increase the amount by \$135,000 for a new total of \$275,115, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5327, Object 5530; to be reimbursed by Mn/DOT in the amount of \$135,000.

Resolution 00-0814 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2001, to December 31, 2001, in the amount of \$9,011,677 for the Duluth transit authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 00-0818 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR HOGG:

RESOLVED, that the operating budget for the fiscal year January 1, 2001, to December 31, 2001, in the amount of \$2,567,413 for the Duluth airport authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 00-0819 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the operating budget for the fiscal year January 1, 2001, to December 31, 2001, for Duluth Steam District No. 2 in the amount of \$9,474,000 is hereby approved.

Resolution 00-0820 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

Resolution 00-0821, by Councilor Hogg, distributing the estimated 2001 tourism taxes of hotel-motel and food and beverage, was introduced for discussion.

Councilor Stover expressed his concerns over the small percentage amount that Spirit Mountain receives given the amount of revenue that comes in from the hotel-motel tax from the large amount of out of town skiers that stay in the local hotels and motels and that the mountain is in need of capital improvements.

Resolution 00-0821 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the 2001 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3%	1%	1.5%	Add'l 2.5%	
	<u>Hotel-Motel</u>	<u>Hotel-Motel</u>	<u>Food & Bev</u>	<u>Hotel-Motel</u>	<u>TOTAL</u>
Duluth public arts commission			20,000	10,000	30,000
Sister cities			22,000	13,600	35,600
DECC	700,900		20,000	19,800	740,700
Convention and visitors bureau	377,400	124,700	430,000	134,600	1,066,700
Heritage and arts center		89,900	49,600	8,000	147,500
Spirit Mountain			39,800		39,800
Donations			30,000	20,000	50,000
Transfer to general fund	56,700	160,400	394,000	142,000	753,100
Transfer to debt service			344,600	348,000	692,600
DECC debt service			<u>675,000</u>	<u>174,000</u>	<u>849,000</u>
	1,135,000	375,000	2,025,000	870,000	4,405,000

Resolution 00-0821 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Stenberg, Stewart and President Gilbert -- 7

Nays: Councilor Stover -- 1

Absent: Councilor Ness -- 1

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

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 2001.

Resolution 00-0823 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(a) of the Home Rule Charter of the city of Duluth, the city council hereby orders the construction, to city of Duluth standards, of a sanitary sewer system in the Fond du Lac area; that the costs of said improvements are estimated at \$2,200,000 that shall be paid from Special Assessment Fund 810, to be reimbursed by a Minnesota public facility authority grant estimated at \$1,300,000; a community development block grant of approximately \$375,000; with the remainder of said costs levied against the property specifically benefitted by said improvements.

Resolution 00-0810 was unanimously adopted.

Approved December 4, 2000

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STEWART

00-038 - AN ORDINANCE ESTABLISHING A ONE YEAR NONRESIDENTIAL DEVELOPMENT MORATORIUM IN THE MINNESOTA POINT AREA.

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

Councilor Stewart noted that with all the previous discussion there was support for the concept, but that a better way to deal with this issue would be to pay close attention to the upcoming comprehensive plan and how it will affect Park Point.

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

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

00-044 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2001 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY COUNCILOR HOGG

00-045 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 2001.

- - -

BY COUNCILOR STOVER

00-046 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH TO MENARD, INC.

- - -

The following entitled ordinance was read for the second time:

BY PRESIDENT GILBERT

00-043 (9470) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN EXCESS CITY PROPERTY TO VARIOUS PARTIES.

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

- - -

The meeting was adjourned at 9:45 p.m.

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

- - -

ORDINANCE NO. 9470

BY PRESIDENT GILBERT:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN EXCESS CITY PROPERTY TO VARIOUS PARTIES.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey that property in St. Louis County, Minnesota, described in Public Document No. 00-1204-10(a) on file in the office of the city clerk, which property has been determined to be excess of the city's needs for the foreseeable future, by quit claim deed, to those persons named in said public document for the prices set forth therein.

Section 2. That said officials are further authorized to sell and convey that property in St. Louis County, Minnesota, described in Public Document No. 00-1204-10(b) on file in the office of the city clerk, which property has been determined to be excess of the city's needs for the foreseeable future, by warranty deed, to those persons named in said public document for the prices set forth therein under the following terms and conditions:

(a) The successful purchaser must build a suitable residence on the parcel within three years of the closing date;

(b) The city will convey these parcels by contract for deed during the building requirement term. Once the building requirement is met, the city will convey parcels by warranty deed.

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 14, 2001)

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: None -- 0

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Absent: Councilor Ness -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 4, 2000
Approved December 4, 2000
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 18, 2000, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held August 14, 2000, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

00-1218-01 Duluth Building Limited Liability Company, by Neal Hessen, attorney, petitioning for vacation of portion of West Michigan Street in Lincoln Park. -- Assessor

00-1218-02 Minnesota state auditor submitting audit report for Spirit Mountain recreation area authority for the years ended April 30, 1999, and 2000. -- Received

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REPORTS OF OFFICERS

00-1218-03 Assessor submitting:

(a) Affidavit of mailing of notices of public hearing to be held December 19, 2000, on ordering of proposed local improvement and levying of assessments for construction of drainage ditch in Kingston Alley from 51st to 52nd Avenues East;

(b) Confirmation of assessment rolls levied to defray the assessable portion of the following contracts: Contract No. 5328 for a force main sanitary sewer in Greysolon Road from 35th Avenue East to 650 feet west (assessable amount - \$22,218.95); and Contract No. 11901 for a watermain in Rice Lake Road from 490 feet southerly of Allen Street to 1,845 feet northerly of Allen Street and westerly 1,400 feet to Arlington Avenue (assessable amount - \$100,795,53). -- Clerk

00-1218-04 Community development and housing division manager submitting HRA housing rehabilitation report for October, 2000. -- Received

00-1218-05 Planning and development director submitting appeal of Carla Blumberg to reverse approval of plans which allow a 60 percent impervious surface coverage to facilitate the construction of a 30 unit townhouse/motel to be located at 701 Lake Avenue South and are in violation with a water resource management ordinance (Betty George Sola, et al.) -- Committee 2 (planning)

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REPORTS OF BOARDS AND COMMISSIONS

00-1218-06 Building appeal board minutes of October 11, 2000, meeting. -- Received

00-1218-07 Civil service board minutes of October 3, 2000, meeting. -- Received

00-1218-08 Commission on disabilities minutes of: (a) October 4; (b) November 1, 2000, meetings. -- Received

00-1218-09 Community development committee minutes of: (a) September 26; (b) November 28, 2000, meetings. -- Received

00-1218-10 Duluth airport authority: (a) Balance sheet of September 30, 2000; (b) Minutes of October 17, 2000, meeting. -- Received

00-1218-11 Duluth housing commission and Duluth housing trust fund board minutes of November 2, 2000, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

00-1218-12 Heritage preservation commission minutes of October 26, 2000, meeting. -- Received

00-1218-13 Housing and redevelopment authority of Duluth minutes of September 26, 2000, meeting. -- Received

00-1218-14 Seaway Port authority of Duluth: (a) Balance sheet of September 30, 2000; (b) Minutes of October 25, 2000, meeting. -- Received

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

Councilor Hogg moved to suspend the rules to consider ordinances 00-044 and 00-045 at this time, which motion was seconded and unanimously carried.

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

00-044 (9471) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2001 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

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BY COUNCILOR HOGG

00-045 (9472 and 9473) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 2001.

President Gilbert spoke against the levy, other than the Seaway Port authority section and the 2001 operating budget. He commented at length on the issues of: increased gas, water, sewer and stormwater rates; increased rates to fees charged; how the increased charges affect citizens on low or fixed incomes and the affect of high property rates on homeowners and landlords with a small number of units. In support of the issues he raised, President Gilbert made suggestions of: releasing funds from accounts where dollars can be released; slightly reducing the amount of monetary support given to the tourist industry; reassessing the tax increment financing policy for 2001 by using some of those funds for infrastructure needs that might reduce some of the property tax needs; reevaluating the economic development strategy to assist existing businesses with workforce development; delaying some financial assistance to businesses, such as an extra traffic light at their entrance; reducing slightly some financial assistance to the technology community; and starting a Duluth legacy and stewardship fund to allow for charitable giving.

Councilors, the administrative assistant and mayor felt that some of President Gilbert's comments and suggestions were: while worthy of further discussion, would have been better served if brought up in the policy setting stage in the spring of the year and/or budget meetings; that costs of all other industries and services have increased, with the city's increases nearer the bottom of the list; that some of the areas that were cited for change are not in the control of the mayor or city council, such as natural gas costs and market values of property; that the cost for the specific traffic light that was referred to will not be a city expense; that the amount of city services that are received, for areas such as parks, libraries and streets, are a bargain for the amount that is covered by property taxes; that the costs of the comprehensive plan are additional costs that the council and administration support; that the state legislature disallowed the city from collecting city sales tax on automobile purchases; and the financial market has increased the debt service cost.

Councilor Hogg moved to separate Ordinance 00-045 so that the section pertaining to the Seaway Port authority could be considered separately, which motion was seconded and unanimously carried.

Councilor Hogg moved passage of Ordinance 00-045(a), without the Seaway Port authority section, and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 8

Nays: President Gilbert -- 1

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Councilor Hogg moved passage of Ordinance 00-045(b), pertaining to the Seaway Port authority, and the same was adopted upon a unanimous vote.

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Councilor Hogg moved passage of Ordinance 00-044 and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and Stenberg -- 8

Nays: President Gilbert -- 1

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah expressed his support for the stop sign at Seventh Street and First Avenue East and that 18 year olds and younger will not be allowed in smoking areas.

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Kay L. Lewis voiced support for the testing of groundwater runoff for antibiotics; that as a test for the interest in railroad passenger travel, a passenger car could be added to the existing freight trains that go to the Twin Cities; and that smoking in groups directly outside of businesses, needs to be addressed.

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RESOLUTIONS TABLED

Councilor Edwards moved to remove Resolution 00-0811, memorializing the recommendation of the city council for improvements to Wallace Avenue, from the table, which motion was seconded and unanimously carried.

Councilor Eckenberg noted that he felt that the strongest impression from the affected residents is that they would like the road improved at a 28 feet width, with the residential character of the neighborhood preserved, but if they cannot have it under that condition, they definitely want the job done, at whatever width is approved. He stated that with those impressions from the neighborhood, along with the issues that it is a county road and that the county has the funds, he could not support this resolution.

Resolution 00-0811 was adopted as follows:

BY PRESIDENT GILBERT AND COUNCILOR EDWARDS:

WHEREAS, the city council on July 24, 2000, unanimously rejected the design for reconstruction of County State Aid Highway No. 9; and

WHEREAS, based upon the recommendation of the dispute resolution board on October 5, 2000, the commissioner of transportation recommended that the city have final plan approval; and

WHEREAS, after careful consideration and input from citizens, the council is supportive of a design that preserves the residential character of this route.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports a design concept of State Aid Highway No. 9, State Aid Project No. 69-609-31 (Wallace Avenue) as follows:

between Fourth and Fifth Streets, 32 foot wide street; street width between Fifth and Eighth Streets, 28 foot wide; Eighth Street to St. Marie Street, 32 foot wide, using appropriate transitions near the intersections; provide a continuous public sidewalk from Fourth Street to St. Marie Street;

and after completion of the reconstruction of Wallace Avenue, the city shall enter into negotiations with St. Louis County to return Wallace Avenue to city of Duluth road jurisdiction.

Resolution 00-0811 was adopted upon the following vote:

Yeas: Councilors Edwards, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Gilbert -- 8

Nays: Councilor Eckenberg -- 1

Approved December 18, 2000

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY PRESIDENT GILBERT

00-0862 - RESOLUTION ADDING A NEW RULE 18 TO THE STANDING RULES OF THE DULUTH CITY COUNCIL; REQUIRING RESOLUTIONS GRANTING BUSINESS SUBSIDIES TO BE READ AND REMAIN ON FILE FOR AT LEAST ONE WEEK BEFORE PASSAGE.

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

Carmen Arnold, representing the Minnesota Senior Federation, spoke in support of the resolution because the federation felt that in the past the council has not used due diligence to review business subsidy proposals before acting on them. She noted that the Duluth economic development authority (DEDA) is to file a report with the council, explaining how the business proposal meets a public purpose.

Bob Kosuth, representing the Duluth Living Wage Coalition and a member of the Duluth Area Green Party, noted the coalition's and party's support for the resolution. He cited that the important issue is not how long the council talks about it, but the amount of time that it is before the public eye, to allow their input.

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CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the resurfacing of 48th Avenue East from Peabody Street to 140 feet northerly (Contract No. 5332, total assessable - \$3,045.50), is hereby confirmed.

Resolution 00-0799 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute an amendment (Public Document No. 00-1218-15) to City Contract Number 18320, dated September 15, 1998, as amended, with Fryberger, Buchanan, Smith & Frederick, P.A., for the provision of legal services related to the condemnation of land previously owned by the estate of Stanley A. Lepak and others, increasing the amount payable thereunder by \$21,000, payable from Fund 605.

Resolution 00-0858 was unanimously adopted.

Approved December 18, 2000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute an amendment (Public Document No. 00-1218-16) to City Contract Number 18365, dated December 30, 1998, as amended, with F.I. Salter Company, Inc., for the provision of appraisal services related to the condemnation of land previously owned by the estate of Stanley A. Lepak and others, increasing the amount payable thereunder by an amount not to exceed \$20,000, payable from Fund 605.

Resolution 00-0859 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental agreement with MAR Computer Services for the continued provision of professional training and emergency software services as needed for the MIS division, at a rate of \$50 per hour at a total annual cost of approximately \$15,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319; to be encumbered out of year 2001 budget.

Resolution 00-0831 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering eight marked patrol vehicles for the police department in accordance with specifications on its low specification bid of \$170,256, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS01, Object E102; to be encumbered out of year 2001 budget.

Resolution 00-0838 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that North Star Garage, Inc., be and hereby is awarded a contract for furnishing and delivering two Dodge Durangos for the police department in accordance with specifications on its low specification bid of \$53,466.40, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization RS01, Object E102; to be encumbered out of year 2001 budget.

Resolution 00-0839 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale nonintoxicating malt liquor licenses for the period ending April 30, 2001, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Sky Ventures, LLC (Pizza Hut), 1918 London Road, from Pizza Hut of America (Pizza Hut), same address.

Sky Ventures, LLC (Pizza Hut), 17 West Central Entrance, from Pizza Hut of America (Pizza Hut), same address.

Resolution 00-0848 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale nonintoxicating malt liquor license for the period ending April 30, 2001, subject to departmental approvals and the payment of sales and property taxes:

Tom Potter, Inc. (Sixth Avenue ICO), 527 North Sixth Avenue East, with Tom Potter, 50 percent stockholder and Judy Potter, 50 percent stockholder.

Resolution 00-0849 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and on sale wine license, for the period ending April 30, 2001, and August 31, 2001, respectively, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Beaner's Central, Inc. (Beaner's Central), 324 North Central Avenue, with Jason Wussow, 100 percent stockholder.

Resolution 00-0850 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, the Duluth Community Sailing 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 Duluth Community Sailing Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 00-0851 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 00-0092 to Lake Superior Office Furniture for furnishing office furniture for the M.I.S. division, be amended to increase the amount by \$13,158.16 for a new total of \$59,208.84, \$56,069.37 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization NR00, Object E009 and \$3,139.47 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization NR00, Object E038.

Resolution 00-0852 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to execute an agreement (Public Document No. 00-1218-21), with Gamblers Intervention Services for the operation of an outreach gambling program during year 2001, at a cost to the city of \$90,000, which shall be payable from General Fund 015-1514 gambling administration.

Resolution 00-0856 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

ANIMAL HUMANE BOARD

Mary Jane Smythe for a term expiring October 31, 2001, replacing Patricia Grahek who resigned.

Resolution 00-0824 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

BOARD OF ZONING APPEALS

Larry Sundberg for a term expiring July 31, 2001, replacing Donna Scorse who resigned.

Resolution 00-0825 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

JOINT AIRPORT ZONING BOARD

Mark D. Erickson for a term expiring January 2, 2004, replacing Roberta Dwyer who resigned.

John Morrison for a term expiring January 2, 2002, replacing James Laumeyer who resigned.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Resolution 00-0826 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

TREE COMMISSION

Louise S. Yount for a term expiring August 31, 2002, replacing Rocky Anderson who resigned.

Resolution 00-0827 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city official are hereby authorized to enter into a subordination of mortgage, substantially in the form of that on file in the office of the city clerk as Public Document No. 00-1218-17, which subordinates a \$175,000 mortgage under a HOME program grant agreement (City Contract No. 18409) executed by Life House, Inc., in favor of the city of Duluth to a \$350,000 mortgage of Local Initiatives Support Corporation (LISC) and which further provides that upon the "take out" of the LISC mortgage by Minnesota housing finance agency (MHFA), the "MHFA's loan will be deemed as successor to LISC and the HOME mortgage will be a second priority lien behind the \$350,000 mortgage of MHFA.

Resolution 00-0836 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the Duluth City Council hereby approves, subject to the approval of the U.S. Army corps of engineers, the acquisition by the Duluth airport authority (DAA) of 3.0 acres of wetland replacement credits from Lone Pine for the purchase price of \$70,500 relating to the 1,000 foot improvement to the runway safety area of Runway 03-21, payable from the DAA construction fund.

Resolution 00-0840 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 00-1218-18, to the neighborhood matching grant funds agreement with the Lower Chester Hockey Association, extending the term of the agreement for a period of 12 months with no change in project costs.

Resolution 00-0842 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment substantially in the form of the copy on file in the office of the city clerk as Public Document No. 00-1218-19 to the neighborhood matching grant funds agreement with the Waverly Park neighborhood committee, extending the term of the agreement for a period of 12 months with no change in project costs.

Resolution 00-0844 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment substantially in the form of the copy on file in the office of the city clerk as Public Document No. 00-1218-20 to the neighborhood matching grant funds agreement with the LLPCC extending the term of the agreement for a period of 12 months with no change in project costs.

Resolution 00-0845 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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BY PRESIDENT GILBERT:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 00-1218-22 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 \$170,950 to be paid from General Fund 100-015-2050-5541.

Resolution 00-0853 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Northland Consulting Engineers, L.L.P., for the sum of not to exceed \$16,048, from General Fund 100, Ag. 015, Org. 2500, Obj. 5319, for providing certain engineering services to the city of Duluth in connection with the London Road Armory building assessment, 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. 00-1218-23.

Resolution 00-0832 was unanimously adopted.
Approved December 18, 2000
GARY L. DOTY, Mayor

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BY COUNCILOR 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. 00-1218-24, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

agreement until December 31, 2001, 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 00-0837 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to Agreement No. 18805, approved by city council Resolution No. 00-0300, with the Spirit Mountain recreation area authority which allows the authority to participate during 2000 in the city's self insurance fund for purposes of general liability, workers' compensation and employee honesty bond coverage; said amendment shall be substantially in the form of Public Document No. 00-1218-25, on file in the office of the city clerk.

Resolution 00-0846 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Fond du Lac Reservation business committee (Public Document No. 00-1218-26) to provide lifeguard services for the reservation's CAIR elder exercise program for a consideration of \$1,000, to be deposited in General Fund 100, Agency 400, Org. 1812.

Resolution 00-0847 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized and directed to amend the lease agreement between the city of Duluth and St. Louis County for the leasing of ten parking spaces near the St. Louis County parking ramp and six parking spaces across from the Government Services Center for an estimated annual consideration of \$6,480, to be paid from Fund 100-015-2500-5441; said lease agreement filed as Public Document No. 00-1218-27.

Resolution 00-0841 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Silo Systems, Division of Hrcal Companies, be and hereby is awarded a contract for furnishing and delivering fly ash storage silo for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$25,343.81, terms net 30, FOB destination, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 00-0855 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

RESOLVED, that Venture Fuels be and hereby is awarded a contract for furnishing and delivering coal for two heating season requirements beginning with year 2003/2004 and year 2004/2005 for the Duluth Steam Cooperative District I to produce an estimated 800,000 mm btu's in accordance with specifications on its low specification bid of \$22.67 per ton for the year 2003/2004 season estimated annual total of \$1,030,454.53, and \$23.07 per ton for the year 2004/2005 season estimated annual total of \$1,048,636.35, terms net, FOB destination; to be encumbered out of year 2003/2004 budget and year 2004/2005 budget.

BE IT FURTHER RESOLVED, that proper city officials be hereby authorized to negotiate price on an annual base depending on changes in market.

Resolution 00-0860 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by the Resolution of Intent Numbered 00-0672, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in 41st Avenue East from Regent Street to Regent Street Alley (City Job No. 9280SA00); 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 \$22,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5334, Object 5530; that all of the cost of said 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 00-0830 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution 00-0584 the council requested that the commissioner of transportation grant the city of Duluth a design variance on the proposed reconstruction of Minnesota Bridge No. L6128 at Keene Creek on Skyline Parkway, allowing a reduction in the urban state aid standards for bridge approaches from the required 30 mph design to a 26 mph design; and

WHEREAS, the commissioner has granted the city a variance from Minnesota Rule 8820.9936 so as to allow a 26 mph design speed in lieu of the required 30 mph design speed, conditioned upon receipt by the commissioner of a resolution of the city council indemnifying the state for the granting of said variance;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or causes of action arising out of or by reason of the reconstruction of Minnesota Bridge No. L6128 at Keene Creek on Skyline Parkway in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9936, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of the granting of this variance.

Resolution 00-0833 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 81.25 percent of the abutting property to construct a drainage ditch and storm sewer in Kingston Alley between 51st Avenue East and 52nd Avenue East to serve Lots 1772 through 1787 of Block 127, Crosley Park Addition Duluth; and

WHEREAS, it appears that the construction of the above mentioned drainage ditch and storm sewer may be a necessary and desirable improvement; and

WHEREAS, the nature of the above mentioned ditch project (City Job No. 9044ST98) requires only minimal plan and specification preparation;

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 will further direct procedures prescribed by Section 62 of the Charter.

Resolution 00-0834 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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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 2001 street and utility improvement projects for the engineering division in accordance with specifications on its low specification bid of \$10,000 terms net 30, FOB destination, payable out of various funds, various depts./agencies, various organizations, various objects; to be encumbered out of year 2001 budget.

Resolution 00-0857 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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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 Leif Erikson restoration project, desires financial assistance under the coastal management assistance grant program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

NOW, THEREFORE, BE IT RESOLVED:

(a) That the city of Duluth, acting in conjunction with the Leif Erikson restoration project hereby approves filing an application for coastal management assistance grant financial assistance;

(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;

(c) That the city of Duluth, acting in conjunction with the Leif Erikson restoration project, 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 00-0861 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED that the proper city officers are hereby authorized to execute a license agreement, filed as Public Document No. 00-1218-28, between the city of Duluth and the International Conference of Building Officials for the reproduction of the International Property Maintenance Code for a consideration of not to exceed \$2,250; payable from Fund 100-020-1201-5355.

Resolution 00-0854 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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The following resolutions were also considered:

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; and

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 2001.

Resolution 00-0866 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized to execute that certain agreement filed as Public Document No. 00-1218-29, with Benedek Broadcasting Corporation and Melrose Pyrotechnics for the fireworks display at the *Warmer by the Lake* celebration on January 1, 2001.

Resolution 00-0865 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a joint powers agreement with Rice Lake Township, in the form and containing the terms as set out in the contract on file with the city clerk as Public Document No. 00-1218-30, for the extension of the natural gas delivery system and provision of gas services in the township.

Resolution 00-0843 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

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Resolution 00-0864, by Councilor Eckenberg, establishing fixed charge water rates effective with meter readings after January 1, 2001, and rescinding all prior inconsistent or conflicting resolutions with respect to such rates, was introduced for discussion.

Administrative Assistant Winson stated that he would support tabling the resolution until the information requested by the council could be provided.

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

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BY COUNCILOR STOVER:

RESOLVED, pursuant to sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purpose of increasing the revenue of the sewer utility, there is established and shall be collected beginning with the meter readings made on January 2, 2001, and thereafter, a customer charge and user charges, based upon the volume of waste water discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

Customer charge	\$5.89 per month
User charge - Class I	\$2.93/ccf
User charge - Class II	\$4.08/ccf
User charge - Class III	\$5.09/ccf
Miles, Inc.	\$9.41/ccf
Chroma	\$5.61/ccf
Kemp	\$6.32/ccf.

BE IT FURTHER RESOLVED, that the rate regulations established and approved by Resolution 99-0831 are rescinded as of January 1, 2001.

Resolution 00-0863 was unanimously adopted.

Approved December 18, 2000

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

00-048 - AN ORDINANCE PERTAINING TO SMOKING IN PUBLIC PLACES IN THE CITY OF DULUTH; AMENDING SECTIONS 28-64 AND 28-71 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Kay Lewis commented that the smoking regulation at the Norshor Theater should be reviewed, because she thought it was a theater and thus no smoking.

Councilor Stewart responded that it is a liquor establishment, but requested the administration to clarify what is the smoking area versus the liquor area.

Tony Salls, from Chi-Chi's Restaurant, noted that recently in reviewing the original ordinance, some issues came forth, and that while two issues are being addressed with this ordinance, there is one other issue that he felt needs to be addressed. He noted that the intent of the hardship clause was put in the ordinance to help the businesses that may financially suffer as the result of the ordinance. Mr. Salls felt that, with the hardship clause being allowed only for establishments that do not have a liquor license, the establishments with a liquor license should be treated on the same competitive level and be allowed to come under the hardship clause also.

Councilors discussed at length the aspects of: under this amendment liquor establishments with food may have a designated smoking area it is a separate room and is enclosed, under separate ventilation, while other liquor establishments with food service, may not be able to structurally create that separated area and thus will have to be smoke free, at least until 8:00 p.m., with individuals under 18 not on the premises after 8:00 p.m.; and that the original intent of the exemption was for the small, one room establishment that serves food only and that possibly that should apply to liquor establishments also.

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BY COUNCILOR STOVER

00-047 - AN ORDINANCE AUTHORIZING AMENDMENT TO CONTRACT NO. 18154 WITH AND SALE OF CERTAIN PROPERTY IN LINCOLN PARK TO DULUTH BUILDING LIMITED LIABILITY COMPANY.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

00-046 (9474) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH TO MENARD, INC.

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

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The meeting was adjourned at 8:45 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9471

BY COUNCILOR HOGG:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2001 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, 2001, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the administrative assistant or his designee.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget item upon approval of the finance director.

Section 2. That the finance director be authorized to approve the payments of \$2,067,600 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,004,600 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$63,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the administrative assistant or his designee may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year 2001. 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 2001.

<u>010 - LEGISLATIVE AND EXECUTIVE</u>		
1101	City council - total	\$ 168,000
1102	Mayor's office - total	164,300
1103	Administrative assistant - total	169,700
1104	Attorney's office - total	1,209,100
	Total legislative and executive	<u>\$ 1,711,100</u>
<u>015 - ADMINISTRATIVE SERVICES</u>		
1510	Human resources - total	\$ 667,600
1511	Budget - total	200,100

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

1512	City clerk - total	616,300
1513	Data/word processing - total	1,277,500
1514	Other functions	873,000
1515	Facilities management	4,152,700
1516	Architect's office	214,400
	Total administrative services	<u>\$ 8,001,600</u>
	<u>020 - PLANNING AND DEVELOPMENT DEPARTMENT</u>	
1202	Urban development - total	914,600
	Total planning department	<u>\$ 914,600</u>
	<u>030 - FINANCE</u>	
1322	City assessor's office - total	675,000
1324	City auditor's office - total	1,463,000
1325	Purchasing office - total	274,600
1327	City treasurer's office - total	349,400
	Total finance and records	<u>\$ 2,762,000</u>
	<u>100 - FIRE DEPARTMENT</u>	
1501	Fire administration - total	\$ 381,600
1502	Firefighting operations - total	11,799,500
1503	Fire prevention and training - total	440,100
1504	Building inspection	1,439,500
	Total fire department	<u>\$ 14,060,700</u>
	<u>200 - POLICE DEPARTMENT</u>	
1610	Police support services - total	\$ 5,701,300
1620	Police uniform division - total	7,500,900
	Total police department	<u>\$ 13,202,200</u>
	<u>300 - LIBRARY</u>	
1701	Director's office - total	\$ 573,200
1702	Library services - total	2,969,200
1703	Buildings and equipment - total	283,500
	Total library	<u>\$ 3,825,900</u>
	<u>400 - PARKS AND RECREATION</u>	
1812	Recreation and senior services-total	1,682,500
1814	Zoo - total	884,800
	Total parks and recreation	<u>\$ 2,567,300</u>
	<u>500 - PUBLIC WORKS</u>	
1900	Director's office - total	\$ 61,300
1920	Maintenance - total	6,904,300
1925	Bridges - total	630,800
1930	Transportation engineering services - total	1,878,200
	Total public works	<u>\$ 9,474,600</u>
	<u>700 - TRANSFERS</u>	
	Total transfers	\$ 8,424,400
	<u>PUBLIC ENTERPRISE</u>	
503	Golf fund - total	\$ 1,932,200
	<u>PUBLIC UTILITIES</u>	
510	Water fund - total	\$ 11,472,700

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

520	Gas fund - total	40,375,600
530	Sewer fund - total	18,628,500
535	Stormwater fund - total	4,058,100
540	Steam fund - total	3,207,200

Section 8. That the administrative assistant or his designee shall provide the council with monthly budget reports and a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

That programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secured. Local funding will be available only after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2001. (Effective date: January 1, 2001)

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 8

Nays: President Gilbert -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 18, 2000
Approved December 18, 2000
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9472

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR THE YEAR 2001.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2001 hereby determined to be the sum of \$9,273,800, which is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city set forth in the following section, via:

Section 2. There will be levied for the support of the general fund the sum of \$3,243,100.

Section 3. For the payment of debt, there will be levied for the general obligation debt service fund the sum of \$3,663,100.

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 \$490,000.

Section 5. That pursuant to Minnesota Statutes, Section 458A.51, Subd. 1, there will be levied for transit operations the sum of \$1,877,600.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 6. That this ordinance shall take effect immediately upon passage and approval.
(Effective date: December 18, 2000)

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

Yeas: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 8

Nays: President Gilbert -- 1

Passed December 18, 2000
Approved December 18, 2000
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9473

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR THE YEAR 2001.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2001 hereby determined to be the sum of \$384,900, which is levied against the taxable property of the city of Duluth and appropriated to the various account of the city set forth in the following section, via:

Section 2. That pursuant to Minnesota Statutes, Section 469.053 Subd. 4, there will be levied for the purpose of providing funds for the Seaway Port authority fund of the city of Duluth, the sum of \$384,900.

Section 3. That this ordinance shall take effect immediately upon passage and approval.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote: (Effective date: December 18, 2000)

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

Nays: None -- 0

Passed December 18, 2000
Approved December 18, 2000
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9474

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN WEST DULUTH TO MENARD, INC.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 00-1218-31, to sell and convey all of city's interest in the following described property in St. Louis County, Minnesota, by quit claim deed, to Menard, Inc., for a price equal to \$2.57 per square foot and to execute all documents necessary with regard to said conveyance: Lots 1 through 4, inclusive, Block 171, WEST DULUTH Seventh Division, together with those portions of vacated public highways appurtenant to said lots, excepting, however, all minerals and mineral rights.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2000

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 28, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 18, 2000
Approved December 18, 2000
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, December 21, 2000, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Edwards, Fena, Hogg, Ness, Stenberg, Stewart and President Gilbert -- 8

Absent: Councilor Stover -- 1

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

00-048 (9475) - AN ORDINANCE PERTAINING TO SMOKING IN PUBLIC PLACES IN THE CITY OF DULUTH; AMENDING SECTIONS 28-64 AND 28-71 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Tony Salls, of Chi-Chi's Restaurant, supported the changes of this ordinance but also noted that the "hardship" exemption section, as currently written, gives an unfair competitive advantage to one sector of the industry over the other. That is, the establishments serving alcoholic beverages with the meal are being penalized and possibly some of those businesses would not survive.

Brian Daugherty, of Grandma's Restaurants, stated that when he read the original ordinance, he took the ordinance literally to mean that until 8:00 p.m. there is no smoking and then, after 8:00 p.m. smoking could be allowed under the conditions of the Minnesota Clean Indoor Act. He stated that he is trying to make the ordinance work for both smokers and nonsmokers, and that not allowing minors in after 8:00 p.m., especially in the summertime when tourists travel with their children, would be a major problem. Mr. Daugherty stated that for their restaurants and others, the 18 year old restriction after 8:00 p.m., will substantially prove to be a hardship.

LuAnn Wasbotten, of Old Chicago Restaurant, stated that they are in the customer service business of satisfying smokers and nonsmokers and that some locations cannot financially establish a separate area, given that in the future, there is likely to be no smoking allowed at all.

Steve O'Neal, of Twin Ports Youth Coalition, expressed support for the ordinance. He stated that the intent of the hardship clause was for the small operation and that other cities smoking restrictions are going well.

Councilors discussed aspects of: liquor/food establishments can choose to be totally smoke free or at least smoke free longer, to say 9:00 p.m. or 10:00 p.m.; the initial wording of the ordinance was understood by many operators to be workable; liquor/food establishments can also set up separate smoke free areas that are ventilated separately; by eliminating the 18 year old reference, the ordinance is totally against the original intent of the councilors; that the amendment before them states the original intent of the council; there is an overlapping complexity of some smoking customers who would choose to come for dinner after 8:00 p.m. when smoking is allowed and, at the same time, some families with children under 18 who would also like to have a meal after 8:00 p.m.; relative to aspects of enforcement, establishments need to properly post the time frame restriction for occupancy for those under 18 years old if, at 8:00 p.m., the establishment is going to allow smoking; if there was a complaint the minor and the business owner could be subject to a ticket; employees under 18 would not be able to work in the area that allows smoking; and there are trade offs, with this ordinance, for each type of location and if government should be taking a role of "parenting," by protecting youth under 18 years old.

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

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The meeting was adjourned at 6:05 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9475

BY COUNCILOR STEWART:

AN ORDINANCE PERTAINING TO SMOKING IN PUBLIC PLACES
IN THE CITY OF DULUTH; AMENDING SECTIONS 28-64 AND 28-
71 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 28-64 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 28-64. Smoking prohibited in public places; exception.

No person shall smoke in any public place except those rooms constituting bars where persons under the age of 18 are not permitted to enter or remain, and except bars and restaurants that have a designated smoking area in a separate room, separately ventilated to the outside and constituting not more than 30 percent of the seating floor space and persons under the age of 18 are not permitted to enter or remain.

Section 2. That Section 28-71 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 28-71. Hours of application.

Subject to the provisions of the Minnesota Clean Indoor Air Act, smoking may be allowed by the management at restaurants holding alcoholic beverage licenses or beer and wine licenses after 8:00 p.m. until 1:00 a.m. if persons under 18 years of age are not allowed to remain on the premises during that time.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 26, 2001)

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

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart and President Gilbert -- 7

Nays: Councilor Edwards -- 1

Absent: Councilor Stover -- 1

Passed December 21, 2000
Approved December 21, 2000
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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