



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
2003**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 6, 2003, 6:00 p.m. in the Harborside Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

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

Absent: None -- 0

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ELECTION OF OFFICERS

Councilor Stenberg was elected president upon a unanimous vote.

Councilor Hogg was elected vice president upon a unanimous vote.

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

BY COUNCILOR HOGG:

RESOLVED that the proper city officers are hereby authorized to execute an agreement with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2003 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 03-0106-01, at a cost to the city of not to exceed \$42,230, which shall be payable from the General Fund 0100-700-1403-5312.

Resolution 03-0012 was unanimously adopted.

Approved January 6, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of

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appraiser, which were approved by the civil service board on November 5, 2002, and which are filed with the city clerk as Public Document No. 03-0106-02, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 127A-134E, \$2574 to \$4102 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 03-0011 was unanimously adopted.

Approved January 6, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent Number 02-0830 the council did request the administration to prepare plans and specifications for the construction of 200 feet of sanitary sewer within Clay Street Alley beginning 120 feet east of 71st Avenue West and extending westerly (City Job No.0287SN) at an estimated cost of \$22,500; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$22,500, payable from Special Assessment Fund 0410, Agency 038, Organization 5364, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0005 was unanimously adopted.

Approved January 6, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent Number 02-0808 the council did request the administration to prepare plans and specifications for the construction of 290 feet of sanitary sewer in Petre Street beginning at the intersection of 64th Avenue West and extending easterly (City Job No.0305SN) at an estimated cost of \$36,250; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$36,250, payable from Special Assessment Fund 0410, Agency 038, Organization 5365, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0006 was unanimously adopted.

Approved January 6, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent Number 02-0831 the council did request the administration to prepare plans and specifications for the construction of 210 feet of sanitary sewer within Falcon Street beginning at the intersection of 90th Avenue West and extending easterly (City Job No.0282SN) at an estimated cost of \$17,500; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$17,500, payable from Special Assessment Fund 0410, Agency 038, Organization 5366, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0007 was unanimously adopted.

Approved January 6, 2003

GARY L. DOTY, Mayor

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

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Mayor Doty presented the 2003 State of the City Address (Public Document No. 03-0106-03.)

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

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 13, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0113-01 Alan and Gina Amatuzio submitting petition to vacate that portion of Howard Gnesen Road which crosses Lot 20, Norton's Duluth Outlots. -- Assessor

03-0113-02 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from: (a) Rebecca Katz/Christopher Harwood on January 4, 2003; (b) Cindy Haglind on February 1, 2003; (c) Jenny Fetters on February 8, 2003. -- Received

03-0113-03 The following submitting communications regarding the old armory building (02-0878R): (a) Armory Arts and Music Center; (b) Jane and Dean Casperson; (c) Rob Link, by Mark Pilon, attorney. -- Received

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REPORTS OF OFFICERS

03-0113-04 Assessor submitting:

(a) For confirmation the assessment rolls levied to defray the assessable portions of sidewalk repair, Contract 5355 (assessable - \$9,858.65) and sanitary sewer and watermain in Rice Lake Road, Contract 5344 (assessable - \$69,748.14, sewer; \$13,668.68, water; \$83,416.82, total);

(b) Letters of sufficiency to:

(1) Remove the special use permit restrictions of Ordinance No. 8951 as it pertains to property described as part of SE 1/4, NW 1/4, Sec. 3, T50N, R14W, Fourth Principal Meridian, city of Duluth, St. Louis County, Minnesota, for the purpose of making it available for residential development;

(2) Vacate Centre Avenue between Cleveland and Buffalo Streets adjacent to Blocks 14, 15, 20 and 21, in the plat of Myers and Whipples Addition;

(3) Vacate that portion of Howard Gnesen Road which crosses Lot 20, Norton's Duluth Outlots. -- Received

03-0113-05 Engineering division submitting monthly project status report of December 1, 2002. -- Received

03-0113-06 Purchasing agent submitting emergency order awarded to Hovland, Inc., in the amount of \$23,269.13 to repair a water leak in a six inch watermain in Second Avenue East at Superior Street. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0113-20 Alcohol, gambling and tobacco commission minutes of December 10, 2002, meeting. -- Received

03-0113-07 Building appeal board minutes of November 13, 2002, meeting. -- Received

03-0113-08 Duluth airport authority minutes of special meeting held December 4, 2002. -- Received

03-0113-09 Duluth/North Shore Sanitary District board minutes of December 3, 2002, meeting. -- Received

03-0113-10 Duluth transit authority: (a) Income statement for October, 2002; (b) Minutes of October 23, 2002, meeting. -- Received

03-0113-11 Planning commission minutes of: (a) September 10; (b) September 18; (c) September 25; (d) October 8, 2002, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented on: more public information on a possible aquarium sale; planning district number five continued active involvement in the comprehensive plan and support for the use of solar power.

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Jan Karon, representing the Duluth Public Policy Alliance, spoke on the organization's membership survey of city council operations on the points of: attendance at city council meetings, participation in councilor discussion, attitude to the public, explanation of individual votes and attention to detail and response to the public.

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RESOLUTION FOR RECONSIDERATION

Councilor Atkins moved to reconsider Resolution 02-0878, recommending disposition option for the old Armory building, which motion was seconded and unanimously carried.

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

Kay Lewis expressed hope that something could be worked out to save the Armory for an arts center.

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

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 02-0881, memorializing the Duluth delegation to the state legislature to secure passage of legislation amending the Laws of Minnesota, 1998, Chapter 389, Article 8, Sections 25-27, to allow the city to continue to impose an additional one-half percent tax on gross receipts from the sale of lodging and on certain sales of food and beverages and to allow revenues from these taxes in excess of the amount needed to service bonds in a principal amount of \$8,000,000 to be used to service bonds financing the Great Lakes Aquarium, from the table, which motion was seconded and unanimously carried.

Councilor Gilbert expressed his opposition to the resolution for reasons that: there needs to be a more definite plan for financing and operating the aquarium; other priorities for expending this tourism tax should be given further consideration and other sources for making the bond payments should be looked at.

Councilor Stover expressed concern that it appears to some that the Duluth Entertainment Convention Center (DECC) is being punished for being successful and that the DECC could use these additional funds.

Resolution 02-0881 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the Duluth City Council hereby memorializes the Duluth delegation to the state legislature to secure passage of legislation amending the Laws of Minnesota 1998, Chapter 389, Article 8, Sections 25 through 27, to allow the city of Duluth to continue to impose an additional one-half percent tax on the gross receipts from the sale of lodging and on certain sales of food and beverages in excess of the amount needed to pay debt services on bonds in a

principal amount of \$8,000,000 and to use revenues beyond this amount for debt service on bonds financing the Great Lakes aquarium.

Resolution 02-0881 was adopted upon the following vote:

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

Nays: Councilors Gilbert and Stover -- 2

Approved January 13, 2003

GARY L. DOTY, Mayor

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Councilor Gilbert moved to remove Resolution 02-0824, putting a moratorium on the payment of city funds to the Great Lakes Aquarium, from the table, which motion was seconded and unanimously carried.

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

BY COUNCILOR HOGG:

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

- (a) Miscellaneous sidewalk repairs (Contract No. 5355, assessable amount - \$9,858.65);
- (b) Sanitary sewer and watermain on Rice Lake Road (Contract No. 5344, assessable amount - \$83,416.82); are hereby confirmed.

Resolution 03-0033 was unanimously adopted.

Approved January 13, 2003

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:

(a) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$10,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2003 (the certificates). The certificates are hereby authorized and shall be issued pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, in anticipation of collection of taxes and state aids;

(b) The terms and conditions of the certificates and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 03-0113-12. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the certificates and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the certificates;

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

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

Resolution 03-0035 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Software House International be and hereby is awarded a contract for furnishing and delivering computer software as needed during year 2003 for the M.I.S. division in accordance with specifications and referencing state of Minnesota Contract #425551, Release C-816(5), at an estimated amount of \$80,000, terms net, FOB destination, payable out of payable out of various funds, departments/agencies, organizations and objects.

Resolution 03-0020 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling site	Date application filed
National Multiple Sclerosis Society - Minnesota Chapter	Congress Bar & Grill	October 8, 2002

Resolution 03-0036 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, by Resolution 02-0699 the council did approve the original contract with A.W. Kuettel & Sons, Inc., in the amount of \$25,800 for the roofing replacement of Fire Station #7, located at 1419 West Maple Grove Road; and

WHEREAS, upon demolition of existing roofing, discovery of additional roof decking, deteriorated metal flashing, deteriorated metal roof chimney and discovery of hazardous materials.

NOW, THEREFORE, BE IT RESOLVED, that said improvements as described above be made to increase the contract by \$8,620.86, payable from the Capital Improvement Fund 0450,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Agency 015, Organization 2002, Object C204, making the new contract amount \$34,060.86.

Resolution 03-0037 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the following reappointments to the building appeal board by Mayor Doty are confirmed:

Edward B. Shanblott (residential building construction) and Tony Vittorio (finance) for terms expiring February 1, 2004.

James P. Berry (commercial building construction), Jon Helstrom (registered architect) and Howard Jacobs (registered engineer) for terms expiring February 1, 2005.

Lynn D. Beechler (realtor), David W. Krech (at large), James A. Walters (building trade union) and Allen Willman (at large) for terms expiring February 1, 2006.

Resolution 03-0027 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointments to the commission on disabilities by Mayor Doty of the following are confirmed:

Nettie R. Bothwell and Nina Fobear Bussa, replacing Scott Welles and Wayne Whitmore, who resigned, for terms expiring on November 1, 2005.

Resolution 03-0028 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointment to the Duluth public arts commission by Mayor Doty of Daniel Sepion, replacing John H. Anderson, who resigned, for a term expiring September 30, 2005, is confirmed.

Resolution 03-0029 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointments to the Miller Creek joint powers board by Mayor Doty of the following are confirmed:

William Fleischman, replacing John LeVasseur, who resigned, for a term expiring January 31, 2006.

William Miner, replacing Patricia Sobczak, who resigned, for a term expiring January 31, 2004.

Resolution 03-0030 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program recommends funding projects as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-2002 HUD-funded community development accounts set forth below:

2002 CDBG Transfers				
Project #	Project	Budget amount	New amount	Amount of increase or decrease
6520	Acquisition & Demolition	\$139,658	\$153,551.41	\$13,893.41
4706	Revenue Source	\$13,893.41	-0-	(\$13,893.41)

Resolution 03-0019 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increase in the Federal Program Fund 0262, Agency 020, 2002 HUD-funded community development accounts as set forth below:

2002 CDBG transfers account revised - 2002				
Project #	Project	Budget amount	New amount	Amount of increase or decrease
6435	Program administration	\$342,000.00	\$363,205.80	\$21,205.80
4706	Revenue source	\$ 21,205.80	-0-	(\$21,205.80)

Resolution 03-0026 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 HOME accounts; and

WHEREAS, the community development committee (CD committee) for the HOME investment partnerships program established the following housing programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfer in the Federal Program Fund 260-2002 HUD-funded community development account as set forth below:

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Project #	Project	Budget amount	New amount	Amount of increase or decrease
2002 HOME Transfers				
2621 h003	Duluth property rehab	\$316,885.00	\$325,884.10	\$8,999.10
4706	Revenue source	\$ 8,999.10	-0-	(\$8,999.10)

Resolution 03-0031 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Tromsoe Street and Ozark Street Alley legally described as Tromsoe Street lying west of the west right-of-way line of West 16th Street extended and adjoining Lots 1, 32, 33 and 34, and the unimproved alleyway adjoining Lots 1-5 and 34, all in Block 3, Home Builders Park; 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 December 10, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the partial street and alleyway described above and as more particularly described on Public Document No. 03-0113-13.

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

Resolution 03-0001 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of slope and fill easements on properties located between 46th Avenue West, Mike Colalillo Drive and I-35 legally described as:

(a) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the southerly 60 feet of Lot 8, Block 39, Oneota Division lying within five feet more or less of the northerly line of Superior Alley (Torrens Document No. 135118);

(b) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the easterly 37-1/2 feet of Lot 7, Block 39, Oneota Division, lying within four feet more or less of the northerly line of Superior Alley (Torrens Document No. 135121);

(c) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the easterly 25 feet of Lot 6, the westerly 12-1/2 feet of Lot 7, Block 39, Oneota Division,

lying within 2 and 4 feet respectively more or less of the northerly line of Superior Alley (Torrens Document No. 135142);

(d) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the northerly 72 feet of Lot 8, Block 39, Oneota Division, lying within five feet more or less of the northerly line of Superior Alley (Torrens Document No. 135147);

(e) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the northerly 25 feet of Lot 6, Block 39, Oneota Division, lying within two feet more or less of the westerly line of Superior Alley (Torrens Document No. 135175);

(f) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the south 1/2 of Lot 1, Block 40, Oneota Division, lying within three feet more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(g) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the rear or southerly 1/3 of Lots 7 and 8, Block 40, Oneota Division, lying within four and six feet respectively more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(h) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the northerly 88 feet of Lots 7 and 8, Block 40, Oneota Division, lying within four and six feet respectively more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(i) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the westerly 33 feet of Lot 9, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827);

(j) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the Easterly 17 feet of Lot 9, and the Westerly 17 feet of Lot 10, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827);

(k) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 11, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827);

(l) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 12, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827); 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 slope and fill easement vacation petition at its December 10, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the slope and fill easements described above and as more particularly described on Public Document No. 03-0113-14.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the easements to be vacated.

Resolution 03-0002 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Nelson Street, also known as Nelson Avenue (referred to hereinafter as Nelson Street or Nelson Avenue) from Garfield Avenue eastward to a point 45 feet east of Garfield Avenue Alley (to the railroad right-of-way) and Garfield Avenue Alley from a point 375 feet north of Nelson Street to a point 175 feet south of Nelson Street, legally described as: Nelson Street adjoining; Lot 119, Block 44; Lot 120, Block 40; Lot 121, Block 45; and Lot 122, Block 39, Rice's Point; and Garfield Avenue Alley adjoining Lots 92 through 120 (even numbered lots), Block 40; Lots 91 through 119 (odd numbered lots), Block 44; Lots 122 through 134 (even numbered lots), Block 39; and Lots 121 through 133 (odd numbered lots), Block 45, Rice's Point; and

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

WHEREAS, the city planning commission approved unanimously the street and alley vacation petition at its December 10, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Nelson Avenue and Garfield Alley described above and as more particularly described on Public Document No. 03-0113-15.

RESOLVED FURTHER, that the northerly 20 feet of Nelson Avenue, adjoining Lot 120, Block 40, Rice's Point and the 12 feet of right-of-way connecting the alleyway of Blocks 39, 40, 44 and 44, be retained as a utility easement and that the full alley right-of-way described above be retained as a utility easement.

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

Resolution 03-0003 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, William Brakken and Rebecca Sieve have submitted to the city council a request to amend Special Use Permit Resolution No. 00-0116, which provides for a bed and breakfast inn on property located at 2617 East Third Street, to increase the number of guest rooms from six to seven to provide for the conversion of the lower level of the carriage house to a handicapped accessible guest room; and said application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the city council granted Resolution No. 00-0116 on February-29, 2000, provided for the special use of the property as a bed and breakfast inn of six guest rooms; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 by Resolution No. 00-0116, to William Brakken and Rebecca Sieve for the operation of a bed and breakfast inn, is amended to add a handicapped accessible guest room in the carriage house at 2617 East Third Street.

RESOLVED FURTHER, that all other terms and conditions of Resolution No. 87-0982 shall remain unchanged.

Resolution 03-0004 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

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

File No.	Applicant	Legal Description	Location
02132	Cottage Homesteads of America/Michael Saxton	Section 18, Township 50N, Range 14 W, part of NE1/4 of SW1/4, beginning at intersection of north line and the centerline of Sundby Road; thence south 87°51'24" west along north line 490.27 feet; thence south 87°51'24" east 495.96 feet to centerline of Sundby Road; thence north along centerline to point of beginning, except northerly 200 feet of easterly 453.98 feet of part west of road. Parcel ID #: 010-2710-04603	located 490 feet west of Sundby Road and 525 feet north of Kohl's Department Store driveway in the Duluth Heights neighborhood

Resolution 03-0008 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to accept a utility easement hereinafter described from St. Louis County for a nominal consideration:

a permanent easement for utility purposes over, under and across the following described tract or parcel of land which lies in St. Louis County, Minnesota:

Northwest Quarter (NW¼), Section Sixteen (16), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian;

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

a 20 foot utility easement over, under and across that part of the Northwest Quarter (NW¼), Section Sixteen (16), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian. The centerline of said easement is described as follows:

commencing at the northwest corner of said Section Sixteen (16),

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

thence south 02°-17'-37" east (assumed bearing), along the west line of said Section Sixteen (16), a distance of 1361.60 feet; thence north 84°-30'-44" east a distance of 33.05 feet to the intersection with the easterly right-of-way line of Arlington Avenue and said intersection being the point of beginning of said centerline to be described; thence north 84°-30'-44" east a distance of 783.26 feet; thence north 68°-23'-11" east a distance of 164.13 feet; thence north 62°-02'-46" east a distance of 90.55 feet; thence north 74°-09'-40" east a distance of 99.38 feet; thence south 66°-48'-15" east a distance of 356.35 feet to the westerly right-of-way line of the Rice Lake Road, and said line there terminating.

Resolution 03-0025 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the Duluth Seaway Port authority has applied on behalf of itself and the city of Duluth for a \$1,155,241 grant from the U.S. department of commerce, economic development administration, to fund the construction of streets, utilities, and drainage systems in a 175 acre expansion to the Duluth airport industrial park; and

WHEREAS, the city of Duluth is a corecipient of the grant because it will own and maintain the streets and utilities; and

WHEREAS, the U.S. EDA has considered said grant application and is willing to fund the project in an amount of \$1,155,241.

NOW, THEREFORE, BE IT RESOLVED, that conditioned upon the agreement of Duluth Seaway Port authority to protect the city from any liability for expenses or matching funds for the project through an assessment and bonding arrangement or otherwise, and to do all required grant reporting, the proper city officers are authorized to execute a grant agreement in the form of the document filed with this resolution as Public Document No. 03-0113-16, with the Duluth Seaway Port authority and the United States department of commerce, economic development administration, for a grant in the amount of \$1,155,241 to be used to construct streets, utilities, improvements and drainage systems at a 175 acre expansion of the Duluth airport industrial park.

RESOLVED FURTHER, that all monies received under this grant be deposited with and dispersed by the Duluth Seaway Port authority and that said Duluth Seaway Port authority shall be exclusively responsible for the \$770,161 local match required by the grant.

Resolution 03-0047 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Horizons, Inc., be and hereby is awarded a contract for furnishing aerial digital mapping services for the utility operation division in accordance with specifications on its low specification bid of \$11,100, terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Department/Agency 500, Object 5532.

Resolution 03-0015 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that St. Joseph Equipment be and hereby is awarded a contract for furnishing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

and delivering one Case Model 521D wheel loader for the utility operations division in accordance with specifications on its low specification bid of \$103,863.06, terms net 30, FOB destination, \$46,738.38 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580; \$20,772.61 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580; \$15,579.46 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5580 and \$20,772.61 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0016 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for one Caterpillar Model 277 multi-terrain skidsteer loader for the utility operations division in accordance with specifications on its low specification bid of \$48,756.79, terms net 30, FOB destination, \$18,527.58 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5580 and \$30,229.21 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0017 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0268 to Carlson and Kirwan for furnishing and marketing and media purchasing services for the natural gas advertising program, be amended to increase the amount by \$90,100 for a new total of \$290,600, payable out of Gas Fund 0520, Department/Agency 500, Organization 2430, Object 5340.

Resolution 03-0018 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering Class 5 gravel, crushed rock and washed sand as needed during year 2003 for the various utility operation and maintenance operation divisions in accordance with specifications at an estimated amount of \$156,800, terms net 30, FOB job sites, payable out of various funds, departments/agencies, organizations and objects.

Resolution 03-0039 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that General Chemical be and hereby is awarded a contract for furnishing and delivering 150,000 gallons of liquid aluminum sulfate for the utility operations division in accordance with specifications on its low specification bid of \$60,555, terms net 30, FOB

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5237.

Resolution 03-0041 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hawkins, Inc., be and hereby is awarded a contract for furnishing and delivering 100,000 gallons of caustic soda for the utility operations division in accordance with specifications on its low specification bid of \$114,500, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5238.

Resolution 03-0042 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Spalj Construction Company be and hereby is awarded a contract for construction of a six inch watermain replacement in Riverside Drive from Union Street to 250 feet southerly and a replacement of eight inch watermain with a ten inch watermain in South 26th Avenue West from Huron Street to Helm Street for the utility operation division in accordance with specifications on its low specification bid of \$92,098, terms net 30, FOB job site, payable out of Water Construction Bond Fund 0511, Department/Agency 500, Object 5532.

Resolution 03-0043 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources, Minnesota conservation corps; said agreement filed with the city clerk as Public Document No. 03-0113-17, for mapping and field identification of trout stream in the city of Duluth for a consideration of \$4,994 to be paid from Stormwater Utility Fund 0535.

Resolution 03-0044 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

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, 2003, through December 31, 2003, for the police department in accordance with specifications on its proposal of \$16,668, terms net 30, FOB job site, payable out of General Fund 0100, Department/Agency 200, Organization 1610, Object 5404.

Resolution 03-0022 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that Stratus Computer Company be and hereby is awarded a contract for furnishing 12 months of maintenance covering computer hardware and software during the year 2003 for the police department in accordance with specifications on its low specification bid of \$27,188, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 200, Organization 1610, Object 5404.

Resolution 03-0023 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that St. Louis County department of communications be and hereby is awarded a contract for furnishing computer aided dispatch system access during the year 2003 for the police department in accordance with specifications on its low specification bid of \$25,440, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 200, Organization 1610, Object 5441.

Resolution 03-0024 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that Resolution 02-0016 to St. Louis County social services for furnishing approximately 58,300 catered meals at eight senior dining locations for a 12 month period during year 2003, be amended to increase the amount by \$178,966 for a new total of \$495,388.50, payable out of Senior Nutrition Fund 0272, Dept./Agency 031, Organization 6303, Objects 0071, 0070, 0072, 0073.

Resolution 03-0014 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that Northland Foods, Inc., be and hereby is awarded a contract for furnishing and delivering fruits and vegetables as needed for during the year 2003 for the Lake Superior Zoo in accordance with specifications at an estimated amount of \$15,000, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 400, Organization 1814, Object 5245.

Resolution 03-0021 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute a Minnesota trail assistance program agreement with the Minnesota department of natural resources in the sum of \$20,000 for the maintenance of the Duluth snowmobile trails for the 2002-2003 season; said

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

agreement to be in the form of Public Document No. 03-0113-18 on file with the city clerk; the funds therefrom to be deposited in the General Fund 0100-500-1920-4233.

Resolution 03-0034 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth through the Duluth public library hereby accepts a grant in the amount of \$2,000 from the John S. and James L. Knight Foundation fund of the Duluth-Superior area community foundation to fund the 2003 reading: Bridge to a Wider World project; said grant to be deposited into Fund 0100, Agency 300, Organization 2310, miscellaneous grants.

FURTHER RESOLVED, that the director of the Duluth public library is hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0113-19, with the John S. and James L. Knight foundation fund of the Duluth-Superior Area Community Foundation related to the above-referenced community reading project.

Resolution 03-0045 was unanimously adopted.

Approved January 13, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0050, by Councilor Stewart, requesting further consideration of revised Spirit Mountain master plan and basis therefore; and Resolution 03-0010, by President Stenberg, amending the Spirit Mountain recreation area master plan, were introduced for discussion.

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

Kay L. Lewis expressed her concern that tourists will no longer be able to come to Spirit Mountain for the beauty of the existing natural surroundings if this development proceeds.

Councilor Stewart moved to table Resolution 03-0050, which motion was seconded and unanimously carried.

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President Stenberg moved to table Resolution 03-0010, which motion was seconded and unanimously carried.

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Resolution 03-0046, by Councilors Ness, Stewart and Stover, of the city council of the city of Duluth, Minnesota, affirming the civil rights of all residents of Duluth, requesting certain police procedures and requesting repeal of federal laws, was introduced for discussion.

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

Brian Fuxa expressed support for the resolution.

Councilors Atkins and Stauber urged defeat of the resolution at this time.

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

Yeas: Councilors Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilors Atkins, Stauber and President Stenberg -- 3

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Resolution 03-0040, by Councilor Bergson, authorizing an agreement between the city of Duluth and Retailers Protection Association to provide and administer a bad check program, was introduced for discussion.

Councilor Bergson moved to table the resolution, as requested by the administration, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT STENBERG

03-001 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, THE MERRITT SCHOOL PROPERTY LOCATED ON 40TH AVENUE WEST (INDEPENDENT SCHOOL DISTRICT 709 AND SHERMAN).

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

George Sherman, developer for the housing project at the former Merritt School, which is the location for this rezoning request, commented on the need for affordable housing and how well this building is suited to that need.

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BY PRESIDENT STENBERG

03-002 - 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 FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO TRADITIONAL NEIGHBORHOOD DISTRICT NO. 2, PROPERTY BOUNDED ON THE NORTH BY 13TH STREET, ON THE EAST BY CENTRAL ENTRANCE, ON THE SOUTH BY 11TH STREET, AND ON THE WEST BY SECOND AVENUE WEST (HOUSING AND REDEVELOPMENT AUTHORITY & INDEPENDENT SCHOOL DISTRICT #709).

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BY COUNCILOR NESS

03-003 - AN ORDINANCE ELIMINATING PEDESTRIAN TRANSIT ZONES IN THE CITY OF DULUTH; REPEALING SECTION 45-4.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Brian Fuxa and John Ramos expressed opposition to the ordinance for reasons that it is unconstitutional and there is lack of a need for it.

David Ross, executive director of the Duluth Area Chamber of Commerce, spoke in opposition to the ordinance, citing the previous lengthy debate and comments as to why there is a need for it and thus why it was adopted. He further requested that the Code be amended in such a way that any proposed pedestrian transit zones be approved by the appropriate administrative staff instead of the city council.

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 27, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the city council meetings held on October 15, 28, November 12, 25 and December 2, 2002, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0127-02 Center for Alcohol and Drug Treatment submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9571 on November 12, 2002. -- Received

03-0127-10 Evensen Dodge, Inc., submitting presale analysis regarding \$2,425,000 G.O. DECC refunding bonds, Series 2003A; \$1,880,000 G.O. water and sewer utilities revenue refunding bonds, Series 2003B; \$4,565,000 G.O. improvement refunding bonds, Series 2003C; \$10,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2003 (03-0078R). -- Received

03-0127-12 Nancy Nelson submitting summary of old-growth forest evaluation in Spirit Mountain recreation area, Magney-Snively Forest, Duluth, MN (03-0010R). -- Received

02-0127-13 Roni Seger Town submitting communication regarding the following: 03-005-O; 02-0044-O; 03-0046R; 03-006-O; 03-003-O. -- Received

03-0127-01 The following submitting communications regarding disposition of the old Armory building (02-0878R): (a) Mark R. Anfinson, attorney for Armory Arts and Music Center; (b) Armory Arts and Music Center; (c) Richard Moe; (d) Carolyn Sundquist; (e) Royce Yeater, AIA, National Trust for Historic Preservation. -- Received

03-0127-03 The following submitting communications regarding pedestrian transit zones (03-003-O): (a) Ace Hardware Downtown; (b) Harold Frederick; (c) Greater Downtown Council; (d) Maki and Overom employees; (e) Labovitz Enterprises; (f) Republic Bank; (g) Ray Sande. -- Received

03-0127-14 The following submitting communications regarding proposed ordinance prohibiting pistols on city property (03-006-O): (a) Diane Anderson; (b) Jody Berquist; (c) Robert Berquist; (d) Jan Cohen; (e) Duluth Entertainment Convention Center; (f) Carin Skoog; (g) Ed Spray; (h) DeeAnn Trotta. -- Received

03-0127-15 The following submitting communications regarding U.S. Patriot Act (03-0046R): (a) Phillip C. Jones (supported by 245 signatures); (b) Diane Lings. -- Received

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REPORTS OF OFFICERS

03-0127-04 Assessor submitting letter of confirmation of assessment rolls levied to defray the assessable portion of construction of sanitary sewer in Branch Street and Greysolon Road (Contract No. 7058) (assessable amount - \$13,800.47); and watermain in West Sixth Street from Sixth Avenue West to 158 feet westerly (Contract No. 1100021) (assessable amount - \$35,886.87). -- Received

03-0127-05 Engineering division monthly project status report of January 1, 2003. -- Received

03-0127-11 Parks and recreation department director submitting Lake Superior zoological society minutes of: (a) Annual; (b) Regular meetings held on January 14, 2003. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0127-06 American Indian commission minutes of December 16, 2002, meeting. -- Received

03-0127-07 Duluth/North Shore sanitary district minutes of January 7, 2003, meeting. -- Received

03-0127-08 Duluth transit authority: (a) Income statement for November, 2002; (b) Minutes of November 26, 2002, meeting. -- Received

02-0127-16 Planning commission submitting agenda scheduling policy statement (02-044-O). -- Received

03-0127-09 Tree commission submitting resolution approved on November 18, 2002, requesting amendment of Section 2-126, Duluth City Code. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis voiced several public safety issues including wheel chairs crossing streets at night and questioned if old buildings can support skywalks.

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Nancy Nelson reviewed the findings of the old growth forest evaluation of the property located within the proposed Spirit Mountain golf course.

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RESOLUTION RECONSIDERED

President Stenberg moved to reconsider Resolution 03-0002, vacating slope and fill easements located between 46th Avenue West, Mike Colalillo Drive and I-35 (Duluth economic development authority (DEDA)/A&L Properties), which motion was seconded and unanimously carried.

President Stenberg moved to amend the resolution as follows:

(a) In paragraph (e), third line, replace the word "northerly" with the word "westerly";

(b) Add the following paragraphs in the property description:

"(m) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 2, Block 40, Oneota Division, lying within three feet more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(n) Slopes and fills on each side of Superior alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 3, Block 40, Oneota Division lying within three feet more or less of the northerly line of Superior Alley (Torrens Document No. 150827); and"

which motion was seconded and unanimously carried.

Resolution 03-0002, as amended, was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of slope and fill easements on properties located between 46th Avenue West, Mike Colalillo Drive and I-35 legally described as:

(a) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the southerly 60 feet of Lot 8, Block 39, Oneota Division lying within five feet more or less of the northerly line of Superior Alley. (Torrens Document No. 135118);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(b) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the easterly 37-1/2 feet of Lot 7, Block 39, Oneota Division, lying within four feet more or less of the northerly line of Superior Alley (Torrens Document No. 135121);

(c) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the easterly 25 feet of Lot 6, the westerly 12-1/2 feet of Lot 7, Block 39, Oneota Division, lying within 2 and 4 feet respectively more or less of the northerly line of Superior Alley (Torrens Document No. 135142);

(d) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the northerly 72 feet of Lot 8, Block 39, Oneota Division, lying within five feet more or less of the northerly line of Superior Alley (Torrens Document No. 135147);

(e) Each side of Superior Alley from 47th Avenue West to 48th Avenue West in all that portion of the northerly 25 feet of Lot 6, Block 39, Oneota Division, lying within two feet more or less of the westerly line of Superior Alley (Torrens Document No. 135175);

(f) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the south 1/2 of Lot 1, Block 40, Oneota Division, lying within three feet more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(g) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the rear or southerly 1/3 of Lots 7 and 8, Block 40, Oneota Division, lying within four and six feet respectively more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(h) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the northerly 88 feet of Lots 7 and 8, Block 40, Oneota Division, lying within four and six feet respectively more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(i) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the westerly 33 feet of Lot 9, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827);

(j) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of the Easterly 17 feet of Lot 9, and the Westerly 17 feet of Lot 10, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827);

(k) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 11, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827);

(l) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 12, Block 40, Oneota Division, lying within three feet more or less of the southerly line of Superior Alley (Torrens Document No. 150827);

(m) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 2, Block 40, Oneota Division, lying within three feet more or less of the northerly line of Superior Alley (Torrens Document No. 150827);

(n) Slopes and fills on each side of Superior Alley from 46th Avenue West to 47th Avenue West in all that portion of Lot 3, Block 40, Oneota Division, lying within three feet more or less of the northerly line of Superior Alley (Torrens Document No. 150827); 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 slope and fill easement vacation petition at its December 10, 2002, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the slope and fill easements described above and as more particularly described on Public Document No. 03-0127-17.

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

Resolution 03-0002, as amended, was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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RESOLUTIONS TABLED

Councilor Ness moved to remove Resolution 03-0046, by himself and councilors Stewart and Stover, of the city council of the city of Duluth, Minnesota, affirming the civil rights of all residents of Duluth, requesting certain police procedures, and requesting repeal of federal laws, from the table, which motion was seconded and unanimously carried.

Councilor Ness reviewed that this resolution is regarding the USA Patriot Act that was passed by Congress last year in the wake of September 11 and that he is asking the city council to take a strong position against the act. He continued by saying that Congress was convinced to sacrifice a share of our freedom and civic rights in order to feel secure from future attacks, but that the law goes too far by extending the government's ability to gain personal financial information, seize library records of certain types of books checked out and records of internet surfing at public libraries, allows tapping of phones and internet connections, monitoring citizen activity and eliminates many of the checks and balances to ensure these powers are not abused.

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

Sally Ockwig-Larson, Heidi Bakk-Hansen and Brian Fuxa urged council support of this resolution and voiced concern over the Patriot Act for the following reasons: our fear for safety will tread on our rights provided in the Constitution; certain books that are being read by citizens could be investigated by the government; the Patriot Act was passed out of fear after September 11; several cities have urged repeal of the Patriot Act and that the citizens of this government have the right to change the laws that have been passed by the federal government that reduces their freedom.

Councilor Ness moved to amend the resolution by removing paragraphs three and four on page three, which motion was seconded and unanimously carried.

Councilor Stewart stated that the council has a duty to speak up, as it is an accessible form of government for the people even though it is a Washington issue.

Councilor Bergson stated that even though he has not used the tools provided in the Patriot Act in his job, it does not mean that one day he will not.

Councilor Stauber reviewed that the original bill is so big and to ask the councilors to review such a large issue that was passed a year ago and repeal something that some councilors have not had a chance to read is not right. He continued by saying that councilors should deal with city issues instead of a federal issue when there are so many issues for the councilors to consider.

Councilor Ness stated that it is hard to get a copy of the full bill, and the balance between the freedoms we enjoy and the perception that we give up those rights and freedoms is a victory for those who want to harm our country.

President Stenberg stated that this body is not qualified to decide if this bill is good for homeland security and this country.

Resolution 03-0046, as amended, failed upon the following vote (Public Document No. 03-0127-18):

Yeas: Councilors Gilbert, Ness, Stewart and Stover -- 4

Nays: Councilors Atkins, Bergson, Hogg, Stauber and President Stenberg -- 5

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Councilor Bergson moved to remove Resolution 03-0040, authorizing an agreement between the city of Duluth and Retailers Protection Association to provide and administer a bad check program, from the table, which motion was seconded and unanimously carried.

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

Lee Campbell, representing RCB Collections, a check recovery service in Duluth and surrounding area, voiced concern that the council is entering into free enterprise by actively endorsing one collection service for all of the Duluth merchants and questioned if it is ethical for the city to receive a \$5 payback for checks that are collected.

Bevan Schraw, collection manager for Northern Collection, questioned why Retailer Protection Association (RPA) is exempt from licensing in Minnesota as a collection agency and voiced several concerns about the contract with RPA.

John McCulloch, representing RPA, stated that participation by the merchants in this program is optional and does not take away from the collection agencies. He continued by saying that this is a diversion program where once the person has made restitution for the check, they must attend a self evaluation class to help prevent them from writing bad checks. Mr. McCulloch went on to say that they do not actively pursue clients, as a lot of their work comes through the police department and small businesses use the company when they have exhausted their resources, as RPA does not require a merchant to sign a contract with them.

Councilor Ness voiced concern that there will be an impact on the local businesses and suggested that the council slow the process down.

Councilor Ness moved to retable the resolution, which motion was seconded and passed upon the following vote:

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

Nays: Councilor Bergson -- 1

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

BY COUNCILOR HOGG:

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

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its general obligation bonds for the following purposes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(1) General obligation DECC refunding bonds, Series 2003A, in the approximate amount of \$2,425,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the principal portions of the city's general obligation bonds, Series 1994, dated July 1, 1994, and the city's general obligation DECC bonds, Series 1995B-3, dated June 1, 1995, maturing on and after February 1, 2004;

(2) General obligation water and sewer utilities revenue refunding bonds, Series 2003B, in the approximate amount of \$1,880,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the principal portion of the city's general obligation water utility revenue bonds, Series 1995B-2, dated June 1, 1995, maturing on and after February 1, 2004, and the city's general obligation sewer utility revenue bonds, Series 1995B-1, dated June 1, 1995, maturing on and after February 1, 2004; and

(3) General obligation improvement refunding bonds, Series 2003C, in the approximate amount of \$4,565,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the principal portions of the city's general obligation improvement bonds, Series 1995C, dated June 1, 1995, maturing on and after February 1, 2004 (collectively referred to as the bonds).

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sales of each individual series thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 03-0127-19. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sales thereof, and the city council shall meet at the time and place fixed herein to consider 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 sales 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 03-0078 was unanimously adopted.

Approved January 27, 2003

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:

(a) Sanitary sewer for Branch Street and Greysolon Road (Contract No. 7058; assessable amount - \$13,800.47);

(b) Watermain in West Sixth Street from Sixth Avenue West to 158 feet westerly (Contract No. 1100021; assessable amount - \$35,886.87).

Resolution 03-0085 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

August 31, 2003, subject to departmental approvals and the payment of sales and property taxes:
PDL of Duluth, Inc. (Club Saratoga), 331 Canal Park Drive, with Philip Fish, president and 100 percent stockholder, transferred from JLB Scott Corporation (Club Saratoga), same address.

Resolution 03-0060 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the Rocky Mountain Elk Foundation and the Arrowhead Chapter of Pheasants Forever 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 Rocky Mountain Elk Foundation and the Arrowhead Chapter of Pheasants Forever and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 03-0061 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling site	Date application filed
Irving Community Association	Shotz Bar	January 3, 2003
Irving Community Association	Norman's Bar	January 8, 2003
National Multiple Sclerosis	Pioneer Bar	January 14, 2003

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Licensee	Gambling site	Date application filed
Moose Lodge #1478	1306 Commonwealth	January 10, 2003

Resolution 03-0062 was unanimously adopted.
 Approved January 27, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Biffy in a Jiffy be and hereby is awarded a contract for furnishing and delivering portable toilets as needed for year 2003 at various locations to various departments in accordance with specifications at an estimated amount of \$25,300, terms net 30, FOB job site, payable out of various funds, departments/agencies, organizations and objects.

Resolution 03-0068 was unanimously adopted.
 Approved January 27, 2003
 GARY L. DOTY, Mayor

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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, 2003; and

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

NOW, THEREFORE, BE IT RESOLVED, that the city's pay equity implementation report has been submitted to the city council (Public Document No. 03-0127-20) and the council has received such report.

Resolution 03-0048 was unanimously adopted.
 Approved January 27, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the civil service classifications of water and gas distribution leadworker, Pay Range 32, \$3,435 to \$4,084 per month; and wastewater construction leadworker, Pay Range 32, \$3,435 to \$4,084 per month, be amended to become utility operations leadworker. These amendments were approved by the civil service board on January 7, 2003, and are filed with the city clerk as Public Document No. 03-0127-21, are approved. The classification of utility operations leadworker shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 32 \$3,435 to \$4,084 per month. The proper 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 03-0049 was unanimously adopted.
 Approved January 27, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the proper city officials are authorized to employ an interim assistant city attorney under conditions in the statement of employment on file with the city clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

as Public Document No. 03-0127-22, for a term beginning January 6, 2003.

Resolution 03-0084 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0127-23 to city Contract No. 19217 with HRA extending the term of the agreement for a one year period and increasing the amount payable thereunder by \$18,000, payable from Fund 0262, Agency 020, Organization 2600, Object 5447.

Resolution 03-0054 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Hurst and Henrichs MN, Ltd., for the sum of not to exceed \$5,600, from Community Development Fund 262, Agency 621, Object 6116, for providing certain professional services to the city of Duluth in connection with additions and alterations to the Grant recreation center, 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. 03-0127-24.

Resolution 03-0058 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program recommends funding projects as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-2002 HUD-funded community development accounts as set forth below:

2002 CDBG Transfers				
Project #	Project	Budget Amount	New Amount	Amount of Increase or Decrease
6513	Citywide Street Improvements	\$115,840	\$137,000	\$ 21,160
6512	Morgan Park Sidewalk Safety	\$ 16,000	\$ 18,537	\$ 2,537
6510	Ramsey Streets	\$ 81,000	\$ 71,000	(\$ 10,000)
6514	Hillside Streetscape Phase V	\$ 71,404	\$ 57,707	(\$ 13,697)

Resolution 03-0077 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0127-25 with the URS, Inc., for professional services related to the Park Point urban impact study in the amount of not to exceed \$18,000; payable from Fund 0100, Agency 020, Organization 1202.

Resolution 03-0051 was unanimously adopted.
Approved January 27, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 02-0606, Resolution 03D-02 approved by the Duluth economic development authority (DEDA), at its meeting of January 21, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-26, is hereby approved.

Resolution 03-0069 was unanimously adopted.
Approved January 27, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0127-27, with the Greater Downtown Council (GDC) under which the GDC will conduct certain activities in the Downtown area, in an amount not to exceed \$43,597, payable from General Fund 0100-700-1410-SP05.

Resolution 03-0076 was unanimously adopted.
Approved January 27, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 02-0606, Resolution 03D-03 approved by the Duluth economic development authority (DEDA), at its meeting of January 21, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-28, is hereby approved.

Resolution 03-0086 was unanimously adopted.
Approved January 27, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 02-0606, Resolution 03D-08 approved by the Duluth economic development authority (DEDA), at its meeting of January 21, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-29, is hereby approved.

Resolution 03-0087 was unanimously adopted.
Approved January 27, 2003
GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 02-0606, Resolution 03D-09 approved by the Duluth economic development authority (DEDA), at its meeting of January 21, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-30, is hereby approved.

Resolution 03-0088 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Greater Downtown Council in the amount of \$40,763, as approved by the DEDA board at its meeting of January 21, 2003, pursuant to DEDA Resolution No. 03D-05, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-31, is hereby approved.

Resolution 03-0089 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 02-0606, Resolution 03D-01 approved by the Duluth economic development authority (DEDA), at its meeting of January 21, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-32, is hereby approved.

Resolution 03-0090 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into a lease agreement, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-33, with the state of Minnesota, acting through its rehabilitation services branch, Minnesota department of economic security, leasing said agency the use of 65 square feet of space in the workforce development offices on the third floor of City Hall for a current rental of \$1,025 per year, said sums to be payable to the Fund 0268 - Org 6285.

Resolution 03-0056 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Jeffrey L. Levine and June E. Levine to petition for the permanent improvement of Woodlawn Street from 49th Avenue East westerly to Skyline Parkway; said agreement filed as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Document No. 03-0127-34.

Resolution 03-0052 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Thomas W. Haas and his attorney, Gerald J. Brown, the sum of \$9,250 in full and final settlement of the claim which arose out of a bicycle accident occurring on June 22, 2000; payment to be made from the Self Insurance Fund 0610.

Resolution 03-0053 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Superior Control Service be and hereby is awarded a contract for furnishing Aimax SCADA telemetry maintenance for the utility operation division in accordance with specifications in an estimated amount of \$17,600, terms net 30, FOB destination, \$8,000 payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5404 and \$9,600 payable out of Gas Fund 0520, Department/Agency 500, Organization 1960, Object 5404.

Resolution 03-0070 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide reconstruction of retaining wall in the 600 block of East First Street; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the construction phase; 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 \$25,671, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Organization 2187, Object 5530; to be reimbursed from the municipal state aid (MSA) fund.

Resolution 03-0071 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northwest Outlet be and hereby is awarded a contract for furnishing and delivering uniforms as needed for year 2003 for the utility operation division in accordance with specifications at an estimated amount of \$46,800, terms net 30, FOB destination, \$23,400 payable

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

out of Water Fund 0510, Department/Agency 500, Organization 1945, Object 5218 and \$23,400 payable out of Gas Fund 0520, Department/Agency 500, Organization 1945, Object 5218.

Resolution 03-0072 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 6,300 gallons of yellow and white traffic marking paint for the maintenance operation division in accordance with specifications on its low specification bid of \$30,417.61, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 500, Organization 2020, Object 5226.

Resolution 03-0073 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hallett Dock Company be and hereby is awarded a contract for furnishing and delivering Class 5 limestone as needed for during the year 2003 for the maintenance operation division in accordance with specifications at an estimated amount of \$20,500, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 500, Organization 2000, Object 5224.

Resolution 03-0074 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that LaRoche Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 40,000 pounds of anhydrous ammonia for the utility operations division in accordance with specifications on its low specification bid of \$17,600, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5234.

Resolution 03-0075 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to establish global positioning system (GPS) survey; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the GPS survey of control points of future street reconstruction projects for Brewery/Grays creeks; Lake Avenue from Second Alley to Seventh Street; Cody SW2; Duluth Heights SE2; East Hillside upper W2; Woodland south 1; Piedmont Avenue from Superior Street to First Street; Superior Street from Garfield Avenue to Michigan Avenue; Kenwood connector study; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for engineering services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 \$7,800, \$1,000 will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0300, Object 5441 and \$6,800 will be payable from the Water Fund 0510, Department/Agency 500, Organization 1930, Object 5303.

Resolution 03-0079 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Minnegasco, Inc., be and hereby is awarded a contract for furnishing and delivering 6,000 pounds of natural gas odorant for the utility operations division in accordance with specifications on its low specification bid of \$14,412.50, terms net 30, FOB destination, payable out of Gas Fund 0520, Department/Agency 500, Organization 1960, Object 5210.

Resolution 03-0080 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Larson Chevrolet-Olds be and hereby is awarded a contract for furnishing and delivering one Chevrolet truck cab and chassis 4x4 with dump body and hoist for the utility operation division in accordance with specifications on its low specification bid of \$37,373.85, terms net 30, FOB destination, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0083 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0127-35 with the city of Hermantown pursuant to which the city of Duluth through its animal control officers will provide certain animal control services, all amounts paid by the city of Hermantown for said services to be deposited into Fund 0100, Agency 200, Organization 1620.

Resolution 03-0038 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-36(a), with the state of Minnesota department of administration, acting for the benefit of board of trustees of the Minnesota state colleges and universities; Lake Superior College, for the lease of college property for the police department shooting range at nominal cost.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

RESOLVED, that the chief of police is hereby authorized to enter into temporary licence agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0127-36(b) with public safety agencies, educational institutions and agencies and other governmental agencies for the temporary use of said shooting range facility and to charge for the use thereof those fees as set forth in the range use fee schedule on file in the office of the city clerk as Public Document No. 03-0127-36(c), provided that any sums received for use of said facility shall be deposited in Fund 0100-200-2435-4644.

Resolution 03-0055 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

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

Front of 1112 East Second Street;

Front of 305 West Fifth Street;

Front of 5914 Polk Street.

Resolution 03-0059 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized to accept a \$60,792 grant from the federal emergency management agency, and to execute the grant contract, filed as Public Document No. 03-0127-37, for the city of Duluth fire department acquisition of physical wellness and testing equipment, personal protective equipment and firefighting equipment.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into Fund 0210, Agency 030, Org. 2169, Revenue Source 4210; and that the \$26,053 local matching required by the grant shall be paid from Fund 0100, Agency 100, Org. 1502.

Resolution 03-0063 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to execute an agreement, filed as Public Document No. 03-0127-38, with Gamblers Intervention Services for the operation of an outreach gambling program during year 2003, at a cost to the city of \$90,000, which shall be payable from General Fund 0100-700-1422 gambling administration.

Resolution 03-0065 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to contract (Public Document No. 03-0127-39) with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling prevention and education program during year 2003, at a cost to the city of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

\$148,096, which shall be payable from General Fund 0100, Agency 700, Organization 1422, Object 5490; to be encumbered out of year 2003 budget.

Resolution 03-0066 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0013, by Councilor Hogg, authorizing execution of an agreement with the Duluth Convention and Visitors Bureau (DCVB) to provide advertising and promotion services to the city of Duluth for the year 2003 at a cost to the city of \$1,178,400, was introduced for discussion.

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

Jodi Chambers, representing the Western Area Business and Civic Club, urged the council to dedicate \$20,000 of tourism dollars to West Duluth to help give more exposure to West Duluth. She explained that club members felt the money amount would not impact DCVB's budget too much, while helping to promote their attractions for the tourists. Ms. Chambers continued by saying coverage in the brochure by the DCVB should include the restaurants, hotels and tourist attractions found in West Duluth, but they are limited to a small amount of space in the brochure and businesses that are too small to afford the dues to belong to the DCVB are not mentioned in the brochure at all.

Will Munger stated that he does not want to do anything to undermine the DCVB, but would like to see the many recreational activities available in West Duluth listed in the brochure to help make this a community-wide effort, not just for attractions in Canal Park.

Sean Flaherty, chair of DCVB, urged council support of the resolution without the amendments. He reviewed that the DCVB brings in over 3 million tourists each year and that number has been growing each year. He continued by saying that DCVB will tackle the aquarium issue with the city should the bill proposed before the state legislature not pass and that the DCVB was not aware that the West Duluth merchants were unhappy with the brochure coverage and would be more than willing to meet with the business association to address their concerns.

Councilor Stover moved to amend the resolution as follows:

(a) Replace the amount of "\$1,178,000" in the title with "\$1,060,400" and add the words "and allocating \$118,000 for payment of bonds to Lake Superior Center" at the end;

(b) Replace the amount "\$1,178,000" with "\$1,060,400" in the last sentence of the resolution;

(c) Add the following paragraph at the end of the resolution:

"FURTHER RESOLVED, that \$118,000 of tourism tax revenue is appropriated to the city debt service fund for payment of Lake Superior Center bonds, a transfer of tourism tax from Fund 0258-030-1460 to Fund 0258-030-1496, and the said contract be amended accordingly,"

which motion was seconded for discussion.

Councilor Stover stated that past minutes show that the DCVB has approved to help fund the aquarium should there be a financial crisis, and although there is no formal agreement in place with the city to force them to make this payment, the DCVB should pay the \$118,000 bond payment. He continued by saying that promotion is good only if you take care of the things you are promoting.

Councilor Ness stated a better solution is to try and get the legislation passed to allow the 1/2 percent hotel/motel tax to pay the aquarium bond payment.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilor Gilbert moved to further amend the resolution by adding the following paragraph at the end of the resolution:

“RESOLVED FURTHER, that of the total amount paid by the city to Duluth Convention and Visitors Bureau, by way of the contract authorized by this resolution, and coming from Fund 0258-030-1460, a minimum of \$20,000 shall, by contract or otherwise, be transferred by the Duluth Convention and Visitors Bureau to the Western Area Business and Civic Club to be used to promote tourism in the western part of the city; and that the contract on file as Public Document No. _____ include this requirement, or be amended, by language approved by the city attorney, to do so,”
which motion was seconded for discussion.

Councilor Gilbert stated that the premise behind this amendment is that the people in West Duluth know best how to take control of their money and how to spend it to promote their neighborhood instead of other people doing it for them. He continued by saying that it would be good if other neighborhoods start asking for money to help promote their events as tourism is thriving in Duluth and \$20,000 is not a lot of money out of the DCVB budget.

Councilors Stewart and Ness stated that while there is merit in this amendment, they are not comfortable with changing the budget at the last minute and encouraged Councilor Gilbert to bring this issue forward for discussion when the budget process starts this fall.

Councilor Atkins stated that the message needs to get out to neighborhoods and organizations that the DCVB is available to them to help publicize their events.

Councilor Hogg moved to call the question, which motion was not seconded.

President Stenberg stated that a better back up plan exists with the Duluth Entertainment Convention Center tax proposal and that he would like to see a report from the DCVB at the end of the year to see that they worked with various organizations during the year. He voiced concern that the focus is to bring tourists to Duluth and if the council starts administering cash to neighborhoods, it will open a can of worms.

Councilor Stover's amendment failed upon the following vote:

Yeas: Councilors Gilbert, Stewart and Stover -- 3

Nays: Councilors Atkins, Bergson, Hogg, Ness, Stauber and President Stenberg -- 6

Councilor Gilbert's amendment failed upon the following vote:

Yeas: Councilors Gilbert and Stover -- 2

Nays: Councilors Atkins, Bergson, Hogg, Ness, Stewart and President Stenberg -- 6

Abstention: Councilor Stauber -- 1

Resolution 03-0013 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 03-0127-40, and under which agreement the bureau will provide advertising and promotion services to the city during the year 2003 at a cost to the city not to exceed \$1,178,400; payable from Fund 0258, Agency 030, Org. 1460, Object 5441.

Resolution 03-0013 was adopted upon the following vote:

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

Nays: Councilors Gilbert and Stover -- 2

Approved January 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth hereby forgives all amounts due under that SRO deferred repayment loan dated December 7, 1987, (City Contract No. 15287) with Center City Housing, Inc., also known as Center City Housing Corporation (Center City) relating to the acquisition and development by Center City of the Gardner Hotel as a single-room occupancy residential facility, said loan in the original amount of \$144,564.

Resolution 03-0082 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0091, by President Stenberg, approving DEDA Resolution 03D-07 pursuant to Resolution 02-0606 regarding funding bonding and joint powers agreement for a project with Duluth Regional Care Center, was introduced for discussion.

Councilor Gilbert stated that he will abstain from discussion or voting on the resolution.

Resolution 03-0091 was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 02-0606, Resolution 03D-07 approved by the Duluth economic development authority (DEDA), at its meeting of January 21, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0127-41 is hereby approved.

Resolution 03-0091 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved January 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute a project agreement between the city of Duluth, Minnesota Power and LHB Engineers and Architects for funding and completion of energy conservation improvements at the Lake Superior zoological gardens, filed as Public Document No. 03-0127-42; said project and improvements to be funded by Minnesota Power, through its conservation improvement plan funds, at a maximum amount of \$308,000, and designed and managed by LHB from initial construction through the final implementation.

Resolution 03-0064 was unanimously adopted.

Approved January 27, 2003

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

Councilor Ness moved to remove Ordinance 02-044, by Councilor Stover, pertaining to the planning commission, requiring all planning commission meetings to start after 5:00 p.m., amending Section 4 of Ordinance No. 1809, from the table, which motion was seconded and unanimously carried.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Deb Kirpach stated it was hard to get away from work to attend a planning commission meeting and if the council supports public input and process they will support the ordinance.

Jeff Jackson, president of the planning commission, reviewed the commission's new policy for considering what would be placed on the agenda for the day meeting or the night meeting and he urged the councilors to let the planning commission continue to operate in a system that works well for the public and the planning commission.

Barb Olson Browne urged support of the ordinance because otherwise it leaves it in the hands of the planning commission to decide what is important or controversial and it also prevents qualified people from applying to be on the commission because they can not get away from work to serve on the commission.

Councilor Stover stated that if people can not get to the day meeting, the planning commission might be missing important information from the public and vice versa.

Councilor Stewart voiced concern that the president of the planning commission may be biased in the idea of what is controversial.

Councilor Stover moved passage of the ordinance and the same failed upon the following vote (Public Document No. 03-0127-44):

Yeas: Councilors Atkins Gilbert, Stewart and Stover -- 4

Nays: Councilors Bergson, Hogg, Ness, Stauber and President Stenberg -- 5

- - -

The following entitled ordinances were read for the first time:

BY COUNCILORS GILBERT AND NESS

03-006 - AN ORDINANCE PROHIBITING PISTOLS ON CITY PROPERTY; ADDING A NEW ARTICLE III TO CHAPTER 49 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Scott and Christine Ostern, Kay L. Lewis, John Eggleston, Alan Kehr and Kevin Bahr spoke against the ordinance for the following reasons: elected officials should be encouraged to chose public interest over private interest groups; the legality of this ordinance was questioned; the need for the ordinance was questioned since there have not been any city employees injured by handguns or any problems with handguns on city property; gun control does not work because criminals do not obey the law; it will hurt the citizen who is law abiding and wants to be able to defend himself when the police are not around.

Joan Peterson, representing the Northland Chapter of the Million Mom March, encouraged passage of this ordinance for the safety of city employees and the public.

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BY PRESIDENT STENBERG

03-005 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-37 TO PROVIDE FOR THE REGULATORY CONTROLS FOR PLANNED UNIT DEVELOPMENTS.

- - -

BY COUNCILOR STAUBER

03-004 - AN ORDINANCE PERTAINING TO PARKING VIOLATIONS; CHANGING THE PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 33-46 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT STENBERG

03-001 (9585) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE

1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, THE MERRITT SCHOOL PROPERTY LOCATED ON 40TH AVENUE WEST (INDEPENDENT SCHOOL DISTRICT 709 AND SHERMAN).

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

- - -

BY PRESIDENT STENBERG

03-002 (9586) - 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 FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO TRADITIONAL NEIGHBORHOOD DISTRICT NO. 2, PROPERTY BOUNDED ON THE NORTH BY 13TH STREET, ON THE EAST BY CENTRAL ENTRANCE, ON THE SOUTH BY 11TH STREET, AND ON THE WEST BY SECOND AVENUE WEST (HOUSING AND REDEVELOPMENT AUTHORITY & INDEPENDENT SCHOOL DISTRICT #709).

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

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BY COUNCILOR NESS

03-003 - AN ORDINANCE ELIMINATING PEDESTRIAN TRANSIT ZONES IN THE CITY OF DULUTH; REPEALING SECTION 45-4.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Brian Fuxa, Soren Larsen-Ravenfeather and Andrew Olson urged passage of the ordinance because the existing ordinance has not been effective in controlling the loitering Downtown, is a weak attempt to hide the problems the city has, it promotes hate and the ordinance needs to be repealed so we can hold our heads high.

Kristi Stokes, president of the Greater Downtown Council (GDC) and the mayors task force, Barb Perella, Harold Frederick, Bob Maki, Roger Wedin, Kay L. Lewis and Abbot Apter spoke in favor of keeping the ordinance in place for the following reasons: business owners and customers have a right to have a safe place Downtown; it is a step backward to repeal the ordinance; the ordinance has had a positive change in the community; small business owners have lost the energy and desire to do business Downtown, and small and large merchants need council support to remain Downtown and move forward.

Councilor Ness stated that while there is negative behavior going on Downtown that needs to be addressed, there are laws on our books that address those negative behaviors, but standing still on public property should not be an issue that the city takes a firm stand against. He questioned if this ordinance can be enforced equally for all and not target a certain group of people.

Councilor Stover stated the city should be addressing behavior laws, not standing laws.

Councilor Ness moved passage of the ordinance and the same failed upon the following vote (Public Document No. 03-0127-45):

Yeas: Councilors Ness, Stewart and Stover -- 3

Nays: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber and President Stenberg -- 6

- - -

The meeting was adjourned at 10:45 p.m.

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

- - -

ORDINANCE NO. 9585

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, THE MERRITT SCHOOL PROPERTY LOCATED ON 40TH AVENUE WEST (INDEPENDENT SCHOOL DISTRICT 709 AND SHERMAN).

The city of Duluth does ordain:

Section 1. That Plat No. 17 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 9, 2003)

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

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

Nays: None -- 0

Passed January 27, 2003
Approved January 27, 2003
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9586

BY PRESIDENT STENBERG:

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 FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO TRADITIONAL NEIGHBORHOOD DISTRICT NO. 2, PROPERTY BOUNDED ON THE NORTH BY 13TH STREET, ON THE EAST BY CENTRAL ENTRANCE, ON THE SOUTH BY 11TH STREET, AND ON THE WEST BY SECOND AVENUE WEST (HOUSING AND REDEVELOPMENT AUTHORITY & INDEPENDENT SCHOOL DISTRICT #709).

The city of Duluth does ordain:

Section 1. That Plate No. 29 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follow:

[MAP]

[see page at end of meeting]

Section 2. Development within the boundaries of Traditional Neighborhood District No. 2 shall be governed by and regulated in accordance with Public Document No. 03-0127-43 entitled "Harbor View /Central Hillside Revitalization, Traditional Neighborhood Development Code."

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 9, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 27, 2003
Approved January 27, 2003
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 10, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Ness -- 1

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MOTIONS AND RESOLUTIONS

Councilor Stewart moved to suspend the rules to consider at this time Resolution 03-0114, approving the appointment of Roger J. Waller as the chief of police for the city of Duluth, which motion was seconded and unanimously carried.

Resolution 03-0114 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, the administrative assistant has appointed Roger J. Waller as chief of police effective February 11, 2003, and the mayor has approved such appointment; and

WHEREAS, such appointment is subject to city council approval.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the appointment of Roger J. Waller as chief of police.

Resolution 03-0114 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

- - -

Mayor Doty presented newly appointed Police Chief Roger Waller with the chief of police badge and certificate of appreciation.

Chief Waller expressed his appreciation for the support given to him.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0210-01 Scott Nelson, et al. (11 signatures), submitting petition to reclassify from conditional commercial to commercial, 2401 London Road, Endion Division, Block 30, westerly 25 feet of Lot 15 and Lot 16 - currently developed as Wrights Nursery. -- Assessor

03-0210-02 Minnesota state auditor submitting Duluth/North Shore Sanitary District audit report for the years ended December 31, 2000, and 2001. -- Received

03-0210-03 Evensen Dodge Financial Consultants, Inc., submitting: (a) Bid results; (b) Official statement, regarding \$2,425,000 GO DECC refunding bonds, Series 2003A, \$1,880,000 GO water and sewer utilities revenue refunding bonds, Series 2003B, \$4,565,000 GO improvement refunding bonds, Series 2003C, \$10,000,000 GO tax and aid anticipation certificates of indebtedness of 2003. -- Received

03-0210-24 Deborah Kirpach (supported by 85 signatures) submitting communication requesting further consideration of the revised Spirit Mountain master plan (03-0050R). -- Received

03-0210-19 The following submitting communications regarding disposition of the old Armory building (02-0878R): (a) First Financial Capital, LLC; (b) Ben Fornear; (c) National Trust for Historic Preservation; (d) Mitch Sill; (e) David Van Brunt. -- Received

03-0210-20 The following submitting communications regarding proposed ordinance prohibiting pistols on city property (03-006-O): (a) Howard G. Anderson; (b) Peter Campbell; (c) Dave Dahl; (d) Dave Davison; (e) Bruce Fehringer; (f) Martin K. Frykman; (g) Phillip and Jan Hanson; (h) James A. Jensen; (i) Robert Kaliszewski; (j) League of Women Voters; (k) Bob

Lebacken; (l) Bob and Carol Mauk; (m) Kevin McIntyre; (n) Ronald B. Nelson; (o) Julie Riley; (p) Ronald and Bette Royer; (q) John Severns; (r) John F. Swaney; (s) Jon R. Zemans. -- Received

03-0210-21 The following submitting communications regarding the proposed ordinance changing parking violation penalties (03-004-O): (a) Joan L. Erickson; (b) Myrna Matheson. -- Received

03-0210-22 The following submitting communications regarding the proposed resolution regarding a bad check program (03-0040R): (a) Northern Collections, Inc.; (b) Range Credit Bureau, Inc. -- Received

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REPORTS OF OFFICERS

Mayor Doty reviewed in detail the extent of a large reduction in what the city of Duluth will very likely receive in local government aid.

- - -

MOTIONS AND RESOLUTIONS

Councilor Hogg moved to suspend the rules to consider at this time Resolutions 03-0105, providing for the issuance, sale and delivery of \$10,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2003 of the city of Duluth, Minnesota, and prescribing the terms thereof, creating a debt service fund therefor, and awarding the sale thereof; Resolution 03-0110, providing for the issuance, sale and delivery of \$2,405,000 general obligation DECC refunding bonds, Series 2003A, establishing the terms and form thereof, creating a debt service fund therefor, and awarding the sale thereof; Resolution 03-0111, providing for the issuance, sale and delivery of \$4,520,000 general obligation improvement refunding bonds, Series 2003C, establishing the terms and form thereof, creating a debt service fund therefor, and awarding the sale thereof; and Resolution 03-0112, providing for the issuance, sale and delivery of \$1,865,000 general obligation water and sewer utilities revenue refunding bonds, Series 2003B, establishing the terms and form thereof, creating a debt service fund therefor, and awarding the sale thereof, which motion was seconded and unanimously carried.

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

Kathy Cardell, representing Evensen Dodge Financial Consultants, Inc., reviewed the nature of the resolutions and results of the respective bids (Public Document No. 03-0210-03 (a)).

Resolutions 03-0105, 03-0110, 03-0111 and 03-0112 were adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Purpose and Authorization.

1.01 Pursuant to authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the city is authorized to issue and sell general obligation tax and aid anticipation certificates of indebtedness in anticipation of collection of taxes and state aids. The city council has, by Resolution No. 03-0035, adopted January 13, 2003, authorized the issuance and provided for the sale of \$10,000,000 general obligation tax and aid anticipation certificates of Indebtedness of 2003 (the certificates) in anticipation of collection of taxes levied in the year 2002 for collection during the year 2003 and state aids receivable in 2003 for the general fund of the city (the general fund), which is necessary for timely payment of anticipated expenditures from the general fund.

1.02 Evensen Dodge, Inc., financial consultant to the city, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal

bond trade to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the certificates at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the certificates. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the certificates are hereby ratified and approved.

Section 2. Pursuant to such solicitation for bids for the sale of the certificates, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray, Inc., of Minneapolis, Minnesota (the purchaser), to purchase the certificates at a cash price of \$10,028,300, plus accrued interest on the total principal amount from February 24, 2003, to the date of delivery of the certificates and upon condition that the certificates mature and bear interest at the times and annual rates set forth in Section 4. The city, after due consideration, finds such offer reasonable and proper and the offer of the purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the city a contract for the sale of the certificates in accordance with the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 3. The city council hereby declares that the full faith and credit and taxing power of the city and the receipts of general fund taxes and state aids (as hereinafter defined), to the extent necessary to repay the certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the certificates when due.

Section 4. The certificates to be issued hereunder shall be dated February 24, 2003, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and shall mature on December 31, 2003 (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 1.50 percent per annum. Interest on the certificates shall be payable on the maturity date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar designated below shall make the interest payment with respect to the certificates by check or draft mailed to the registered owners of the certificates shown on the bond registration records maintained by the bond registrar at the close of business on December 16, 2003, whether or not a business day, at such owners' addresses shown on such bond registration records. Principal of each certificate shall be payable in accordance with and on presentation and surrender of the certificate to the bond registrar.

Section 5. The city council hereby appoints Wells Fargo Bank Minnesota, National Association of Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the certificates (such bank or its successor thereof is herein referred to as the bond registrar). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-0210-15. No certificate shall be valid or obligatory for any purpose unless or until the bond registrar's authentication certificate on such certificate, substantially as set forth in Section 13 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different certificates need not be signed by the same representative. The executed authentication certificate on each certificate shall be conclusive evidence that it has been authenticated and delivered under this resolution.

Section 6. (a) In order to make the certificates eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the

applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

(b) All of the certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any certificate registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon thereafter as possible thereafter to the account of Cede & Co. on the maturity date at the address indicated in or pursuant to representation letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by certificate holders and payments on the certificates are set forth in the representation letter.

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

Section 8. Each certificate delivered upon transfer of or in exchange for or in lieu of any other certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other certificate. The city and the bond registrar shall not be required to make any transfer or exchange of any certificates during the 15 days next preceding the maturity date.

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

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 2003

R-1 \$10,000,000

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
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December 31, 2003 February 24, 2003

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: TEN MILLION DOLLARS

The city of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Interest on this Certificate shall be payable on the maturity date set forth above. This Certificate is not subject to redemption prior to maturity. Both principal and interest are payable at Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council, in coin or currency of the United States of America, which on the date of payment is legal tender for payment of public and private debts. The Bond Registrar shall make the interest payment with respect to this Certificate directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on December 16, 2003, 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 \$10,000,000, pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, and pursuant to a resolution adopted by the City Council of the City on February 10, 2003 (the "Resolution").

It is hereby certified and recited that a sum of \$35,128,900 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in

the year 2002 for collection during the year 2003, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 2003; and that none of said amounts have at this time been collected and credited to the City's Fund; that heretofore no tax or aid anticipation certificates have been issued against said tax levies or state aids for such Fund; and that this Certificate is issued in anticipation of collection of said taxes and state aids.

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

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

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

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

IN WITNESS WHEREOF, City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the facsimile signatures of the mayor and the city clerk; and the City has caused this Certificate to be dated the 24th day of February, 2003.

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
Minneapolis, Minnesota

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date	Registered Owner	Signature of Bond Registrar
2/24/03	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

(Name and Address of Assignee)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Social Security or other
Identifying Number of
Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

(Certificate as to Legal Opinion)

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by Bond Counsel on the issuance of the General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2003, of the City of Duluth which includes the within Certificate, dated as of the original date of delivery of and payment for the Certificates.

City Clerk

Section 14. (a) The treasurer shall credit \$10,000,000, less amounts used to pay a part of the interest cost of the certificates as allowed by Minnesota Statutes, Section 475.56, from the proceeds of the sale of the certificates to the general fund maintained under Section 54 of the City Charter. A special account is hereby created in the debt service fund of the city (the debt service account), to be used solely for the payment of interest on and the principal of the certificates when due. The treasurer shall credit to the debt service account all proceeds of the certificates in excess of \$10,000,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest paid by the purchaser. The treasurer shall pay the costs of issuance of the certificates from the general fund.

(b) The city council has levied \$150,000, pursuant to Section 3 of Ordinance No. 9580 (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 percent of the amount necessary to pay the interest on the certificates. The city council hereby certifies that the general fund taxes are \$4,726,600, and based on notices from the Minnesota department of revenue, the state aids are reasonably expected to be \$30,402,300.

(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. 9580, adopted by the city council on December 16, 2002 (the general fund taxes), and the amounts of state aids from local government aid receivable from the state of Minnesota for the general fund in 2003 (the general fund state aids) (collectively the general fund taxes and the general fund state aids are the general fund taxes and state aids), to the extent necessary to repay the certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the certificates when due. If the general fund taxes and state aids are insufficient to pay all principal and interest on the certificates when due, the treasurer shall, nevertheless, provide sufficient monies from other funds of the city which are available for that purpose, and such other funds shall be reimbursed from said accounts when the balances therein are sufficient. It is recognized that the city's liability on the certificates is not limited to the collection of said general fund taxes and state aids, and the city council covenants and agrees that it will levy upon all taxable property within the city, and cause to be extended, assessed and collected, any additional taxes found necessary for full payment of the principal and interest, without limitation as to rate or amount.

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

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

Section 17. The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchaser and to bond counsel certified copies of all proceedings and

records of the city pertaining to the authorization, issuance, and sale of the certificates and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the certificates as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of facts recited therein and the actions stated therein to have been taken.

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

Section 19. The city acknowledges that the certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the securities and exchange commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the rule). The rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the obligations. To provide for the public availability of certain information relating to the certificates and the security therefor and to permit underwriters of the certificates to comply with the rule, which will enhance the marketability of the certificates, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 03-0210-15.

Resolution 03-0105 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond purpose and authorization.

1.01 Pursuant to Laws of Minnesota 1994, Chapter 489, the city previously issued \$1,980,000 general obligation bonds, Series 1994, dated July 1, 1994 (the 1994 bonds) and the \$2,070,000 general obligation DECC bonds, Series 1995B-3, dated June 1, 1995 (the 1995 bonds), for the purpose of financing improvements to the Duluth Entertainment Convention Center.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the act) and, specifically, Section 475.67, subdivisions 1 through 12 of the act, the city is authorized to issue and sell its general obligation bonds to refund certain maturities of the 1994 bonds and the 1995 bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the city to be necessary or desirable for the reduction of debt service cost to the city or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The city council hereby determines that it is necessary, expedient and in the best interest of the city's residents that the city issue, sell and deliver its \$2,405,000 general obligation DECC refunding bonds, Series 2003A (the bonds), to refund the principal portion of the 1994 bonds maturing on and after February 1, 2004, of which \$1,055,000 in principal amount matures or is prepayable on February 1, 2004 (the 1994 refunded bonds), and to refund the principal portion of the 1995 bonds maturing on and after February 1, 2004, of which \$1,225,000 in principal amount matures or is prepayable on February 1, 2004 (the 1995 refunded bonds) (the 1994 refunded bonds and the 1995 refunded bonds are collectively referred to herein as the refunded

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bonds), in order to reduce debt service cost to the city. (February 1, 2004, is herein referred to as the redemption date.)

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 bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray, Inc., of Minneapolis, Minnesota (the purchaser), to purchase the bonds at a cash price of \$2,407,659.99, plus accrued interest on the total principal amount from March 1, 2003, 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 the bonds.

2.01 The bonds shall be dated March 1, 2003, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2004	\$325,000	2.00%
2005	325,000	2.00%
2006	330,000	2.25%
2007	340,000	2.50%
2008	355,000	2.75%
2009	360,000	3.00%
2010	370,000	3.10%

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

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an interest payment date) commencing on August 1, 2003. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar appointed 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 on a business day) of the month next preceding the interest payment date at such owners' addresses shown on such bond registration records.

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

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each bond, together with a certificate to be signed by the manual or facsimile signature of the clerk in substantially the form set forth in Section 3.01, but only if the opinion is not manually executed. The clerk is authorized and directed to execute the certificate in the name of the city upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the city offices.

2.05 The city hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the bonds (such bank or its successor is herein referred to as the bond registrar). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-0210-16. No bond shall be valid or obligatory for any purpose until the bond registrar's authentication certificate on such bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different bonds need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication certificate on each bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the bonds eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

(b) All of the bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city 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.

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

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

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

2.11 Delivery of the bonds and payment of the purchase price shall be made at a place mutually satisfactory to the city and the purchaser. Printed or typewritten and executed bonds shall be furnished by the city without cost to the purchaser. The bonds, when prepared in accordance with this resolution and executed, shall be delivered by or under the direction of the treasurer to the purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the bonds.

3.01 The bonds shall be printed or typewritten in substantially the following form:

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

GENERAL OBLIGATION DECC REFUNDING BOND, SERIES 2003A

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	March 1, 2003	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from March 1, 2003, 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 interest rate per annum specified above. Interest is payable

semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2003. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank Minnesota, National Association of 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. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day 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 \$2,405,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, subdivisions 1 through 12 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on February 10, 2003 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of certain general obligation bonds of the City. 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 Bonds, as such principal and interest respectively come due.

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 and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

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

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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, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the mayor and the clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date	Registered Owner	Signature of Bond Registrar
_____	_____	_____

3/___/03

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

ASSIGNMENT

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

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

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

Dated: _____

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

Signature Guaranteed:

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

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO

ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Bond Counsel Opinion

I certify that the attached 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 Bonds.

Clerk

Section 4. Escrow agreement; escrow agent.

4.01 Wells Fargo Bank Minnesota, National Association, of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the escrow agent) with respect to the refunded bonds.

4.02 On or prior to the delivery of the bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the city an escrow agreement (the escrow agreement) with the escrow agent in substantially the form now on file with the clerk as Public Document No. 03-0210-16. The execution and delivery of the escrow agreement by the mayor and the clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the escrow agreement, including payment by the city of reasonable charges for the services of the escrow agent, are hereby approved and adopted and made a part of this resolution, and the city covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the escrow agent.

Section 5. Covenants, revenues, accounts and tax levies.

5.01 (a) Debt service fund. For the convenience and proper administration of the monies to be borrowed and repaid on the bonds and to provide adequate and specific security for the purchaser and holders from time to time of the bonds, there is hereby created a special fund to be designated the 2003 DECC refunding bonds debt service account (debt service fund) to be administered and maintained by the treasurer as a bookkeeping account in the city's debt service fund, separate and apart from all other accounts maintained in the official financial records of the city. The debt service fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. To the Debt Service Fund there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the city upon termination of the escrow agreement attributable to the refunded bonds; (ii) any balance remaining on the redemption date in the debt service accounts created in the city's resolutions authorizing the issuance and sale of the 1994 bonds (Resolution No. 94-0616) and the 1995 bonds (Resolution No. 95-0554) (the prior resolutions) after payment of principal and interest on the refunded bonds on the redemption date; (iii) any collections of ad valorem taxes hereafter levied for the payment of the bonds and interest thereon; (iv) all investment earnings on funds in the debt service fund; (v) accrued interest, if any, received from the purchaser upon delivery of the bonds to the extent not required to fund the escrow account (the accrued interest); (vi) any amount

of additional interest permitted by Section 475.56 of the act paid by the purchaser (the additional interest), to the extent not required to fund the escrow account; (vii) all taxes pledged to repayment of the refunded bonds in the prior resolutions hereafter collected pursuant to levies made in the prior resolutions; and (viii) any and all other monies which are properly available and are appropriated by the city to the debt service fund including taxes levied in Section 5.02 hereof. The amount of any surplus remaining in the debt service fund when the bonds and interest thereon are paid shall be used as provided in Section 475.61, subdivision 4 of the act.

(b) Escrow account.

(i) To the escrow account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the bonds received from the purchaser which are not appropriated to the debt service fund or are not to be used for payment of costs of issuance of the bonds; (b) accrued interest; (c) additional Interest [amounts referenced in clauses (a), (b) and (c) are herein referred to as the proceeds]; (d) funds of the city in an amount sufficient to meet the requirements of the escrow account for the refunding bonds (the funds); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of principal and interest due on the refunded bonds through the redemption date.

(ii) The escrow account shall be maintained with the escrow agent pursuant to the escrow agreement and this resolution. The escrow account shall be invested in accordance with the act, the escrow agreement and this section, in securities specified in Section 475.67, subdivision 8 of the act or in an investment contract or similar agreement with a bank or insurance company meeting the requirements of Minnesota Statutes, Section 118A.05, subdivision 5, which investments will provide sufficient funds together with any cash or other funds retained in the escrow account for the refunded bonds for the payment of principal and interest due on the refunded bonds through the redemption date.

(iii) From the escrow account there shall be paid: (a) all interest paid or to be paid on the refunded bonds to and including the redemption date; and (b) the principal of the refunded bonds maturing on the redemption date or due by reason of redemption on the redemption date.

(iv) The escrow account for the refunding bonds is irrevocably appropriated to the payment of the interest on the refunded bonds to and including the redemption date and to prepayment of the refunded bonds. The monies in the escrow account for the refunding bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the escrow account may be remitted to the city all in accordance with the escrow agreement. Any monies remitted to the city upon termination of the escrow agreement shall be deposited in the debt service fund.

(v) Securities purchased for the escrow account shall be purchased simultaneously with the delivery of and payment for the bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities.

(c) The construction funds created for the refunded bonds have previously been terminated and all bond proceeds therein have been expended.

5.02 (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 as follows:

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Levy Year	Collection Year	Tax Levy
2002	2003	*\$399,922
2003	2004	398,431
2004	2005	396,856
2005	2006	399560
2006	2007	406385
2007	2008	401384
2008	2009	400544

*Amounts levied in the prior resolutions

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

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

(b) All taxes are hereby appropriated and shall be paid when collected into the debt service fund. If the balance in the debt service fund is ever insufficient to pay all principal and interest then due on the bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from the debt service fund when the balance therein is sufficient.

Section 6. Refunding; findings; redemption of refunded bonds.

6.01 (a) It is hereby found and determined, based upon information presently available from the city's financial advisers, that as of the redemption date, the issuance of the bonds will result in a reduction of debt service cost to the city on the refunded bonds. In accordance with Section 475.67 of the act, as of the redemption date, the present value of the dollar amount of the debt service on the bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on the refunded bonds, exclusive of any premium, computed to their stated maturity dates.

(b) It is hereby found and determined that the proceeds and funds available and appropriated to the escrow account for the refunded bonds will be sufficient, together with the permitted earnings on the investment of the escrow account, to pay the principal and interest due on the refunded bonds through the redemption date.

6.02 The refunded bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notices of call for redemption attached to the escrow agreement, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or the designee thereof is hereby authorized and directed to publish the notices of call for redemption in a publication qualified under Section 475.54 of the act if required by law, and in all cases to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the refunded bonds in accordance with their terms.

Section 7. Defeasance.

7.01 When all bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the holders of the bonds shall cease, except that the pledge of the full faith and credit of the city for the prompt and full payment of the principal of and interest on the bonds shall remain in full force and effect. The city may discharge all bonds which are due on any date by depositing with the bond registrar on or before that date a sum sufficient for the payment thereof in full. If any bond should not be paid when due, it may nevertheless be discharged by depositing with the bond registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The city may also at any time discharge and cause defeasance of the bonds in their entirety by complying with the provisions of Section 475.67 of the act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 8. Certificate of proceedings.

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

8.02 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.

8.03 The mayor and clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Section 9. Tax covenants.

9.01 The city covenants and agrees with the holders of the bonds that the city will (i) take all action on its part necessary to 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.

9.02 (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 or minor portion made available under the federal arbitrage regulations.

(b) The proceeds of the bonds and money in the debt service fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the code).

(c) The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be private activity bonds within the meaning of Sections 103 and 141 through 150 of the code.

9.03 In addition to the bonds, the city is selling, pursuant to a single offering document and on the same date, the following obligations: (i) general obligation water and sewer utilities revenue refunding bonds, Series 2003B, and (ii) general obligation improvement refunding bonds, Series 2003C. The city has pledged its full faith and credit and taxing powers for each series of the bonds. Pursuant to treasury regulation Section 1.150-1(c)(4)(iii), the city elects to treat the bonds, the Series 2003B bonds and the Series 2003C bonds as part of the same issue.

9.04 (a) The city covenants and certifies to and for the benefit of the owners of the bonds that no use will be made of the proceeds of the bonds, which will cause the bonds to be arbitrage bonds within the meaning of Section 148(a) of the code and the treasury regulations promulgated thereunder. Pursuant to such covenant, the city hereby agrees to comply throughout the term of the issue of the bonds with the requirements of Section 148 of the code and any treasury regulations promulgated thereunder; to this end, the city shall:

(i) maintain records identifying all gross proceeds (as defined in Section 148(f)(6)(B) of the code) attributable to the bonds, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the bonds) and any earnings derived from the investment of such arbitrage profit;

(ii) make, or cause to be made as of the end of each bond year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States by the city (hereinafter, the rebate amount);

(iii) pay, or cause to be paid, to the United States at least once every five bond years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the bonds are paid in full;

(iv) not invest, or permit to be invested, gross proceeds in any acquired non-purpose obligations so as to deflect arbitrage otherwise payable to the United States as a prohibited payment to a third party;

(v) retain all records of the annual determinations of the foregoing amounts until six years after the bonds have been fully paid; and

(vi) in order to comply with the foregoing paragraph, the city shall determine the rebate amount within 30 days after the close of each bond year and upon payment in full of the bonds; upon each such determination, the city shall deposit in the rebate fund the rebate amount so determined; the city shall separately account for the earnings from the investment of the rebate amount and such earnings shall become part of the rebate amount.

(b) For purposes of this section, bond year shall mean the 12-month period beginning on the date of issuance of the bonds or such other 12-month period designated by the board which is permitted by the code or any treasury regulation promulgated thereunder.

Section 10. Continuing disclosure. The city acknowledges that the bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the securities and exchange commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the rule). The rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the bonds. To provide for the public availability of certain information relating to the bonds and the security therefor and to permit underwriters of the bonds to comply with the rule, which will enhance the marketability of the bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 03-0210-16.

Resolution 03-0110 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the City Charter and Minnesota Statutes, Chapter 475 (the act), the city previously issued \$8,015,000 general obligation improvement bonds, Series 1995C, dated June 1, 1995 (the 1995 bonds) to finance the costs of local public improvements.

1.02 Under and pursuant to the provisions of the act and, specifically, Section 475.67, subdivisions 1 through 12 of the act, the city is authorized to issue and sell its general obligation bonds to refund certain maturities of the 1995 bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the city to be necessary or desirable for the reduction of debt service cost to the city or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The city council hereby determines that it is necessary, expedient and in the best interest of the city's residents that the city issue, sell and deliver its \$4,520,000 general obligation improvement refunding bonds, Series 2003C (the bonds), to refund the principal portion of the 1995 bonds maturing on and after February 1, 2004, of which \$4,415,000 in principal amount matures or is prepayable on February 1, 2004 (the refunded bonds), in order to reduce debt service cost to the city. (February 1, 2004 is herein referred to as the redemption date.)

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 bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray, Inc., of Minneapolis, Minnesota (the purchaser), to purchase the bonds at a cash price of \$4,534,218.68, plus accrued interest on the total principal amount from March 1, 2003, 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

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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 the bonds.

2.01 The bonds shall be dated March 1, 2003, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2004	\$630,000	2.00%
2005	630,000	2.00%
2006	635,000	2.25%
2007	640,000	2.50%
2008	650,000	2.75%
2009	660,000	3.00%
2010	675,000	3.10%

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

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an interest payment date) commencing on August 1, 2003. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar appointed 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 on a business day) of the month next preceding the interest payment date at such owners' addresses shown on such bond registration records.

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

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each bond, together with a certificate to be signed by the manual or facsimile signature of the clerk in substantially the form set forth in Section 3.01, but only if the opinion is not manually executed. The clerk is authorized and directed to execute the certificate in the name of the city upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the city offices.

2.05 The city hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the bonds (such bank or its successor is herein referred to as the bond registrar). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-0210-17. No bond shall be valid or obligatory for any purpose until the bond registrar's authentication certificate on such bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different bonds need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication certificate on each bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the bonds eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

(b) All of the bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city on each interest payment date to the account of Cede & Co. on each interest payment date at the address indicated in or pursuant to the representation letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the bonds are set forth in the representation letter.

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

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

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

2.10 The principal of and interest on the bonds shall be payable by the bond registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of

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America. The city shall pay the reasonable and customary charges of the bond registrar for the disbursement of principal and interest.

2.11 Delivery of the bonds and payment of the purchase price shall be made at a place mutually satisfactory to the city and the purchaser. Printed or typewritten and executed bonds shall be furnished by the city without cost to the purchaser. The bonds, when prepared in accordance with this resolution and executed, shall be delivered by or under the direction of the treasurer to the purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the bonds.

3.01 The bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS
CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT REFUNDING BOND, SERIES 2003C

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	March 1, 2003	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from March 1, 2003, 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 interest rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2003. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank Minnesota, National Association of 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. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the

payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$4,520,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 12 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on February 10, 2003 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of certain general obligation bonds of the City. The Bonds are payable in part from special assessments levied upon benefitted property and in part from ad valorem taxes levied upon all of the taxable property within the territory of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds are not subject to redemption 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 and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

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, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the mayor and the clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date	Registered Owner	Signature of Bond Registrar
3/___/03	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)

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Social Security or Other
Identifying Number of Assignee

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

Dated: _____

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

Signature Guaranteed:

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

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Bond Counsel Opinion

I certify that the attached 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 Bonds.

Clerk

Section 4. Escrow agreement; escrow agent.

4.01 Wells Fargo Bank Minnesota, National Association, of Minneapolis, Minnesota, which is a suitable financial institution within the state of Minnesota whose deposits are insured

by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the escrow agent) with respect to the refunded bonds.

4.02 On or prior to the delivery of the bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the city an escrow agreement (the escrow agreement) with the escrow agent in substantially the form now on file with the clerk as Public Document No. 03-0210-17. The execution and delivery of the escrow agreement by the mayor and the clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the escrow agreement, including payment by the city of reasonable charges for the services of the escrow agent, are hereby approved and adopted and made a part of this resolution, and the city covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the escrow agent.

Section 5. Covenants, revenues, accounts and tax levies.

5.01 (a) Debt service fund. For the convenience and proper administration of the monies to be borrowed and repaid on the bonds and to provide adequate and specific security for the purchaser and holders from time to time of the bonds, there is hereby created a special account to be designated the 2003 Improvement refunding bonds debt service account (debt service fund) within the special assessment debt service fund to be administered and maintained by the treasurer as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the city. The debt service fund shall be maintained in the manner herein specified until all of the bonds and interest thereon have been fully paid. There shall be maintained in the debt service fund two separate accounts, to be designated the escrow account and the debt service account.

(b) Debt service account. To the debt service account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the city upon termination of the escrow agreement for the refunded bonds; (ii) any balance remaining on the redemption date in the debt service account created in the city's resolution authorizing the issuance and sale of the 1995 bonds (Resolution No. 95-0557) (the prior resolution) after payment of principal and interest on the refunded bonds on the redemption date; (iii) any collections of ad valorem taxes hereafter levied for the payment of the bonds and interest thereon; (iv) all investment earnings on funds in the debt service account; (v) accrued interest, if any, received from the purchaser upon delivery of the bonds to the extent not required to fund the escrow account (the accrued interest); (vi) any amount of additional interest permitted by Section 475.56 of the act paid by the purchaser (the additional interest), to the extent not required to fund the escrow account; (vii) all taxes pledged to repayment of the refunded bonds in the prior resolution collected after the redemption date pursuant to levies made in the prior resolution which levies shall not be cancelled except as permitted by Section 475.61, subdivision 3 of the act; (viii) all special assessments levied for the projects listed in the prior resolution and collected after the redemption date; and (ix) any and all other monies which are properly available and are appropriated by the city to the debt service account including taxes levied in Section 5.02 hereof. The amount of any surplus remaining in the debt service account when the bonds and interest thereon are paid shall be used as provided in Section 475.61, subdivision 4 of the act.

(c) Escrow account.

(i) To the escrow account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the bonds received from the

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purchaser which are not appropriated to the debt service account or are not to be used for payment of costs of issuance of the bonds; (b) accrued interest; (c) additional interest [amounts referenced in clauses (a), (b) and (c) are herein referred to as the proceeds]; (d) funds of the city in an amount sufficient to meet the requirements of the escrow account for the refunded bonds (the funds); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of principal and interest due on the refunded bonds through the redemption date.

(ii) The escrow account shall be maintained with the escrow agent pursuant to the escrow agreement and this resolution. The escrow account shall be invested in accordance with the act, the escrow agreement and this section, in securities specified in Section 475.67, subdivision 8 of the act or in an investment contract or similar agreement with a bank or insurance company meeting the requirements of Minnesota Statutes, Section 118A.05, subdivision 5, which investments will provide sufficient funds together with any cash or other funds retained in the escrow account for the refunded bonds for the payment of principal and interest due on the refunded bonds through the redemption date.

(iii) From the escrow account there shall be paid: (a) all interest paid or to be paid on the refunded bonds to and including the redemption date; and (b) the principal of the refunded bonds maturing on the redemption date or due by reason of redemption on the redemption date.

(iv) The escrow account for the refunded bonds is irrevocably appropriated to the payment of the interest on the refunded bonds to and including the redemption date and to prepayment of the refunded bonds. The monies in the escrow account for the refunded bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the escrow account may be remitted to the city all in accordance with the escrow agreement. Any monies remitted to the city upon termination of the escrow agreement shall be deposited in the debt service account.

(v) Securities purchased for the escrow account shall be purchased simultaneously with the delivery of and payment for the bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities.

(d) The construction funds created for the refunded bonds have previously been terminated and all bond proceeds therein have been expended.

5.02 (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 as follows:

Levy Year	Collection Year	Tax Levy
2002	2003	*771,310
2003	2004	768,062
2004	2005	760,082
2005	2006	750,330

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Levy Year	Collection Year	Tax Levy
2006	2007	744,030
2007	2008	735,762
2008	2009	730,722

*Amounts levied and/or receivable from special assessments under the prior resolution

Said levies are such that if collected in full, they together with the estimated collections of investment earnings will produce at least five percent in excess of the amount needed to meet when due the principal and interest on the bonds.

Such tax levies shall be irrevocable as long as any of the bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any bonds issued hereunder remain outstanding, the city council may reduce or cancel the above levies (i) to the extent of funds expected to be received from special assessments from the projects described in the prior resolution upon benefitted properties, and (ii) to the extent of an irrevocable appropriation to the debt service account of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not special assessments), and may direct the county auditor to reduce the levy for such calendar year by that amount.

(b) All proceeds of said special assessments and said taxes are hereby appropriated and shall be paid when collected into the debt service account. If the balances in the debt service account are ever insufficient to pay all principal and interest then due on the bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from the debt service account when the balances therein are sufficient.

Section 6. Refunding; findings; redemption of refunded bonds.

6.01 (a) It is hereby found and determined, based upon information presently available from the city's financial advisers, that as of the redemption date, the issuance of the bonds will result in a reduction of debt service cost to the city on the refunded bonds. In accordance with Section 475.67 of the act, as of the redemption date, the present value of the dollar amount of the debt service on the bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on the refunded bonds, exclusive of any premium, computed to their stated maturity dates.

(b) It is hereby found and determined that the proceeds and funds available and appropriated to the escrow account for the refunded bonds will be sufficient, together with the permitted earnings on the investment of the escrow account, to pay the principal and interest due on the refunded bonds through the redemption date.

6.02 The refunded bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption attached to the escrow agreement, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or the designee thereof is hereby authorized and directed to publish the notice of call for redemption in a publication qualified under Section 475.54 of the act if required by law, and in all cases to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the refunded bonds in accordance with their terms.

Section 7. Defeasance.

7.01 When all bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the holders of the bonds shall cease, except that the pledge of the full faith and credit of the city for the prompt and full payment of the principal of and interest on the bonds shall remain in full force and effect. The city may discharge all bonds which are due on any date by depositing with the bond registrar on or before that date a sum sufficient for the payment thereof in full. If any bond should not be paid when due, it may nevertheless be discharged by depositing with the bond registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The city may also at any time discharge and cause defeasance of the bonds in their entirety by complying with the provisions of Section 475.67 of the act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 8. Certificate of proceedings.

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

8.02 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.

8.03 The mayor and clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Section 9. Tax covenants.

9.01 The city covenants and agrees with the holders of the bonds that the city will (i) take all action on its part necessary to 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.

9.02 (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 or minor portion made available under the federal arbitrage regulations.

(b) The proceeds of the bonds and money in the debt service fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the code).

(c) The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be private activity bonds within the meaning of Sections 103 and 141 through 150 of the code.

9.03 In addition to the bonds, the city is selling, pursuant to a single offering document and on the same date, the following obligations: (i) general obligation DECC refunding bonds, Series 2003A, and (ii) general obligation water and sewer utilities revenue refunding bonds, Series 2003B. The city has pledged its full faith and credit and taxing powers for each series of the bonds. Pursuant to treasury regulation Section 1.150-1(c)(4)(iii), the city elects to treat the bonds, the Series 2003A bonds and the Series 2003B bonds as part of the same issue.

9.04 (a) The city covenants and certifies to and for the benefit of the owners of the bonds that no use will be made of the proceeds of the bonds, which will cause the bonds to be arbitrage bonds within the meaning of Section 148(a) of the code and the treasury regulations promulgated thereunder. Pursuant to such covenant, the city hereby agrees to comply throughout the term of the issue of the bonds with the requirements of Section 148 of the code and any treasury regulations promulgated thereunder; to this end, the City shall:

(i) maintain records identifying all gross proceeds (as defined in Section 148(f)(6)(B) of the code) attributable to the bonds, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the bonds) and any earnings derived from the investment of such arbitrage profit;

(ii) make, or cause to be made as of the end of each bond year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States by the city (hereinafter, the rebate amount);

(iii) pay, or cause to be paid, to the United States at least once every five bond years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the bonds are paid in full;

(iv) not invest, or permit to be invested, gross proceeds in any acquired non-purpose obligations so as to deflect arbitrage otherwise payable to the United States as a prohibited payment to a third party;

(v) retain all records of the annual determinations of the foregoing amounts until six years after the bonds have been fully paid; and

(vi) in order to comply with the foregoing paragraph, the city shall determine the rebate amount within 30 days after the close of each bond year and upon payment in full of the bonds; upon each such determination, the city shall deposit in the rebate fund the rebate amount so determined; the city shall separately account for the earnings from the investment of the rebate amount and such earnings shall become part of the rebate amount.

(b) For purposes of this section, bond year shall mean the 12-month period beginning on the date of issuance of the bonds or such other 12-month period designated by the board which is permitted by the code or any treasury regulation promulgated thereunder.

Section 10. Continuing disclosure. The city acknowledges that the bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the securities and exchange commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the Rule). The rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the bonds. To provide for the public availability of certain information relating to the bonds and the security therefor and to permit underwriters of the bonds to comply with the rule, which will enhance the marketability of the bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 03-0210-17.

Resolution 03-0111 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075, and Minnesota Statutes, Chapter 475, and other pertinent provisions of said charter and statutes, the city previously issued \$2,000,000 general obligation sewer utility revenue bonds, Series 1995B-1, dated June 1, 1995 (the 1995B-1 bonds) and \$1,000,000 general obligation water utility revenue bonds, Series 1995B-2, dated June 1, 1995 (the 1995B-2 bonds).

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the act) and, specifically, Section 475.67, subdivisions 1 through 12 of the act, the city is authorized to issue and sell its general obligation bonds to refund certain maturities of the 1995B-1 bonds and the 1995B-2 bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the city to be necessary or desirable for the reduction of debt service cost to the city or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The city council hereby determines that it is necessary, expedient and in the best interest of the city's residents that the city issue, sell and deliver its \$1,865,000 general obligation water and sewer utilities revenue refunding bonds, Series 2003B (the bonds), to refund the principal portion of the 1995B-1 bonds maturing on and after February 1, 2004, of which \$1,185,000 in principal amount matures or is prepayable on February 1, 2004 (the 1995B-1 refunded bonds), and to refund the principal portion of the 1995B-2 bonds maturing on and after February 1, 2004, of which \$595,000 in principal amount matures or is prepayable on February 1, 2004 (the "1995B-2 refunded bonds") (the 1995B-1 refunded bonds and the 1995B-2 refunded bonds are collectively referred to herein as the refunded bonds), in order to reduce debt service cost to the city. (February 1, 2004 is herein referred to as the redemption date.)

1.04 (a) The city has heretofore issued and sold the following: general obligation water and sewer refunding bonds dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$350,000; general obligation sewer and steam utility revenue bonds dated December 1, 1998, the sewer utility portion of such bonds now outstanding in the amount

of \$705,000; general obligation sewer utility revenue bonds dated December 1, 1999, now outstanding in the amount of \$1,500,000; general obligation water and sewer utilities revenue bonds dated December 1, 2000, the sewer utility portion of such bonds now outstanding in the amount of \$520,000; general obligation gas and sewer utilities revenue bonds dated December 1, 2001, the sewer utility portion of such bonds now outstanding in the amount of \$1,270,000; general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$2,003,000; and general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,825,000. Under the provisions of the ordinances and resolutions authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated May 1, 1998, December 1, 1998, December 1, 1999, December 1, 2000, December 1, 2001, September 1, 2002, and December 1, 2002.

(b) 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.

1.05 (a) The city has heretofore issued and sold the following: general obligation water utility refunding bonds dated September 1, 1997, now outstanding in the amount of \$1,345,000; general obligation water and sewer refunding bonds dated May 1, 1998, the water utility portion of such bonds now outstanding in the amount of \$1,345,000; general obligation water and sewer utilities revenue bonds dated December 1, 2000, the water utility portion of such bonds now outstanding in the amount of \$1,395,000; general obligation utilities facility bonds dated September 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,690,000; and general obligation utilities revenue bonds dated December 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,385,000. Under the provisions of the ordinances and resolutions authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated September 1, 1997, May 1, 1998, December 1, 2000, September 1, 2002, and December 1, 2002.

(b) 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.

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 Wachovia Bank, N.A. of Charlotte, North Carolina (the purchaser), to purchase the bonds at a cash price of \$1,867,561.25, plus accrued interest on

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the total principal amount from March 1, 2003, 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 the bonds.

2.01 The bonds shall be dated March 1, 2003, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Sewer Utility Portion	Water Utility Portion	Total	Interest Rate
2004	\$160,000	\$85,000	\$245,000	2.00%
2005	165,000	85,000	250,000	2.00%
2006	175,000	85,000	260,000	2.00%
2007	175,000	90,000	265,000	2.50%
2008	180,000	90,000	270,000	2.75%
2009	190,000	95,000	285,000	3.00%
2010	195,000	95,000	290,000	3.25%

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

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an interest payment date) commencing on August 1, 2003. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar appointed 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 on a business day) of the month next preceding the Interest payment date at such owners' addresses shown on such bond registration records.

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

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each bond, together with a certificate to be signed by the manual or facsimile signature of the clerk in substantially the form set forth in

Section 3.01, but only if the opinion is not manually executed. The clerk is authorized and directed to execute the certificate in the name of the city upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the city offices.

2.05 The city hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the bonds (such bank or its successor is herein referred to as the bond registrar). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-0210-18. No bond shall be valid or obligatory for any purpose until the bond registrar's authentication certificate on such bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different bonds need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication certificate on each bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the bonds eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

(b) All of the bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city on each Interest payment date to the account of Cede & Co. on each interest payment date at the address indicated in or pursuant to the representation letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the bonds are set forth in the representation letter.

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

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

2.09 The city and the bond registrar may treat the person in whose name any bond is registered as the owner of such bond for the purpose of receiving payment of principal of and

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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 Delivery of the bonds and payment of the purchase price shall be made at a place mutually satisfactory to the city and the purchaser. Printed or typewritten and executed bonds shall be furnished by the city without cost to the purchaser. The bonds, when prepared in accordance with this resolution and executed, shall be delivered by or under the direction of the treasurer to the purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the bonds.

3.01 The bonds shall be printed or typewritten in substantially the following form:

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

GENERAL OBLIGATION WATER AND SEWER UTILITIES REVENUE
REFUNDING BOND, SERIES 2003B

R-___ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	March 1, 2003	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from March 1, 2003, 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 interest rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2003. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank Minnesota, National Association of 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. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner

hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,865,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 12 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on February 10, 2003 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of certain general obligation bonds of the City. That portion of the Bonds issued to refund the City's General Obligation Sewer Utility Revenue Bonds, Series 1995B-1, dated June 1, 1995, maturing on and after February 1, 2004 (the "Sewer Utility Portion of the Bonds"), are payable from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. That portion of the Bonds issued to refund the City's General Obligation Water Utility Revenue Bonds, Series 1995B-3, dated June 1, 1995, maturing on and after February 1, 2004 (the "Water Utility Portion of the Bonds"), are payable from the net revenues to be derived from the operation of the municipal water utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal 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 Sewer Utility Portion of the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Sewer Utility Portion of the Bonds. 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 Water Utility Portion of the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal 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 Utility Portion of the Bonds.

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 and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

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, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the mayor and the clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date	Registered Owner	Signature of Bond Registrar
3/__/03	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

(Name and Address of Assignee)

Social Security or Other

Identifying Number of Assignee

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

Dated: _____

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

Signature Guaranteed:

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

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Bond Counsel Opinion

I certify that the attached 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 Bonds.

Clerk

Section 4. Escrow Agreement; Escrow Agent.

4.01 Wells Fargo Bank Minnesota, National Association, of Minneapolis, Minnesota, which is a suitable financial institution within the state of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the escrow agent) with respect to the refunded bonds.

4.02 On or prior to the delivery of the bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the city an escrow agreement (the escrow agreement) with the escrow agent in substantially the form now on file with the clerk as Public Document No. 03-0210-19. The execution and delivery of the escrow agreement by the mayor and the clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the escrow agreement, including payment by the city of reasonable charges for the services of the escrow agent, are hereby approved and adopted and made a part of this resolution, and the

city covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the escrow agent.

Section 5. Covenants, revenues, accounts and tax levies.

5.01 (a) Debt service fund. For the convenience and proper administration of the monies to be borrowed and repaid on the bonds and to provide adequate and specific security for the purchaser and holders from time to time of the bonds, there is hereby created a special fund to be designated the 2003 water and sewer utilities revenue refunding bonds debt service account (debt service fund) within the city's debt service fund to be administered and maintained by the treasurer as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the city. The debt service fund shall be maintained in the manner herein specified until all of the bonds and interest thereon have been fully paid. There shall be maintained in the debt service fund two separate accounts, to be designated the escrow account and the debt service account.

(b) Debt service account. To the debt service account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the city upon termination of the escrow agreement for the refunded bonds; (ii) any balance remaining on the redemption dates in the debt service funds created in the city's resolutions authorizing the issuance and sale of the 1995B-1 bonds (Resolution No. 95-0552) and the 1995B-2 bonds (Resolution No. 95-0553) (the prior resolutions) after payment of principal and interest on the refunded bonds on the redemption dates; (iii) all investment earnings on funds in the debt service account; (iv) accrued interest, if any, received from the purchaser upon delivery of the bonds to the extent not required to fund the escrow account (the accrued interest); (v) any amount of additional interest permitted by Section 475.56 of the act paid by the purchaser (the additional interest), to the extent not required to fund the escrow account; and (vi) any and all other monies which are properly available and are appropriated by the city to the debt service account including net revenues and taxes levied in Section 5.02 hereof. The amount of any surplus remaining in the debt service account when the bonds and interest thereon are paid shall be used as provided in Section 475.61, subdivision 4 of the act.

(c) Escrow account.

(i) To the escrow account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the bonds received from the purchaser which are not appropriated to the debt service account or are not to be used for payment of costs of issuance of the bonds; (b) accrued interest; (c) additional interest [amounts referenced in clauses (a), (b) and (c) are herein referred to as the proceeds]; (d) funds of the city in an amount sufficient to meet the requirements of the escrow account (the funds); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of principal and interest due on the refunded bonds through the redemption date.

(ii) The escrow account shall be maintained with the escrow agent pursuant to the escrow agreement and this resolution. The escrow account shall be invested in accordance with the act, the escrow agreement and this section, in securities specified in Section 475.67, subdivision 8 of the act or in an investment contract or similar agreement with a bank or insurance company meeting the requirements of Minnesota Statutes, Section 118A.05, subdivision 5, which investments will provide sufficient funds together with any cash or other funds retained in the escrow account for the payment of principal and interest due on the refunded bonds through the redemption date.

(iii) From the escrow account there shall be paid: (a) all interest paid or to be paid on the refunded bonds to and including the redemption date; and (b) the principal of the

refunded bonds maturing on the redemption date or due by reason of redemption on the redemption date.

(iv) The Escrow account is irrevocably appropriated to the payment of the interest on the refunded bonds to and including the redemption date and to prepayment of the refunded bonds. The monies in the escrow account shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the escrow account may be remitted to the city all in accordance with the escrow agreement. Any monies remitted to the city upon termination of the escrow agreement shall be deposited in the debt service account.

(v) Securities purchased for the escrow account shall be purchased simultaneously with the delivery of and payment for the bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities.

(d) The construction funds created for the refunded bonds have previously been terminated and all bond proceeds therein have been expended.

5.02 (a) (i) 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 utility 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 service sewer utility fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

The treasurer shall transfer from the sewer utility operating account to the debt service account amounts of the net revenues sufficient for the payment of all interest and principal then due on the sewer utility portion of the bonds, and all charges due to the bond registrar after the redemption date. 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, and in accordance with Exhibit A-1.

Surplus utility revenues from time to time received in the operating account, in excess of payments due from and reserves required to be maintained in the operating account and in said debt service account, may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

(ii) 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 utility 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 service water utility fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal 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 treasurer shall transfer from the water utility operating account to the debt service account amounts of the net revenues sufficient for the payment of all interest and principal then due on the water utility portion of the bonds, and all charges due to the bond registrar after the redemption date. 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, and in accordance with Exhibit A-2.

Surplus utility revenues from time to time received in the operating account, in excess of payments due from and reserves required to be maintained in the operating account and in said debt service account, may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

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

Section 6. Refunding; findings; redemption of refunded bonds.

6.01 (a) It is hereby found and determined, based upon information presently available from the city's financial advisers, that as of the redemption dates, the issuance of the bonds will result in a reduction of debt service cost to the city on the refunded bonds. In accordance with Section 475.67 of the act, as of the redemption dates, the present value of the dollar amount of

the debt service on the bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on the refunded bonds, exclusive of any premium, computed to their stated maturity dates.

(b) It is hereby found and determined that the proceeds and funds available and appropriated to the escrow account for the refunded bonds will be sufficient, together with the permitted earnings on the investment of the escrow account, to pay the principal and interest due on the refunded bonds through the redemption date.

6.02 The refunded bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notices of call for redemption attached to the escrow agreement, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or the designee thereof is hereby authorized and directed to publish the notices of call for redemption in a publication qualified under Section 475.54 of the act if required by law, and in all cases to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the refunded bonds in accordance with their terms.

Section 7. Defeasance.

7.01 When all bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the holders of the bonds shall cease, except that the pledge of the full faith and credit of the city for the prompt and full payment of the principal of and interest on the bonds shall remain in full force and effect. The city may discharge all bonds which are due on any date by depositing with the bond registrar on or before that date a sum sufficient for the payment thereof in full. If any bond should not be paid when due, it may nevertheless be discharged by depositing with the bond registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The city may also at any time discharge and cause defeasance of the bonds in their entirety by complying with the provisions of Section 475.67 of the act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 8. Certificate of proceedings.

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

8.02 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.

8.03 The mayor and clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Section 9. Tax covenants.

9.01 The city covenants and agrees with the holders of the bonds that the city will (i) take all action on its part necessary to 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.

9.02 (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 or minor portion made available under the federal arbitrage regulations.

(b) The proceeds of the bonds and money in the debt service fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the code).

(c) The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be private activity bonds within the meaning of Sections 103 and 141 through 150 of the code.

9.03 In addition to the bonds, the city is selling, pursuant to a single offering document and on the same date, the following obligations: (i) general obligation DECC refunding bonds, Series 2003A, and (ii) general obligation Improvement refunding bonds, Series 2003C. The city has pledged its full faith and credit and taxing powers for each series of the bonds. Pursuant to Treasury Regulation Section 1.150-1(c)(4)(iii), the city elects to treat the bonds, the Series 2003A bonds and the Series 2003C bonds as part of the same issue.

9.04 (a) The city covenants and certifies to and for the benefit of the owners of the bonds that no use will be made of the proceeds of the bonds, which will cause the bonds to be arbitrage bonds within the meaning of Section 148(a) of the Code and the Treasury Regulations promulgated thereunder. Pursuant to such covenant, the city hereby agrees to comply throughout the term of the issue of the bonds with the requirements of Section 148 of the code and any treasury regulations promulgated thereunder; to this end, the city shall:

(i) maintain records identifying all gross proceeds (as defined in Section 148(f)(6)(B) of the code) attributable to the bonds, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the bonds) and any earnings derived from the investment of such arbitrage profit;

(ii) make, or cause to be made as of the end of each bond year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States by the city (hereinafter, the rebate amount);

(iii) pay, or cause to be paid, to the United States at least once every five bond years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the bonds are paid in full;

(iv) not invest, or permit to be invested, gross proceeds in any acquired non-purpose obligations so as to deflect arbitrage otherwise payable to the United States as a prohibited payment to a third party;

(v) retain all records of the annual determinations of the foregoing amounts until six years after the bonds have been fully paid; and

(vi) in order to comply with the foregoing paragraph, the city shall determine the rebate amount within 30 days after the close of each bond year and upon payment in full of the bonds; upon each such determination, the city shall deposit in the rebate fund the rebate amount so determined; the city shall separately account for the earnings from the investment of the rebate amount and such earnings shall become part of the rebate amount.

(b) For purposes of this section, bond year" shall mean the 12-month period beginning on the date of issuance of the bonds or such other 12-month period designated by the board which is permitted by the code or any treasury regulation promulgated thereunder.

Section 10. Continuing disclosure. The city acknowledges that the bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the securities and exchange commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the rule). The rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the bonds. To provide for the public availability of certain information relating to the bonds and the security therefor and to permit underwriters of the bonds to comply with the rule, which will enhance the marketability of the bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 03-0210-18.

Resolution 03-0112 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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03-0210-23 Business development division submitting report of financial assistance extended to businesses in 2002, pursuant to Ordinance 9359. -- Received

03-0210-04 Parks and recreation department director submitting Lake Superior zoological society minutes of January 23, 2003, meeting. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-0210-05 Charter commission minutes of October 9, 2002, meeting. -- Received

03-0210-06 Duluth airport authority minutes of December 17, 2002, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis suggested creating a foundation that could accept tax-free donations to support the Armory and Depot.

- - -

Greg Price spoke in support reviewing the report by the department of natural resources on the adverse affect that the development of a golf course at Spirit Mountain would have.

- - -

The following speakers spoke in support of continued city of Duluth funding for the St. Louis County Heritage and Arts Center: Allen Fields; Michael Garcia (chairman, Duluth Children's Museum); Steve Savageau (Veterans Memorial Hall); Wilson Spence (state commander for Disabled American Veterans); Joanne Coombes (director, St. Louis County historical society); Bryan Lane (manager of museum operations, St. Louis County historical society); Linda Glaser; Ellen Sandbeck; Ken Buehler (executive director of the Lake Superior Railroad Museum and general manager of the North Shore Scenic Railroad); Christine Seitz (executive director Duluth Playhouse); Durbin Keeney (president of Duluth Depot board); Lydia Oquendo (outreach program coordinator for the Minnesota Ballet); Heidi Lyle (Arrowhead Choral); Kay L. Lewis; Kim Squillacz (president of Matinee Musical); Tiss Underdahl; Samantha Gibb Roff (executive director, Duluth Art Institute); Andrew Berryhill (executive director of the Duluth-Superior Symphony Orchestra). Reasons cited for continued funding for the Depot were: nine nonprofit entities are affected; \$4 to \$5 million are brought into the community annually through these foundations; these entities presently employ over 250 people; the arts are critical to a strong and beautiful environment; the Depot has been home to these agencies for 26 years, some of which have been in an existence for a 100 years; it has been proven that the arts give hope when there is little hope; now is the time to invest in children; frequent veteran conventions are held in Veterans Memorial Hall; more than half of the veterans of St. Louis County live in Duluth; over two million people have visited this building; if it was not for the hotel-motel tax and the funding received from the city, this building could not survive; the Depot is a distinguishing feature that reflects the support of the community for the arts and culture; the Depots' closeness to the library is a major asset to the citizens in that families visit both when they come Downtown; in 2002, 180,000 visitors attended one or more attractions at the Depot; in the summer months 75 percent of those attending are from out of town and thus, contribute to the hotel-motel tax; the enabling legislation for the hotel-motel tax mentions the Depot; the heart and soul of the community is in the people, the culture and history; the cost to the city of not having the Depot is far greater than the small monetary amount provided; this is the only safe place that exists where parents can drop off their children to attend events; all the organizations work together in collaboration; the arts of the Depot draws people to move to Duluth; one cannot expect businesses to invest in Duluth if Duluth does not invest in the arts; cultural centers are proven gold mines in economic and community development.

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RESOLUTION TABLED

Councilor Atkins moved to remove Resolution 02-0878, recommending the disposition option for the old Armory building, from the table, which motion was seconded and unanimously carried.

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

Nathan DeMars; Kay L. Lewis; Susan Phillips (president, Armory Arts and Music Center); Tom Hollenhorst; Karen Johnson; Bethany VanOvermeier; Brad Nelson; Mark Poirer (LHB Architects); Lori Melton; Carolyn Sundquist (board of advisors of the National Trust for Historic Preservation), spoke in support of the resolution. Reasons cited in support of the resolution were: this facility will address the demographic need for college aged and young adults; the building is structurally sound and built on bedrock; it will assist the housing shortage; it will secure national funding and assistance through the National Trust for Historic Preservation; no city funds will be used to mothball the building; the building will be self-sustaining in its operating costs; 2/3 of the

building will pay property taxes and the other 1/3 will be commercial businesses that will employ citizens and pay sales taxes; the cost for the development of this center will be returned to the citizens many times over; this will complement, not compete with, other arts organizations; this will become a destination for visitors; a development agreement acceptable to the city is being drafted; Duluth is known across the country as a source for creative musicians; this proposal embraces the vision of the master comprehensive plan; if, for some unexpected reason this project does not go through, then in two years the city can look at tearing it down and looking at more than the one developer that is currently interested in the demolition of the building; this building could become the east end of the city's cultural corridor and be available for activities at the Rose Garden when the weather is inclement; in the future tax increment financing might only be requested for a parking facility that is needed on the adjoining property and great results can be obtained in combining adaptive re-use of historic properties and economic development.

David Ross, executive director of the Duluth Area Chamber of Commerce, supported the evaluation of issues like this by asking the following questions of the projects being considered: does this project add the greatest number of housing units; which proposal brings the largest amount of private investment; which proposal generates the largest tax base for the funding of city services; which proposal represents the least financial or legal risk and which proposal possess the greatest capacity to the bring the Armory development to completion?

Gordon Gifford, Gifford Group Developers, spoke in support of his group being given the opportunity to develop the Armory, noting that he has two financing sources that could bring in \$10 to \$14 million to rehabilitate, not to demolish or mothball the Armory. He reviewed information (Public Document No. 03-0210-19(a)) relative to his proposal.

Councilors Stenberg and Stauber expressed their concerns that: housing is needed today, not two years from now; that a conservative review of taxpayer dollars is needed at this time, especially given the financial information that the mayor presented relative to local government aid; the city's liability associated with the lack of proper mothballing and vandals; that the estimates from the Armory Arts and Music Center to restore the building to code requirements is nearly \$8 million, less than the estimates done by the state historical society and a private consultant and that structural engineers state that mothballing longer than two years will cause serious structural problems.

Resolution 02-0878 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth wishes to make a disposition of the Old Armory building at 1301 London Road in the manner which will best benefit the community; and

WHEREAS, the city of Duluth conducted an open process through which proposals for the disposition of the Armory were sought; and

WHEREAS, a task force appointed by the mayor was selected and empowered to evaluate the proposals and to make recommendations regarding disposition options to the city council; and

WHEREAS, the report of the task force has ben received and given consideration by the city council;

NOW, THEREFORE, BE IT RESOLVED, that the city council recommends the following option be selected for disposition of the Old Armory building:

the Armory Arts & Music Center proposal, subject to their acquisition of necessary financing for their proposal within two years of the time they take control of the building and the site, and subject to necessary mothballing work on the building being accomplished without out-of-pocket cost to the city.

BE IT FURTHER RESOLVED, that the city administration is requested to implement the recommended option as soon as possible.

Resolution 02-0878 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stewart and Stover -- 6

Nays: Councilor Stauber and President Stenberg -- 2

Absent: Councilor Ness -- 1

Approved February 10, 2003, pursuant to Section 12 of the Duluth City Charter

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

BY COUNCILOR ATKINS:

RESOLVED, that Mark Winson, administrative assistant to the mayor, 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 00-0156 adopted March 6, 2000, naming Mark Winson, director of administrative services, as responsible authority for the city of Duluth be rescinded.

Resolution 03-0094 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments of John Cummings (District 8), Dean Grace (professional), Luke W. Sydow (District 6) and Harvey Winthrop (District 9) to the parks and recreation commission by Mayor Doty, for terms expiring on February 13, 2006, are confirmed.

FURTHER RESOLVED, that the appointment of Randy Antonich (District 4) to the parks and recreation commission by Mayor Doty, replacing John Kohlhaas, who resigned, for a term expiring on February 13, 2004, is confirmed.

Resolution 03-0057 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments of Jeffrey D. Anderson (at large) and Marvella Davis (District 6) to the community development committee by Mayor Doty, for terms expiring on March 1, 2006, are confirmed.

FURTHER RESOLVED, that the appointments of Howard Martz (at large) and Carol Thomson (planning commission) to the community development committee by Mayor Doty, replacing CJ Bird, who resigned, and Jeffrey Jackson, respectively, for terms expiring on March 1, 2006, are confirmed.

Resolution 03-0102 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 18999, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0210-07, with the state of Minnesota through its department of natural resources (DNR) extending the term of the agreement to June 30, 2003.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 18638, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0210-07, with the regents of the University of Minnesota through its natural resources research institute (NRRI) extending the term of the agreement to June 30, 2003.

Resolution 03-0098 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an abandoned portion of Howard Gnesen Road east of existing Howard Gnesen Road and south of the existing South Road intersection, legally described as that portion of Howard Gnesen Road abutting Lot 19 and Lot 20, Norton's Duluth Outlots; 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 January 22, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the portion of abandoned Howard Gnesen Road described above and as more particularly described on Public Document No. 03-0210-08.

RESOLVED FURTHER, that the easterly half of the vacated portion be retained as a utility easement.

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

Resolution 03-0099 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to acquire a gas pipeline easement hereinafter described from Douglas County, Wisconsin, for a consideration of \$100; payable from Fund 0521, Agency 500, Object 5532:

a permanent and temporary easement for gas pipeline purposes over, under and across property located in Douglas County, Wisconsin, in the south 1/2 of Section 13 and the north 1/2 of Section 24, Township 48 North, Range 15 west of the Fourth Principal Meridian, and more particularly described as:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

that portion of the Douglas County Trail (the former Burlington Northern, Inc., railroad right-of-way) located in the south 1/2 of Section 13, and the north 1/2 of Section 24, Township 48 North, Range 15 West of the Fourth Principal Meridian, lying west of a line drawn parallel and distant 33 feet west of the centerline of Douglas County Road W, as presently laid out and constructed, and easterly of a line drawn parallel and distant 63 feet west of said centerline of said County Road W;

together with a 30 foot wide temporary easement area lying parallel to and adjoining the above described area. Said temporary easement area shall expire on the later of December 1, 2003, or 30 days after completion of the pipeline construction and restoration activities.

Resolution 03-0100 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to acquire gas pipeline easements hereinafter described from Douglas County, Wisconsin, for a consideration of \$3,000; payable from Fund 0521, Agency 500, Object 5532:

an easement area 30 feet in width, being ten feet westerly and 20 feet easterly of the axis of the city of Duluth's ten inch pipeline on, over, under and across the following described parcels of land:

Lots 3 through 13, inclusive, Block 16, Riverside Addition to St. Louis, village of Oliver, Douglas County, Wisconsin.

Lots 15 through 23, inclusive, Block 16, Riverside Addition to St. Louis, Douglas County, Wisconsin.

Lots 7 through 10, inclusive, Block 17, Riverside Addition to St. Louis, Douglas County, Wisconsin.

Lots 15 through 32, inclusive, Block 43, Riverside Addition to St. Louis, Douglas County, Wisconsin.

Lots 13 through 16, inclusive, Block 54, Riverside Addition to St. Louis, Douglas County, Wisconsin.

Lots 13 through 24, inclusive, Block 1, Air Line Addition, Douglas County, Wisconsin.

Lots 12 through 22, inclusive, Block 4, Air Line Addition, Douglas County, Wisconsin.

Said axis of the pipeline shall be parallel and distant 53 feet westerly from the center line of Douglas County Road W, as currently laid out and constructed.

The sidelines of the easement area shall be lengthened or shortened to terminate on the property lines.

Together with a temporary easement area ten feet in width lying westerly of and adjoining the permanent easement area. Said temporary easement area(s) shall expire on the later of December 31, 2003, or 30 days after completion of the pipeline construction and restoration.

Resolution 03-0101 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to purchase from the Union Pacific Railroad that property described in the agreement on file in the office of the city clerk as Public Document No. 03-0210-09, in conformance with the terms and conditions of said agreement for \$15,739, payable from Fund 0522, Agency 500, Object 5510.

Resolution 03-0103 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay \$9,466.72 to Mary Carole Siiter in settlement of all claims arising out of a sewer backup at 1103 - 99th Avenue West on or about August 31, 2002; payment to be made from Self Insurance Fund 0610.

Resolution 03-0106 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to install traffic signals; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design of traffic signal system at Superior Street and Tenth Avenue East; and

WHEREAS, Short Elliott Hendrickson, Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Short Elliott Hendrickson, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$14,913, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Organization 2228, Object 5530; to be reimbursed from the municipal state aid (MSA).

Resolution 03-0107 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Four Star Construction, Inc., be and hereby is awarded a contract for the Lakewood pump station door and window replacement for the city architect division in accordance with specifications on its low specification bid of \$75,399, terms net 30, FOB job site, payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5401.

Resolution 03-0109 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth has reviewed the pertinent data on bridges requiring replacement, rehabilitation or removal; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the city of Duluth has identified those bridges that are a high priority and has previously established a list of those that require replacement, rehabilitation or removal; and

WHEREAS, the following additional bridges have since been identified as also requiring replacement, rehabilitation or removal;

NOW, THEREFORE, BE IT RESOLVED, that the following deficient bridges are added to the list of high priority bridges and the city of Duluth intends to replace, rehabilitate or remove these bridges as soon as possible when funds are available.

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
91144	Grand Avenue	\$401,508	\$310,313		\$ 91,195	2003
L5833	Triggs Avenue Chester Creek	\$140,000	\$116,000		\$ 24,000	2004
L8496	Toledo Street Chester Creek	\$140,000	\$116,000		\$ 24,000	2004
91143	Third Street Chester Creek	\$680,000	\$544,000		\$136,000	2004
L6129	Woodland Avenue Tischer Creek	\$350,000	\$292,000		\$ 58,000	2005
L8485	Bristol Street Keene Creek	\$300,000	\$250,000		\$ 50,000	2005
L9419	Oxford Street Tischer Creek	\$310,000	\$260,000		\$ 50,000	2005
91294	Mall Drive Miller Creek	\$300,000	\$240,000		\$ 60,000	2005

Resolution 03-0113 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

BY COUNCILOR BERGSON:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established: both sides of Grand Avenue from 37th Avenue West easterly 200 feet.

Resolution 03-0093 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

BY COUNCILOR BERGSON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 03-0210-10, between the city of Duluth and Life Scan Wellness Centers for the purpose of providing services to the corrections and law enforcement family support program of the city, at a cost not to exceed \$46,000, to be paid from Police Grant Program Fund 0215, Agency 200, Organization 2465, Object 5319.

Resolution 03-0095 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized to accept a \$2,500 grant from the Minnesota department of public safety, division of emergency management, emergency response commission, and to execute the grant contract, filed as Public Document No. 03-0210-11, for the city of Duluth for firefighter training.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into Fund 0210-030-2166-4230.

Resolution 03-0096 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with URS Corporation, for the sum of not to exceed \$7,750, from Self-Insurance Fund 0610, for providing certain professional design services to the city of Duluth in connection with Leif Erikson Park pathway safety improvements, 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. 03-0210-12.

Resolution 03-0092 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 03-0210-13, with the Lake Superior and Mississippi Railroad, granting said entity the right to use that portion of the former Burlington Northern trackage lying between Spring Street and Commonwealth Avenue, extended, owned by the city, for operation of its excursion train without cost.

Resolution 03-0104 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to execute an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0210-14 with the governing board of the Arrowhead Library System (ALS), under which the Duluth public library will provide reference services to the libraries belonging to the seven

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

county arrowhead library system during the period January 1, 2003, through December 31, 2003; payments by ALS to the city thereunder in the estimated amount of \$22,500 to be deposited in the library General Fund 0100-300-1702-4403.

Resolution 03-0116 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0124, by Councilors Hogg, Atkins, Bergson, Gilbert, Stauber and Ness, urging the administration to execute funding agreements for the annual Grandma's Marathon, Inline Marathon and John Beargrease Race as planned and budgeted for in the city's 2003 budget, was introduced for discussion.

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

Scott Keenan, executive director for Grandma's Marathon, expressed support for the resolution noting: the magnitude the marathon has as being recognized as the tenth largest marathon in the United States; participants come from all 50 states and 36 countries; there are 200 year round volunteers; it brings in approximately 50,000 visitors and generates \$8.5 million per year. He concluded by stating that there are no general fund dollars being expended for the marathon in that all funds are derived from tourism taxes, which the visitors to the marathon contribute to heavily.

Resolution 03-0124 was adopted as follows:

BY COUNCILORS HOGG, ATKINS, BERGSON, GILBERT, STAUBER AND NESS:

WHEREAS, the city administration has indicated its intention to withhold budgeted city funding for the 2003 Grandma's Marathon, Inline Marathon and John Beargrease race in an effort to offset expected reductions in state aid funds; and

WHEREAS, these annual events draw many visitors, substantial support for our local economy and much positive attention to the city of Duluth; and

WHEREAS, city funds for annual support of these events are derived from local tourism taxes which the events themselves are very instrumental in generating; and

WHEREAS, failure by the city to provide budgeted and planned for funds to these events could cause irreparable harm to the financial viability of these events, especially if it were to lead to the loss of other funding sources.

NOW, THEREFORE, BE IT RESOLVED, that the council respectfully suggests to the administration that long and short term costs to the city of withholding these funds could greatly exceed any short term savings and the council strongly urges that 2003 funding for these events be provided as budgeted.

Resolution 03-0124 was unanimously adopted.

Approved February 10, 2003

GARY L. DOTY, Mayor

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Resolution 03-0117, by Councilor Stewart, commending Representative James Oberstar for his efforts to promote a peaceful solution to the Iraq situation, was introduced for discussion.

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

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Resolution 03-0115, by President Stenberg, calling a public hearing on a proposed amendment to Section 8 of the City Charter, was introduced for discussion.

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

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Resolution 03-0118, granting conditional approval to a special use permit request by Miller Hill 47 Limited Partnership for a low-density, planned development on property located at 1516 Sundby Road; Resolution 03-0119, denying a special use permit request by Miller Hill 47 Limited Partnership for a low-density, planned development on property located at 1516 Sundby Road; Resolution 03-0120, granting conditional approval of a special use permit to Cottage Homesteads of Duluth II for a low-density, planned development on property located at 1605 Sundby Road; Resolution 03-0121, denying a special use permit request by Cottage Homesteads of Duluth II for a low-density, planned development on property located at 1605 Sundby Road; Resolution 03-0122, granting conditional approval of a special use permit to Cottage Homesteads of Duluth III for a low-density, planned development on property located east of Sundby Road and 200 feet north of Page Street; and Resolution 03-0123, denying a special use permit request by Cottage Homesteads of Duluth III for a low-density, planned development on property located on the east side of Sundby Road 200 feet north of Page Street, by President Stenberg, were introduced for discussion.

President Stenberg moved to table the resolutions for a committee meeting to be held, which motion was seconded and unanimously carried.

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0857 to Housing and Redevelopment Authority (HRA), for furnishing professional right-of-way and easement acquisition services for year 2003 street and utility improvement projects, be amended to increase the amount by \$20,000 for a new total of \$30,000, payable out of various funds, various departments/agencies, various organizations, various objects.

Resolution 03-0108 was unanimously adopted.

Approved February 10, 2003

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 ATKINS

03-010 - AN ORDINANCE PERTAINING TO SOLID WASTE COLLECTIONS, MODIFYING LICENSING AND ASSESSMENT PROVISIONS; AMENDING SECTIONS 24-10, 24-12, 24-22, 24-23, 24-24, 24-25 AND 24-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY PRESIDENT STENBERG

03-007 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 23, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED NORTH OF TRINITY ROAD OPPOSITE THE NORTH ENTRANCE TO LAKE SUPERIOR COLLEGE (STOCKE).

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY PRESIDENT STENBERG

03-008-O - AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 8951, WHICH REZONED AND RESTRICTED DEVELOPMENT OF THE PROPERTY TO R-1-B, SUBJECT TO SPECIAL USE PERMIT RESOLUTION NO. 89-0639, AND FURTHER AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 39, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED WEST OF ALDEN AVENUE BETWEEN WINONA AND ANOKA ROADS EXTENDED (RIDGEVIEW COUNTRY CLUB).

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BY PRESIDENT STENBERG

03-009 - AN ORDINANCE AMENDING SECTION 8 OF THE DULUTH CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO DELEGATE TO ADMINISTRATIVE OFFICERS THE POWER TO APPROVE CONTRACTS.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILORS GILBERT AND NESS

03-006 - AN ORDINANCE PROHIBITING PISTOLS ON CITY PROPERTY; ADDING A NEW ARTICLE III TO CHAPTER 49 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY PRESIDENT STENBERG

03-005 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-37 TO PROVIDE FOR THE REGULATORY CONTROLS FOR PLANNED UNIT DEVELOPMENTS.

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

Jeff Jackson, chairperson of the planning commission, expressed concerns that the procedures of: publishing notices for a public hearing; the holding of a public hearing; the presentation of a report from staff and the recommendation by the planning commission are not identified in this procedure.

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

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BY COUNCILOR STAUBER

03-004 - AN ORDINANCE PERTAINING TO PARKING VIOLATIONS; CHANGING THE PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 33-46 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Kay L. Lewis spoke in support of the ordinance.

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

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The meeting was adjourned at 10:35 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 20, 2003, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Stover -- 1

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MOTIONS AND RESOLUTIONS

Resolution 03-0134, by Councilor Atkins, approving the issuance of an on sale Sunday liquor license to Darrel Fredrickson (Horseshoe Billiards), 2415 West Superior Street, was introduced for discussion.

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

Darrell Fredrickson urged support of the resolution which will enable him to serve liquor on Sunday for his pool tournament. He expressed his frustration in working with the city in getting his certificate of occupancy from building safety in order to get his liquor license.

Resolution 03-0134 was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby issues the following on sale Sunday liquor license for the period ending August 31, 2003, subject to departmental approvals:

Darrel Fredrickson (Horseshoe Billiards), 2415 West Superior Street.

Resolution 03-0134 was unanimously adopted.

Approved February 20, 2003

GARY L. DOTY, Mayor

- - -

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 24, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the city council meetings held on December 5 and 16, 2002, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0224-01 Jon Aamodt, et al. (three signatures), submitting petition to vacate the alley located within Block 7, Merchants Park Division of Duluth. -- Assessor

03-0224-02 Jeffrey L. and June E. Levine submitting petition to vacate the alley between Blocks 154 and 155 in Crosley Park Addition. -- Assessor

03-0224-03 Thomas Spehar submitting petition to construct 150 lineal feet of sanitary sewer within Morgan Street beginning at the intersection of Joshua Avenue and extending westerly. -- Assessor

03-0224-15 Minnesota Indian affairs council submitting letter regarding further development of the Spirit Mountain area (03-0010R and 03-0050R). -- Received

03-0224-04 Sixth Judicial District Chief Judge Gary J. Pagliaccetti submitting order appointing Robert Hartl, replacing Vivian Sylvester, who resigned, to the Charter commission for the term expiring June 2, 2004. -- Received

03-0224-06 Salvation Army submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9573 on December 2, 2002. -- Received

03-0224-07 The following submitting communications regarding city funding for the Depot (03-0147R): (a) Lake Superior Railroad Museum; (b) Mundt and Associates; (c) Duluth Art Institute board (supported by 30 signatures); (d) St. Louis County Board of Commissioners. -- Received

03-0224-16 The following submitting communications regarding the proposed amendment to regulations regarding smoking in public places (03-013-O): (a) Ila Anderson; (b) Andy L. Borg, Jr. (supported by three signatures); (c) Matthew Brown; (d) Gary Eckenberg; (e) Charlene Shimmin; (f) Elisa Troiani. -- Received

03-0224-05 The following submitting communications regarding the proposed ordinance prohibiting pistols on city property (03-006-O): (a) Gerald Abelsen ; (b) David Bauman; (c) James and Judith Cherveney; (d) Ryan Christofferson; (e) Pete Clark; (f) Duane Forbort; (g) Jolynne Gordon; (h) Leonard Johnson; (i) George Karalis; (j) Susie Kennelly; (k) Ray Klosowski; (l) Shane Maki; (m) Scott and Christine Ostern; (n) Stewart Shimmin; (o) Judy Trolander; (p) Robert Wolters. -- Received

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REPORTS OF OFFICERS

03-0224-08 Assessor submitting:

(a) Affidavit of mailing of notice of a public hearing of the city council to be held on February 24, 2003, at 7:30 p.m. in the Council Chamber, City Hall, regarding the proposed construction of storm sewer for Berwick Circle. -- Clerk

(b) Letter of sufficiency of petition to reclassify from conditional commercial to commercial, 2401 London Road, Endion Division, Block 30, westerly 25 feet of Lot 15 and Lot 16 currently developed as Wrights Nursery. -- Received

03-0224-09 Engineering division submitting monthly project status report of February 1, 2003. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-0224-17 Alcohol, gambling and tobacco commission minutes of January 14, 2003, meeting. -- Received

03-0224-10 Building appeal board minutes of December 11, 2002, meeting. -- Received

03-0224-11 Duluth airport authority unaudited statement of income and expenses for January 1 through November 30, 2002. -- Received

03-0224-12 Duluth/North Shore Sanitary District minutes of February 4, 2003, meeting. -- Received

03-0224-13 Human rights commission minutes of: (a) June 10; (b) July 8; (c) August 12; (d) October 14; (e) November 4; (f) December 9, 2002; (g) January 13, 2003, meetings. -- Received

03-0224-14 Tree commission minutes of November 18, 2002, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis suggested that the city turn the superfund sites back into developments to get cash flow for the city.

- - -

Brian Fuxa urged the council to support a resolution opposing the war in Iraq.

- - -

Greg Price reviewed a proposed improvement of the US Steel site by the taking of all of the contaminated materials off the site, building a marina, Norwegian village, hotels, small airport landing strip and other issues related to this suggested development.

- - -

CJ Bird expressed concern that by mothballing a condemned building for two years for a group with no money, the city has opened themselves up to other groups requesting the same thing for other buildings in the same condition.

- - -

RESOLUTIONS TABLED

President Stenberg moved to remove Resolution 03-0115, calling a public hearing on a proposed amendment to Section 8 of the City Charter, from the table, which motion was seconded and unanimously carried.

President Stenberg moved to return the resolution to the administration, which motion was seconded and unanimously carried.

- - -

Councilor Bergson moved to remove Resolution 03-0040, authorizing an agreement between the city of Duluth and Retailers Protection Association to provide and administer a bad check program, from the table, which motion was seconded and unanimously carried.

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

Bevan Schraw stated it is not right for the city to put a stamp of approval on one check collection agency when there are other businesses in the area that do the same service and urged the councilors to explore the issue further before voting on this resolution.

Councilor Ness said he would not support the resolution, as the city is giving an unfair advantage to one business in the area.

President Stenberg stated that only having one business represent the city in this matter would set a bad precedent.

Resolution 03-0040 failed upon the following vote (Public Document No. 03-0224-18):

Yeas: Councilors Bergson, Hogg and Stover -- 3

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

- - -

MOTIONS AND RESOLUTIONS
CONSENT AGENDA

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

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

BY COUNCILOR ATKINS:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment for Riverside recreation center and Franklin Tot Lot (Park Point) site for the architect division in accordance with specifications on its low specification bid of \$35,852, terms net 30, FOB destination, payable out of Capital Improvement Fund 0450, Department/Agency 015, Organization 2002, Object C214.

Resolution 03-0129 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Stringer Business Systems, Inc., be and hereby is awarded a contract for furnishing copier rental/maintenance during year 2003 for the various departments/divisions in accordance with specifications on its low specification bid of \$11,414.64, terms net, FOB destination, payable out of various funds, various departments/agencies, various organizations, various objects.

Resolution 03-0131 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the Duluth News Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 2003 and the contract for publishing the proceedings of the city council of the city of Duluth hereby is awarded to the Duluth News Tribune on its bid for said publications of \$2.10 per inch, these being the legal rates for the state of Minnesota at an estimated total annual cost of \$25,000. The billing is to be on the inch rate; term: net 30 and payable out of various funds, departments/agencies, organizations and objects.

Resolution 03-0132 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the National Wild Turkey Federation - Arrowhead Limbangers and the Minnesota Senior Federation - Northeast have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the National Wild Turkey Federation - Arrowhead Limbhangars and the Minnesota Senior Federation - Northeast and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 03-0136 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
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Welch Center, Inc.	Horseshoe Billiards	February 11, 2003
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Resolution 03-0137 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Cartier Agency, Inc., be and hereby is awarded a contract for furnishing property insurance for six city owned structures in accordance with specifications on its specification bid of \$70,229.06, terms net 30, FOB destination, payable out of Self Insurance Liability Fund 0610, Department/Agency 036, Organization 1651, Object 5360.

Resolution 03-0143 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Centre Avenue between Cleveland and Buffalo streets, legally described as Centre Avenue adjoining Blocks 14, 15, 20 and 21, Myer's and Whipple's Addition; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 January 22, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Centre Avenue between Cleveland and Buffalo streets described above, and as more particularly described on Public Document No. 03-0224-19.

RESOLVED FURTHER, that the 16 feet of alley easement connecting Blocks 14, 15, 20 and 21, and easterly 20 feet of the right-of-way adjoining Blocks 14 and 21, Myer's and Whipple's Addition be retained as utility easement.

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

Resolution 03-0127 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, that certain agreement between the Duluth economic development authority (DEDA) and the office of the Minnesota state auditor for auditing services for the year 2002, approved by the DEDA board of commissioners at its meeting of February 18, 2003, pursuant to DEDA Resolution 03D-10, a copy of which is on file in the office of the city clerk as Public Document No. 03-0224-20, is hereby approved.

Resolution 03-0151 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the amendment to DEDA Agreement No. 03 865 359 between the Duluth economic development authority (DEDA) and the housing and redevelopment authority of Duluth (HRA) in the amount of \$28,000, as approved by the DEDA board of commissioners at its meeting of February 18, 2003, pursuant to DEDA Resolution No. 03D-14, a copy of which is on file in the office of the city clerk as Public Document No. 03-0224-21, is hereby approved.

Resolution 03-0152 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, that certain preliminary approval of the issuance of multifamily housing revenue bonds on behalf of Merritt School LLC given by the Duluth economic development authority (DEDA), by the DEDA board of commissioners at its meeting of February 18, 2003, pursuant to DEDA Resolution 03D-12, a copy

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

of which is on file in the office of the city clerk as Public Document No. 03-0224-22, is hereby approved.

Resolution 03-0157 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$6,000 in Workforce Investment Act youth development funds from the Minnesota department of economic security in accordance with City Contract No. 19118, Resolution No. 02-0326, passed May 13, 2002, and the WIA youth development work plan, approved January 24, 2003. Said monies to be used to provide workforce development services to youth under the Workforce Investment Act, as defined in the program year 2002-2003 youth development plan, from January 27, 2003, through June 30, 2004. Funds received will be deposited in Fund No. 0268, Budget Item 6202.

Resolution 03-0097 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the Lakeside sanitary sewer modeling study; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to evaluate/model the sanitary sewer basins #1, #2, #3 and #4 in Lakeside area; and

WHEREAS, M.S.A. Professional Service has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with M.S.A. Professional Service to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$62,843.93, will be payable from the Sewer Fund 0530, Department/Agency 500, Organization 1930, Object 5303.

Resolution 03-0130 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0109 to American Engineering Testings, Inc. (\$20,000), Twin Ports Testing, Inc. (\$20,000), and G.M.E. Consultants, Inc. (\$10,000), for field and laboratory testing during the year 2003, be amended to increase the amount by \$50,000 for a new total of \$150,000, payable from the various funds, departments/agencies, organizations, objects.

Resolution 03-0133 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 150 feet of sanitary sewer in West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Resolution 03-0138 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it is deemed necessary for the public convenience and safety that Arthur Avenue between Garfield Avenue and Port Terminal Road (City Project No. 0103TR) be constructed; 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 alignment through a segment of the project be constructed utilizing a shorter horizontal curve radius than dictated by standards resulting in a 22 mph design speed in lieu of a 30 mph design speed which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules Chapter 8820, whereby the urban state aid standards be reduced for this project allowing for a 120 foot horizontal curve radius in lieu of the required 300 foot radius, and further provides that if the commissioner grants the variance that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or cause of action arising out of or by reason of the construction of Arthur Avenue in the city of Duluth in any manner than in accordance with Minnesota Rule 8820.9936 and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of granting of this variance.

Resolution 03-0139 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with St. Louis County, filed as Public Document No. 03-0224-23, for the reconstruction of County State Aid Highway 17 (Stebner Road) in conjunction with the Airport Road loop project.

Resolution 03-0142 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hoffman and McNamara Company be and hereby is awarded a contract for construction of tree planting for year 2002 street improvement project sites for the engineering division in accordance with specifications on its low specification bid of \$108,737, terms net 30,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0200, Object 5441.

Resolution 03-0144 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 2,700 feet of sanitary sewer in Anderson Road beginning at the intersection of Haines Road and extending easterly to the intersection at Decker Road.

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

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

Resolution 03-0145 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay to American Family Insurance, as subrogee of Kevin and Carole Berg, the amount of \$12,743.45 in full settlement of all claims for damage to their insured's property at 2202 Frederick Street resulting from a water-main break which occurred on March 26, 2002; payment to be made from the Self Insurance Fund 0610.

Resolution 03-0146 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established on both sides of the following street: Rockridge Circle from East Third Street to cul-de-sac.

Resolution 03-0149 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

At this time, 7:35 p.m., the public hearing regarding Berwick Circle storm sewer was called to order.

City Engineer Mike Metso reviewed the Richard's Addition development project and the problem of the stormwater runoff in the area. He explained that funding for the project is the reason for the public hearing and the city is requesting that the cost of the project be shared by three parties; Richard's Addition would assume 45 percent of the cost, with ten percent of the remainder cost shared by the six affected property owners and the stormwater utility fund would

pay 90 percent of the remaining cost. Mr. Metso stated that the six homeowners affected by the stormwater have been meeting with the city and are against paying an assessment fee.

John Morrison, Pauline Davies, Julie Opach, Darlene Johnson, Pearl Olson and John DeSanto spoke against the property owner assessments for the following reasons: not all property owners have had a water problem; the developer should bear the cost of the project instead of property owners who would not have any benefit from the project; if he wants to improve his property he should have the responsibility to pay for it; public tax money is going to be used to improve private property; several property owners have personally paid for several years to redirect the water that runs down the hill and have not asked the city for help and they have already paid assessments when they bought their house 26 years ago.

At this time, 8:15 p.m., the public hearing closed and the regular order of business was resumed.

- - -

Councilor Hogg moved to remove Resolution 02-0851, by Councilor Stover, awarding contract to Nels Nelson and Sons, Inc., for construction of Maryland Street, in the amount of \$327,748.35, from the table and to also consider at this time Resolution 03-0140, by Councilor Stover, ordering the improvement of a storm sewer system in Berwick Circle, Berwick Court and Valhalla Drive pursuant to Section 61(a) of the Home Rule Charter of the city of Duluth at an estimated cost of \$160,000, which motion was seconded and unanimously carried.

Councilor Ness moved to amend Resolution 03-0140 as follows:

(a) In the first paragraph, delete all of the language after the phrase "Special Assessment Fund 0410";

(b) In the third paragraph, delete both instances of the dollar amount of "\$70,000" and replace them with "\$80,000";

(c) In the third paragraph, delete all of the language after the phrase "Stormwater Fund 0535," which motion was seconded and unanimously carried.

Resolution 03-0140, as amended, was adopted as follows:

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 improvement, to city of Duluth standards, of a storm sewer system in Berwick Circle, Berwick Court and Valhalla Drive and that the costs of said improvement estimated at \$160,000 shall be paid from the Special Assessment Fund 0410.

FURTHER RESOLVED, that the engineering staff has met with interested members of the neighborhood involved in the project to gather public input and address public concerns involving the storm sewer and drainage in the area.

FURTHER RESOLVED, that the costs of said project shall be: \$80,000 by assessment to the Maryland Street Project (City Project 0215TR); \$80,000 from Storm Water Fund 0535.

Resolution 03-0140, as amended, was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 02-0851 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of Maryland Street between Dodge Avenue and Victoria Street for the engineering division in accordance with specifications on its low specification bid of \$327,748.35, terms net 30,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Organization 5354, Object 5530.

Resolution 02-0851 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the proper city officials are authorized to accept energy efficiency rebates from Minnesota Power in conjunction with energy improvement projects completed by the city and to deposit said funds into the Energy Management Fund 0210-030-2107.

Resolution 03-0125 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0147, by councilors Atkins and Stover, reaffirming the distribution of 90 percent of the present allocation of 2003 tourism taxes to the Depot if certain conditions are met, was introduced for discussion.

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

Ken Buehler reviewed that the money from the hotel and motel taxes could be given to the Depot by the city once the county finds a new manager for the Depot, as it is a tourist attraction and therefore appropriate that those funds help pay for it. He requested the council to urge the mayor to allow the payment to the Depot to help preserve the art and history of Duluth.

Councilor Hogg moved to amend the resolution to read 100 percent of the funding appropriation, which motion was seconded and unanimously carried.

Councilor Atkins moved to table the resolution, which motion failed upon the following vote:

Yeas: Councilors Atkins, Stauber and President Stenberg -- 3

Nays: Councilors Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Resolution 03-0147, as amended, was adopted as follows:

BY COUNCILORS ATKINS AND STOVER:

WHEREAS, in Resolution 02-0803, the Duluth City Council allocated a total of \$147,500 of Duluth's 2003 tourism taxes to the Depot; and

WHEREAS, potential city funding shortfalls caused by state funding cuts and a management dispute between St. Louis County and the St. Louis County Heritage and Art Center nonprofit corporation have caused a reconsideration of the 2003 tourism tax allocations to the Depot.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby reaffirms 100 percent of the funding appropriation of the 2003 tourism tax revenues set forth in Resolution 02-0803 for the Depot (\$132,750), if, and only if, the Depot is managed by an organization approved by St. Louis County, the appropriated funds are given to that managing organization and the appropriated funds are used solely to support the ordinary day-to-day operations of the Depot.

Resolution 03-0147, as amended, was unanimously adopted.

Approved February 24, 2003, pursuant to Section 12 of the Duluth City Charter.

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Resolution 03-0148, by President Stenberg, issuing C-5 plan approval to Kohl's Department Store for expansion of the property located at 2115 Miller Trunk Highway, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

KL Lewis voiced concern that Miller Creek has been damaged with the construction of the store and also that all interested parties should be involved in this decision.

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

- - -

Resolution 03-0156, by President Stenberg, authorizing an amendment to City Contract No. 18994 with Soft Center Duluth, extending the term thereof and increasing compensation payable by \$30,000, was introduced for discussion.

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

- - -

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the creation of a Downtown housing/building preservation loan program by the Duluth economic development authority (DEDA), approved at its meeting of February 18, 2003, pursuant to DEDA Resolution 02D-62, a copy of which is on file in the office of the city clerk as Public Document No. 03-0224-24, is hereby approved.

Resolution 03-0158 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0159, by President Stenberg, approving DEDA's intent to condemn Lots 1-4, Block 7, and Lots 1-3, lot 6, and part of Lot 7, Block 25, Portland Division, for SMDC expansion project as approved by DEDA Resolution 03D-11, was introduced for discussion.

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

KL Lewis stated that it is wrong to condemn land to take from one person to give to another.

Resolution 03-0159 was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) conditional declaration of its intent to condemn Lots 1-4, Block 7, and Lots 103, Lot 6, and part of Lot 7, Block 25, Portland Division, for SMDC expansion project approved by the DEDA board at its meeting of February 18, 2003, pursuant to DEDA Resolution 03D-11, a copy of which is on file in the office of the city clerk as Public Document No. 03-0224-25, is hereby approved.

Resolution 03-0159 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0128, by Councilor Ness, establishing the city's legislative priorities for the 2003 session of the Minnesota state legislature, was introduced for discussion.

Councilor Ness moved to amend the last paragraph of the resolution by deleting the phrase, "and by the University of Minnesota for funds to construct a new science center on the University of Minnesota Duluth campus," which motion was seconded and unanimously carried.

Resolution 03-0128, as amended, was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the city administration and council wish to establish a clear set of priorities for legislative action during the 2003 legislative session; and

WHEREAS, there have been several meetings devoted to discussing city legislative concerns and priorities; and

WHEREAS, the administration and council choose to express support for a number of projects which will benefit the community while indicating whether the city will assume a lead role or a supporting role or will simply express its support for a funding request.

NOW, THEREFORE, BE IT RESOLVED, that the primary legislative objectives of the city of Duluth for the year 2003 are to:

Preserve a truly need based formula for the allocation of local government aid and maintain the highest possible funding for the local government aid program.

Secure state bond proceeds to complete the renovation of the aerial lift bridge and to make infrastructure improvements at the Spirit Mountain recreation area.

Secure appropriate legislation to allow the use of the one-half of one percent hotel and motel tax for bond repayment for both the DECC and the Great Lakes Aquarium.

Secure legislation allowing the pooling of tax increment financing from existing TIF districts for cleanup/site preparation at the Clyde Iron site.

Secure appropriate legislation for a sales tax exemption on construction materials and creation of a long-term tax increment financing district to provide incentives in the city's ongoing program to attract aviation facilities.

FURTHER RESOLVED, that city staff and elected officials will take the lead role in advancing these initiatives during the 2003 legislative session.

FURTHER RESOLVED, that city staff is to support the following funding requests:

Port development assistance administered by the Minnesota department of transportation.

Redevelopment account administered by the department of trade and economic development.

Wastewater infrastructure funding administered by the public facilities authority (DTED) and the Minnesota pollution control agency.

Greater Minnesota regional parks funding administered by the department of natural resources.

FURTHER RESOLVED, that the administration and council express support for the initiatives advanced by the Minnesota state colleges and universities system for design funds for a health and wellness facility at Lake Superior College and recognize the importance of these institutions to the social, cultural and economic vitality of the community.

Resolution 03-0128, as amended, was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

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Resolution 03-0150, by Councilor Ness, authorizing a lease agreement with the Duluth Boat Club, Inc., for the construction and operation of the boat club facility on city property on Park Point, was introduced for discussion.

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

Greg Megher stated that he has been working with several nonprofit organizations to provide and secure education, recreation and competition in rowing, kayaking, canoeing and

sailing to share costs and resources under one roof as the Duluth Boat Club for children and families of the area and hopefully offering these services starting this summer. He continued by saying that this lease agreement will enable the boat club to apply for grant money to help this project move forward.

Resolution 03-0150 was adopted as follows:

BY COUNCILOR NESS:

RESOLVED, that the proper city officials are authorized to enter into a lease agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0224-26 with the Duluth Boat Club, Inc., under which the club would construct and operate a club house and related facilities on city-owned land on Park Point for public and private education and recreation purposes with any sums payable to the city thereunder to be paid to General Fund 0100, Agency 015, Organization 1515, Revenue Source 4613.

Resolution 03-0150 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0163, by councilors Ness and Stewart, opposing the passage of H.F. 341 - a proposed law that would legalize discrimination against citizens based solely on their sexual orientation, was introduced for discussion

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

Susan Brandt, CJ Bird and Claudie Washington urged support of this resolution, as the state has been a positive role model for the rest of the nation for its human rights; Minnesota would be the first state in the union to recognize an organization and then withdraw the support; discrimination against any group is wrong and Duluth needs to send a message to the legislature that their action is wrong.

Councilor Stauber stated that this is an issue that the city council should not vote up or down, as it is a state issue.

Resolution 03-0163 was adopted as follows:

BY COUNCILORS NESS AND STEWART:

WHEREAS, the city council of Duluth recognizes the rights of all citizens to live in our community free of discrimination; and

WHEREAS, the city council supports the existing definition of protected classes under the Human Rights Act of Minnesota; and

WHEREAS, legislation has been introduced at the state legislature which would remove sexual orientation as a protected class (H.F. 341) thereby making it legal to discriminate against people based upon their sexual orientation.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council reaffirms its commitment to the rights of all Minnesotans and strongly supports the Minnesota Human Rights Act as currently defined in state law.

BE IT FURTHER RESOLVED, that the Duluth City Council strongly opposes House File 341 (H.F. 341) which would legalize discrimination against citizens based solely on their sexual orientation.

BE IT FURTHER RESOLVED, that the Duluth City Council urges our legislative delegation to actively work to defeat this proposed legislation.

Resolution 03-0163 was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1
Approved February 24, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby accepts a gift of approximately \$16,400 from the estate of Adelaide Malm to be divided evenly between the Duluth public library and the Duluth parks and recreation department; one half of said donation shall be deposited into the Public Library Fund 240, Agency 300, Organization SG80 and the other half shall be deposited in parks and recreation Bayfront Festival Park Fund 237 to fund the Bayfront Park Festival of Lights.

RESOLVED FURTHER, that the city administration and city council hereby express their gratitude to Adelaide Malm for her generous gift.

Resolution 03-0126 was unanimously adopted.

Approved February 24, 2003

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCES TABLED

BY COUNCILORS GILBERT AND NESS

03-006 (9587) - AN ORDINANCE PROHIBITING PISTOLS ON CITY PROPERTY; ADDING A NEW ARTICLE III TO CHAPTER 49 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Gilbert moved to amend Section 49-15(b)(1) of the ordinance by:

(a) Deleting the entire second sentence, which begins with: "land owned by the city" and inserting the sentence, "Any building or recreation center that is owned, operated or controlled by the city of Duluth";

(b) Deleting from the last sentence the following phrase: "nor to improved streets or sidewalks other than those described above," which motion was seconded and unanimously carried.

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

Steve Townsend, KL Lewis, John Gordon, W. Edward Myers, John Eggleston and Robert Berquist spoke against the ordinance for the following reasons: there are already laws on the books that address this problem; it is unconstitutional; gun control laws are beneficial to crooks; state law preempts all cities from regulating firearms; it is our constitutional right to defend ourselves against bodily harm; there is a growing segment of the country who are taking the responsibility to carry a weapon; gun owners are well trained in handling a gun and they questioned how the ordinance would be enforced.

Responding to citizens' questioning of how this ordinance would be enforced, Councilor Bergson stated that when a violator is found, that person would be charged with a City Code violation.

Gail Schoenfelder, John Sanford, Thom Storm, Ken Loeffler-Kemp, Sharon Johnson, Sharla Gardner, representing the League of Women Voters, Mike VanScoy, Dean Grace, Catherine Conover, Alan Peterson and Julene Boe urged support ordinance for the following reasons: this ordinance is about the city's right and obligation as a property owner to provide for the safety of its employees and the public while using city-owned buildings; the state has ruled that it unlawful for anyone to possess a firearm in any state building within the capitol area and in any

state park, which will bring property in Duluth in compliance with laws that already exist at the state level; keeping the peace in the city should be the responsibility of the peace officers, not private citizens; city employees are in favor of this ordinance for a safer work environment; this will be an opportunity to become a leader in Minnesota; the League of Women Voter's position is to protect the health and safety of citizens by supporting restrictions on the sale, use and possession of firearms by private parties and this ordinance could be the only legal basis to limit the potential for violence in the community.

Councilor Stewart stated that this proposed amended ordinance is parallel to the laws of state and federal government not allowing handguns in their buildings and a reasonable compromise for city property.

To questioning from councilors regarding the city defending this ordinance in court, City Attorney Bryan Brown replied that there is a significant legal challenge because of the definite language in state law that says it is the state's intention to completely preempt gun control and the chance of the city prevailing in court does not exceed 50 percent. He continued by saying that the city's right as a property owner is the legal basis for defending this ordinance and is aware of two different cases in Minnesota which support this position.

Councilor Ness stated that this is a workplace safety ordinance and supported by local law enforcement officials. He continued by saying that the ordinance is narrow in scope and direct in its purpose and the city of Duluth, like any private property owner, has a right to determine the policy for property they own.

Councilor Gilbert stated that there is no justification to bring a concealed weapon into public buildings, and after talking to several gun owners who are against this ordinance, he has changed his thinking and that is why he proposed the amendment. He continued by saying that the middle ground on this issue is public safety and freedom from gun violence and this ordinance achieves this objective.

Councilor Atkins reviewed that he is against this ordinance because there is no way of enforcing it without metal detectors.

President Stenberg stated that this issue has created a controversy over a problem that does not exist. He continued by saying that there is no teeth to the ordinance and by the lack of enforcement, the city is giving city employees a false sense of security.

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

Yeas: Councilors Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilors Atkins, Stauber and President Stenberg -- 3

- - -

BY PRESIDENT STENBERG

03-005 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-37 TO PROVIDE FOR THE REGULATORY CONTROLS FOR PLANNED UNIT DEVELOPMENTS.

President Stenberg moved to return the ordinance to the planning commission, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STAUBER

03-004 (9588) - AN ORDINANCE PERTAINING TO PARKING VIOLATIONS; CHANGING THE PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 33-46 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

- - -

The following entitle ordinances were read for the first time:

BY COUNCILOR STEWART

03-013 - AN ORDINANCE AMENDING THE REGULATIONS PERTAINING TO SMOKING IN BARS/RESTAURANTS; AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Steve Townsend and KL Lewis reviewed that this issue has been discussed, debated and voted on by the public and should be left alone.

Chris Wisocki stated if this change to the smoking ordinance is passed, it is creating an unequal playing field for the restaurants.

- - -

Councilor Hogg moved to extend meeting until 11:20 p.m., which motion was seconded and unanimously carried.

- - -

Pat McKone reviewed a study that surveyed 400 Duluth registered voters that were in favor of the smoking ordinance.

Gary Eckenberg reviewed that the definition of bar/restaurant does not allow a full service menu which is violating the ordinance.

- - -

BY PRESIDENT STENBERG

03-012 - AN ORDINANCE AMENDING THE SIGN REGULATIONS OF THE CITY OF DULUTH; ALLOWING A-FRAME SIGNS UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 44-11, 44-12 AND 44-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR NESS

03-011 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE SOUTHEASTERLY PORTION OF LOTS 1-9, BLOCK 50, LESTER PARK FOURTH DIVISION TO THE DULUTH/NORTH SHORE SANITARY DISTRICT FOR A NOMINAL CONSIDERATION.

- - -

The following entitled ordinance were read for the second time:

BY COUNCILOR ATKINS

03-010 (9589) - AN ORDINANCE PERTAINING TO SOLID WASTE COLLECTIONS, MODIFYING LICENSING AND ASSESSMENT PROVISIONS; AMENDING SECTIONS 24-10, 24-12, 24-22, 24-23, 24-24, 24-25 AND 24-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY PRESIDENT STENBERG

03-007 (9590) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 23, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED NORTH OF TRINITY ROAD OPPOSITE THE NORTH ENTRANCE TO LAKE SUPERIOR COLLEGE (STOCKE).

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

- - -

BY PRESIDENT STENBERG

03-008 (9591) - AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 8951, WHICH REZONED AND RESTRICTED DEVELOPMENT OF THE PROPERTY TO R-1-B, SUBJECT TO SPECIAL USE PERMIT RESOLUTION NO. 89-0639, AND FURTHER AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 39, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED WEST OF ALDEN AVENUE BETWEEN WINONA AND ANOKA ROADS EXTENDED (RIDGEVIEW COUNTRY CLUB).

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

- - -

BY PRESIDENT STENBERG

03-009 - AN ORDINANCE AMENDING SECTION 8 OF THE DULUTH CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO DELEGATE TO ADMINISTRATIVE OFFICERS THE POWER TO APPROVE CONTRACTS.

Councilor Hogg moved to return the ordinance to the administration, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 11:15 p.m.

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

- - -

ORDINANCE NO. 9587

BY COUNCILORS GILBERT AND NESS:

AN ORDINANCE PROHIBITING PISTOLS ON CITY PROPERTY;
ADDING A NEW ARTICLE III TO CHAPTER 49 OF THE DULUTH
CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article III be added to Chapter 49 of the Duluth City Code, 1959, as amended, to read as follows:

Article III. Weapons on City Property.

Sec. 49-15. Firearms prohibited on city property.

(a) Policy. It is the policy of the city of Duluth to protect the public health, safety, and welfare; to protect employees of the city of Duluth from fear of serious injuries or death caused by pistols; to protect city employees by reducing the potential for discharge of firearms at city work sites; and to reduce the potential for discharge of firearms on city property by prohibiting the carrying and possession of pistols on city property where members of the public may be present, in public areas, or at public activities, and by prohibiting the carrying and possession of pistols at city work sites;

(b) Definitions:

(1) City property. Any building or recreation center that is owned, operated or controlled by the city of Duluth. City property does not include land or

areas that are legally owned, possessed or controlled by a city authority which was created and exists pursuant to a state or federal law;

(2) Pistol. A pistol means a weapon designed to be fired with the use of a single hand and as defined in Minnesota Statutes §624.712, subd. 2, or its successor;

(c) Prohibited acts:

(1) No person shall possess a pistol or otherwise be in possession or control of a pistol on city property, nor shall a person carry a pistol, on city property, whether or not that person has been issued a permit pursuant to Minnesota Statutes §624.711 thru §624.717, and whether or not that person engages in activities for which such permit has been issued;

(2) No activities or ceremonies involving pistols shall be held on city property;

(d) Exceptions:

(1) The prohibitions in subdivision (c) shall not apply to any member of the armed forces of the United States while engaged in the performance of a duty in compliance with a statute, regulation, rule or order duly promulgated and issued under the authority of the federal government; to any member of the militia of the state while engaged in the performance of a duty prescribed by law; nor to any licensed peace officer authorized by state law to possess or carry firearms, nor to a person duly licensed and permitted to possess a pistol who is on duty performing security services as part of his or her employment as a security guard;

(2) The prohibitions of subdivision (c) shall not apply to any federal agent who is authorized to carry a pistol, nor to any person possessing, transporting, or carrying a pistol in commerce in accordance with applicable federal law.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 6, 2003)

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

Yeas: Councilors Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilors Atkins, Stauber and President Stenberg -- 3

Passed February 24, 2003

Approved February 24, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9588

BY COUNCILOR HOGG:

AN ORDINANCE PERTAINING TO PARKING VIOLATIONS;
CHANGING THE PENALTIES FOR CERTAIN VIOLATIONS;
AMENDING SECTION 33-46 OF THE DULUTH CITY CODE, 1959,
AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-46 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-46. Penalties.

(a) Violations of the provisions of Articles VII and VIII of this Chapter shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

be punished as set forth in this Section;

(b) Violations of the following Sections or subsections shall be punishable by a fine of not less than \$10:

(1) Section 33-84, time limit parking;

(c) Violations of the following Sections or subsections shall be punishable by a fine of not less than \$15:

(1) Section 33-82(a)(4), parking too close to a fire hydrant;
(2) Section 33-111(g), aggravated parking meter violation;
(3) Section 33-95, government area parking violations except

meters:

(4) Section 33-97(a), no parking zone violations;
(5) Section 33-97.8, alternate side parking violations;
(6) Section 33-87(a), truck zone violations;
(7) Section 33-87(b), loading zone violations;
(8) Section 33-82(a)(1), parking on a sidewalk;
(9) Section 33-82(a)(2), parking in front of a driveway;
(10) Section 33-82(a)(3), parking within an intersection;
(11) Section 33-82(a)(5), parking on a crosswalk;
(12) Section 33-82(a)(6), parking within 20 feet of an intersection

crosswalk:

(13) Section 33-82(a)(7), parking within 30 feet of a stop sign or traffic control device;

(14) Section 33-82(a)(8), parking within seven feet of an alley or

driveway:

(15) Section 33-82(a)(9), parking within 50 feet of a railroad

crossing:

(16) Section 33-82(a)(10), illegal parking near a fire station;
(17) Section 33-82(a)(11), illegal parking near street obstruction;
(18) Section 33-82(a)(12), double parking;
(19) Section 33-82(a)(13), parking on a bridge or in a tunnel;
(20) Section 33-82(a)(14), no stopping zones;
(21) Section 33-82(a)(15), parking on boulevards;
(22) Section 33-83, illegal alley parking;
(23) Section 33-85, 24 hour parking limit;
(24) Section 33-93, facing wrong way;
(25) Section 33-93, parking parallel to curb;
(26) Section 33-90, parked with for sale sign;
(27) Section 33-92, failure to set parking brake or turn wheels to the

curb:

(28) Section 33-94, angle parking violation;
(29) Sections 33-124 through 33-130, dealing with residential permit

parking:

(30) Any other parking offense in violation of any section contained in Article VII of Chapter 33;

(31) Section 33-109, overtime parking at a parking meter;
(32) Section 33-106(a), improper parking at a single meter;
(33) Section 33-106(b), improper parking at a tandem meter;

(d) Violations of the following Sections or subsections shall be punishable

by a fine of not less than \$20:

- (1) Section 33-88, parking in a taxi stand;
- (2) Section 33-82(a)(16), parking in a fire lane;
- (3) Sections 33-97.1 through 33-97.7, snow emergency violations;
- (4) Section 33-91, leaving keys in the ignition;
- (5) Section 33-87(d), unattached semi trailer parked on street;

(e) Violations of the following sections or subsections shall be punishable

by a fine of not less than \$25:

- (1) Section 33-88, parking in a bus stop;

(f) Violations of the following sections or subsections shall be punishable

by a fine of not less than \$40:

- (1) Section 33-89, improper roadway clearance.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 6, 2003)

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

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

Nays: None -- 0

Passed February 24, 2003

Approved February 24, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9589

BY COUNCILOR ATKINS:

AN ORDINANCE PERTAINING TO SOLID WASTE COLLECTIONS,
MODIFYING LICENSING AND ASSESSMENT PROVISIONS;
AMENDING SECTIONS 24-10, 24-12, 24-22, 24-23, 24-24, 24-25
AND 24-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 24-10 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-10. Application and investigation.

Applications for a collector's license shall be made on forms provided by the city clerk. The application shall be accompanied by the license fee, bond and insurance required by this Chapter and vehicle inspection certificates required by this Chapter or state or federal law. Upon receipt of an application for a license, the city clerk shall immediately transmit a copy of the application to the solid waste compliance officer who shall make an investigation to determine the suitability of the applicant to operate pursuant to a license issued hereunder. Upon completion of such investigation, the solid waste compliance officer shall direct the city clerk to grant or refuse the license applied for. Any person denied a license may, in writing, within ten days appeal the denial to the administrative assistant. Appeals shall be heard as provided in Section 24-14.

Section 2. That Section 24-12 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-12. Same--Fees.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Each person making application for a license to engage in the business of collecting or removing solid waste or recyclables shall accompany such application with a fee of \$250 per annum for each collection or removal vehicle to be operated by such person.

Section 3. That Section 24-22 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-22. List of delinquent accounts.

On or before June 1 of each year, each licensed collector, or his assignee, may transmit to the city assessor a list of properties to which he has rendered collection and removal service pursuant to this Chapter in the immediately preceding 15 months and for which he has not been paid, together with the amount due with respect to each such property. Such list shall be accompanied by a verified statement that the amounts indicated are in fact due and owing and that the licensed collector has made a reasonable attempt to collect such amounts. For each account transmitted, a collection fee in the amount set by city council resolution shall be added to reimburse the city its administrative costs.

In addition, the solid waste compliance officer shall on or before June 1 of each year transmit to the city assessor a list of properties to which collection and removal service has been rendered pursuant to Section 24-36 of this Chapter, in the event the owner of such property has not earlier reimbursed the city for sums expended by it to secure such service.

Section 4. That Section 24-23 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-23. Assessment for solid waste removal--preparation of roll.

Upon the receipt of such lists, the city assessor shall make an assessment roll containing a description of each lot or parcel of land and the amount of such assessment. The assessment roll shall include the collection fee set forth in Section 24-22.

Section 5. That Section 24-24 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-24. Same--Notice.

On or before July 1 of each year, the city assessor shall certify the assessment roll to the city council. The assessor shall give 20 days notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in said land stating the amount of the assessment, including the collection fee, the description of the property, that the assessment roll is on file in the assessor's office and that any party aggrieved by the assessment may appeal the assessment to the city assessor by filing a written notice of appeal with the assessor within 20 days after the notice of assessment. Such notice shall indicate that the assessment, including the collection fee, is due and payable to the licensed hauler on or before October 1 of the current year. Failure to make payment by such date shall render the assessment delinquent.

Section 6. That Section 24-25 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-25. Same--Appeal to the city assessor.

Any party aggrieved by an assessment made pursuant to this Chapter may appeal such assessment by filing a written notice of appeal with the city assessor. The notice shall state the precise grounds upon which the appeal is taken. The city

assessor shall notify the appellant of the time and place of the hearing. At the hearing, the city assessor shall hear and determine all objections made to the regularity of the proceedings or to the correctness of the amount of such assessment or of the amount levied upon a particular lot or parcel of land. If the proceedings are found to be regular and the amounts claimed had been properly billed to the occupant of the premises, the assessor shall correct any errors which may have been found in the assessment and shall thereupon recommend that the city council by resolution confirm such assessment. After all appeals are heard and determined, the city council shall confirm the entire assessment roll by resolution.

Section 7. That Section 24-26 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-26. Same--Certification of delinquent assessments.

After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with ten percent penalty added, after which the assessment shall follow the provisions of Section 70 of the City Charter.

Annually, the city treasurer shall remit to the licensed collectors, or their designated agents, all sums together with the interest thereon collected with regard to delinquent accounts submitted to the city treasurer pursuant to Section 24-22 of this Chapter. Any penalty collected by the city treasurer on such accounts shall be retained by the city. All accounts, including interest and penalty thereon, collected by the city treasurer for services rendered and paid for by the city under Section 24-36 of this Chapter, shall be retained by the city.

Section 8. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 6, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 24, 2003
Approved February 24, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9590

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 23, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED NORTH OF TRINITY ROAD OPPOSITE THE NORTH ENTRANCE TO LAKE SUPERIOR COLLEGE (STOCKE).

The city of Duluth does ordain:

Section 1. That Plate No. 23 of the zoning district map as contained in the Appendix to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]
[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 6, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 24, 2003
Approved February 24, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9591

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 8951, WHICH REZONED AND RESTRICTED DEVELOPMENT OF THE PROPERTY TO R-1-B, SUBJECT TO SPECIAL USE PERMIT RESOLUTION NO. 89-0639, AND FURTHER AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 39, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED WEST OF ALDEN AVENUE BETWEEN WINONA AND ANOKA ROADS EXTENDED (RIDGEVIEW COUNTRY CLUB).

The city of Duluth does ordain:

Section 1. That Section 2 of Ordinance 8951, adopted July 31, 1989, is deleted.

Section 2. That Plate No. 39 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]
[see page at end of meeting]

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 6, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 24, 2003
Approved February 24, 2003
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, March 3, 2003, 8:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber, Stewart and President Stenberg -- 7

Absent: Councilors Ness and Stover -- 2

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0303-01 The following submitting communications regarding proposed developments on Sundby Road (03-0118R, 03-0119R, 03-0120R, 03-0121R, 03-0122R, 03-0123R): (a) Brian Frederickson; (b) Heather Odden; (c) Kenneth Zwak (supported by 150 signatures). -- Received

- - -

RESOLUTIONS TABLED

President Stenberg moved to remove Resolution 03-0118, granting conditional approval to a special use permit request by Miller Hill 47 Limited Partnership for a low-density, planned development on property located at 1516 Sundby Road; Resolution 03-0119, denying a special use permit request by Miller Hill 47 Limited Partnership for a low-density, planned development on property located at 1516 Sundby Road; Resolution 03-0120, granting conditional approval of a special use permit to Cottage Homesteads of Duluth II for a low-density, planned development on property located at 1605 Sundby Road; Resolution 03-0121, denying a special use permit request by Cottage Homesteads of Duluth II for a low-density, planned development on property located at 1605 Sundby Road; Resolution 03-0122, granting conditional approval of a special use permit to Cottage Homesteads of Duluth III for a low-density, planned development on property located east of Sundby Road and 200 feet north of Page Street; Resolution 03-0123, denying a special use permit request by Cottage Homesteads of Duluth III for a low-density, planned development on property located on the east side of Sundby Road 200 feet north of Page Street, from the table, which motion was seconded and unanimously carried.

President Stenberg stated that the developer has requested that resolutions 03-0118 and 03-0119 be voted down as he is in the process of resubmitting a new application to the planning commission for its consideration.

Resolution 03-0118 failed upon a unanimous vote (Public Document No. 03-0303-02).

- - -

Resolution 03-0119 failed upon a unanimous vote (Public Document No. 03-0303-03).

- - -

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

David Sorenson, Ken Zwak, Randy Budisalovich and Ron DeGrio spoke in opposition to the resolutions. Reasons cited were as follows: the surrounding property is zoned S-Surburban and consists of one to five acre lots and this type of housing is not consistent with the type of housing that presently exists; this type of housing will drive the value of existing homes in the area down; this project is not low-density as represented because it will provide housing for approximately 705 people; the roads and infrastructure in the area cannot handle the traffic that these housing units will create; the proposed housing projects do not meet the requirements set out in sections 50-36.1 or 50-36.3, subdivisions (c) and (d), of the Duluth City Code; the plans that have been submitted are inadequate in detail; law enforcement statistics show that high-density, low to moderate income housing, as is proposed, brings neighborhood crime such as dog bites, assaults, rape, loud music, disturbances, fights, domestics, burglaries, vehicle prowls, home invasion, child neglect, weapon calls, murder and more; developers for previous area projects have not followed through with infrastructure projects that were promised with project approval.

Responding to councilor questions, Mr. DeGrio, planning commission member, stated that it is his opinion that the planning commission recommended denial of these projects because the application was lacking the adequate detail of the required documents relating to the site plan, useable open space and natural features, to allow the evaluation of the land planning, building design and other aspects of the development.

Michael Saxton, developer, answered councilor questions as to how infrastructure costs will be paid for through the creation of a tax increment financing district and tax increment financing. He further stated how Section 108 financing will benefit the project, which is mainly being proposed to bring affordable housing to serve retired and moderate income individuals and families. Mr. Saxton explained that as retirees move to developments such as this, their homes are sold creating more affordable housing throughout the city. He stated that he has tried to meet with the neighboring residents to resolve their concerns, but he believes the residents just do not want this type of housing in their neighborhood. Mr. Saxton further stated that he has investors interested in financing his project through the sale of bonds which is scheduled in mid-May. He emphasized that the original project is the project that is being resubmitted to the planning commission. However, the three projects are tied together in that the bond sale financing includes all three and that without the approval of the other two projects, the investor does not wish to proceed with the purchase of the bonds. Mr. Saxton stated that because of the bond sale schedule, there is not adequate time to resubmit applications for the additional projects to the planning commission for their consideration.

Responding to councilors, Mike Metso, city engineer, stated that infrastructure improvements are required as a condition of the special use permit.

Keith Hamre, community development and housing division manager, stated that although the planning commission recommended denial of these projects because of inadequate document detail, safe guards exist in that the special use permits require that a host of conditions, which include infrastructure, environmental, wetland, landscaping and open space issues, must be met before permits can be issued and construction started.

Councilors discussed at length the need for this type of housing and development in Duluth.

Responding to councilors, Alison Lutterman, assistant city attorney, stated that as legal counsel, she believes she could defend either an affirmation or denial of the permits if the issues end up in court action. She declined to give a legal opinion as to whether or not the permits, if approved, will be in violation of certain sections of the Code, as alleged by speakers.

Councilors Atkins, Bergson, Gilbert and Stauber stated they will support denial of the permits for the following reasons: too many questions remain unanswered regarding environmental, open space and wetland issues; the uncertainty that if approved, these permits will be in compliance with the Code; neighborhood concerns regarding infrastructure have not been resolved; and the planning commission recommendation is sound and should be respected.

Councilors Stewart, Hogg and President Stenberg stated support for approval of the permits for the following reasons: the assistant city attorney has stated that it is defensible if court action is pursued; there is a genuine need for this type of housing in Duluth; denying this developer an opportunity to construct this project because of the reputation of a different developer is unfair; comments made by speakers from the neighborhood seem to indicate class warfare, which will not be tolerated; and financing for the projects will fall through if approval is not made this evening.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Resolution 03-0120 failed upon the following vote (Public Document No. 03-0303-04):

Yeas: Councilors Hogg, Stewart and President Stenberg -- 3

Nays: Councilors Atkins, Bergson, Gilbert and Stauber -- 4

Absent: Councilors Ness and Stover -- 2

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Resolution 03-0121 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Cottage Homesteads of Duluth II has submitted to the city council a request for a special use permit for a low-density, planned development on property described as Lot 1, Block 2, Miller Creek Division; that part of the east 1/2 of the southeast 1/4 of the northwest 1/4, Section 18, Township 50, Range 14, beginning at southwest corner, thence north 208 feet, thence east 86 feet to Sundby Road; thence southeasterly along said road to the south line of said 40; thence west 172 feet to point of beginning (PID# 2710-4555); northerly 200 feet of the easterly 453.98 feet of the northeast 1/4 of the southwest 1/4 lying west of Sundby Road (PID# 2710-4605); and (PID# 2710-4603); and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its recommendation of denial to the city council; and

WHEREAS, the city planning commission's findings that the application is lacking adequate detail of the following required documents as required by Section 50-1.60 site plan and Section 50-36.3 of the Code: (c) useable open space; and (d) natural features, to allow the evaluation of the land planning, building design and other aspects of the development.

NOW, THEREFORE, BE IT RESOLVED, that based on the above cited findings, the special use permit request is hereby denied.

Resolution 03-0121 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert and Stauber -- 4

Nays: Councilors Hogg, Stewart and President Stenberg -- 3

Absent: Councilors Ness and Stover -- 2

Approved March 3, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0122 failed upon the following vote (Public Document No. 03-0303-05):

Yeas: Councilors Hogg, Stewart and President Stenberg -- 3

Nays: Councilors Atkins, Bergson, Gilbert and Stauber -- 4

Absent: Councilors Ness and Stover -- 2

- - -

Resolution 03-0123 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Cottage Homesteads of Duluth III has submitted to the city council a request for a special use permit for a low-density, planned development on property described as the southeast 1/4 of the northeast 1/4 of the southwest 1/4, Section 18, Township 50, Range 14, lying easterly of Sundby Road except southerly 210 feet lying within 100 feet of the easterly 100 feet and except that part lying north of the southerly 210 feet (PID 2710-4594); and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its recommendation of denial to the city council; and

WHEREAS, the city planning commission's findings that the application is lacking adequate detail of the following required documents as required by Section 50-1.60 site plan and Section 50-36.3 of the Code: (c) useable open space; and (d) natural features, to allow the evaluation of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

the land planning, building design and other aspects of the development.

NOW, THEREFORE, BE IT RESOLVED, that based on the above cited findings, the special use permit request is hereby denied.

Resolution 03-0123 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert and Stauber -- 4

Nays: Councilors Hogg, Stewart and President Stenberg -- 3

Absent: Councilors Ness and Stover -- 2

Approved March 3, 2003

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 9:21 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 10, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Atkins --1

- - -

The minutes of the city council meetings held on January 6 and January 13, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0310-01 Todd Webber submitting petition to construct a sanitary sewer within 91st Avenue West. -- Assessor

03-0310-18 Lynn Fena submitting communication regarding the proposed establishment of a no parking zone on the north side of Laurie Street from Lakeview Drive to the end of the cul-de-sac (03-0162R). -- Received

03-0310-19 Marc Fredson submitting communication regarding the proposed law that would legalize discrimination against citizens based on their sexual orientation (03-0163R). -- Received

03-0310-20 John A. Mulhall submitting communication regarding the ordinance prohibiting pistols on city property (Ordinance No. 9587). -- Received

03-0310-21 The following submitting communications regarding the proposed amendment to regulations regarding smoking in public places (03-013-O): (a) Ila A. Anderson; (b) Grandma's Restaurant Company; (c) Dennis, Rosemarie and Lisa Mitchell; (d) Karen Moore; (e) Kristine Osbakken; (f) Perkins Family Restaurants; (g) Pickwick, Inc.; (h) Will Rhodes; (i) Sammy's Pizza and Restaurant. -- Received

03-0310-22 The following submitting communications regarding the reaffirming of the distribution of 100 percent of the present allocation of 2003 tourism taxes to the Depot if certain conditions are met (03-0147R): (a) Duluth-Superior Area Community Foundation; (b) Bob Hendrickson; (c) St. Louis County. -- Received

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REPORTS OF OFFICERS

03-0310-08 Administrative assistant submitting actuarial valuation for the city of Duluth retiree medical plan for the fiscal year beginning January 1, 2002. -- Received

03-0310-02 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings of the special assessment board on March 11, 2003, at:

(1) 4:30 p.m. in Room 106A, City Hall, regarding the proposed construction of a watermain in McCulloch Street from Superior Street to 48th Avenue East (estimated cost - \$29,000; assessable amount - \$26,000);

(2) 5:00 p.m. in Room 402, City Hall, regarding the proposed construction of a sanitary sewer in Anderson Road from Haines Road to Decker Road (estimated cost - \$213,000; assessable portion is estimated at \$40 per front foot). -- Clerk

(b) Letters of confirmation of the assessment rolls levied to defray the assessable portions of:

(1) Contract No. 5330, street and sewer for Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East (assessable amount - \$411,391.92); Contract No. 1100451, watermain for Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East (assessable

amount - \$88,547.22); Contract No. 1100452, gas main for Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East (assessable amount - \$46,337.45);

(2) 2002 street improvement program - Contract No. 7058, Congdon Park (assessable amount - \$397,783.90); Contract No. 7059, Kenwood (assessable amount - \$204,386.57); Contract No. 7061, Ramsey (assessable amount - \$73,536.75); Contract No. 7060, Lakeside (assessable amount - \$174,422.89); Contract No. 7062, Woodland (assessable amount - \$180,698.02);

(c) Letters of sufficiency of petitions to:

(1) Construct 150 lineal feet of sanitary sewer within Morgan Street beginning at the intersection of Joshua Avenue and extending westerly;

(2) Vacate the alley located within Block 7 of Merchants Park of Duluth;

(3) Vacate the alley between Blocks 154 and 155 in the Crosley Park

Addition. -- Received

03-0310-03 Building official submitting appeal of the building appeal board's denial to lift the demolition order or extend the timeline of the demolition at 117 Park Avenue (McCauley). -- Committee 2 (physical development)

03-0310-04 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Order of AHEPA, Duluth Chapter No. 267, on April 6 and November 23, 2003 (bingo); (b) St. James Catholic School on May 7, July 1, October 1, 2003 and January 1, 2004 (raffles). -- Received

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REPORTS OF BOARDS AND COMMISSION

03-0310-05 Duluth transit authority: (a) Income statement for January 2003; (b) Minutes of December 18, 2002, meeting. -- Received

03-0310-23 Environmental advisory council communication regarding the special use permits requested by Miller Hill 47 Limited Partnership for a low-density, planned development on property located on Sundby Road (03-0118R and 03-0119R) [*also 03-0213R and 03-0214R*]. -- Received

03-0310-06 Heritage preservation commission minutes of January 28, 2003, meeting. -- Received

03-0310-24 Housing and redevelopment authority audit report for the year ended September 30, 2002. -- Received

03-0310-07 Parks and recreation commission minutes of: (a) January 8; (b) February 12, 2003, meetings. -- Received

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MOTIONS AND RESOLUTIONS

Councilor Stewart moved to suspend the rules to consider at this time Resolution 03-0172, approving the appointment of John Strongitharm as the fire chief for the city of Duluth, which motion was seconded and unanimously carried.

Resolution 03-0172 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, the administrative assistant has appointed John Strongitharm as fire chief effective March 11, 2003, and the mayor has approved such appointment; and

WHEREAS, such appointment is subject to city council approval;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the appointment of John Strongitharm as fire chief.

Resolution 03-0172 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

Mayor Doty presented newly appointed Fire Chief John Strongitharm with the fire chief badge and certificate of appreciation.

Chief Strongitharm expressed his appreciation for the support given to him.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis spoke about her concerns relative to minimum lot sizes to build on, how property that has been grandfathered is handled; that the cost, optimum number and different classes of liquor licenses needs to be reviewed; that the golf course aspects at Spirit Mountain are not favored by the voters; that the voters do not wish to change the existing smoking ordinance and that the possible eminent domain proceedings for the taking property at Fourth Street and Sixth Avenue East is unethical.

- - -

Lynn Williams reviewed data relative to the competency of the current building official.

- - -

Gary Nordstrom expressed his concerns relative to the building safety division being a partner in the growth of Duluth.

- - -

David Stevens commented on the crime that occurs in the area of his rental property and he reviewed what he believes are inconsistencies regarding fairness of how the building safety division enforces building codes.

- - -

Peggy Marrin commented on what she believes is a bill in the legislature relating to issuance of state bonds for the McQuade Road project.

- - -

RESOLUTION TABLED

President Stenberg moved to remove Resolution 03-0148, issuing C-5 plan approval to Kohl's Department Store for expansion of the property located at 2115 Miller Trunk Highway, which motion was seconded and carried upon a unanimous vote.

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

Kay L. Lewis commented on the harm that has come to Miller Creek since this development started.

Councilors commented on prior issues which they believe have not been remedied by TOLD Development, and stated that until those issues have been clearly identified and addressed as to how that will be corrected, there is no support for this resolution.

Resolution 03-0148 failed upon a unanimous vote (Public Document No. 03-0310-09).

[Editor's note: Resolution 03-0148 was reconsidered at the March 24, 2003, council meeting.]

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

BY COUNCILOR HOGG:

RESOLVED, that the 2002 street improvement program assessment rolls levied to defray the assessable portions of the following are hereby confirmed:

- (a) Contract No. 7058, Congdon Park (assessable - \$397,783.90);
- (b) Contract No. 7059, Kenwood (assessable - \$204,386.57);
- (c) Contract No. 7061, Ramsey (assessable - \$73,536.75)
- (d) Contract No. 7060, Lakeside (assessable - \$174,422.89);
- (e) Contract No. 7062, Woodland (assessable - \$180,698.02).

Resolution 03-0155 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

- (a) Street and sewer at Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East (Contract No. 5330, assessable amount - \$ 411,391.92);
- (b) Watermain at Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East (Contract No. 1100451, assessable amount - \$ 88,547.22);
- (c) Gas main at Woodlawn Street from 48-1/2 Avenue East to 52nd Avenue East (Contract No. 1100452, assessable amount - \$ 46,337.45).

Resolution 03-0171 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Ronald McKinnon to the alcohol, gambling and tobacco commission by Mayor Doty for a term expiring March 20, 2006, is confirmed.

Resolution 03-0164 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

RESOLVED, that the city is hereby authorized to participate in the joint property tax advisory committee during 2003, including paying for the city's share of the consultant agreement with Jeff Van Wychen at a cost to the city of \$11,500 which shall be payable from the city council's budget, Fund 100, Agency 010, Organization 1101, Object 5319.

Resolution 03-0166 was unanimously adopted.

Approved March 10, 2003

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 state of Minnesota, St. Louis County and the city of Hermantown for the construction, operation and maintenance of a traffic control signal system at Trunk Highway 53/194 (Miller Trunk Highway) as C.S.A.H. 17 (Stebner Road) to be constructed under State Project No. S.P. 6916-86;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

said agreement filed as Public Document No. 03-0310-10; funds to be deposited in Permanent Improvement Fund 0411, Agency 035, Organization 2114.

Resolution 03-0168 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to acquire a utility easement hereinafter described from Margaret E. Mohn for a consideration of \$1,000, payable from Stormwater Utility Fund 0535.

A permanent easement for utility purposes over, under and across that part of Lot 67, Block 121, Duluth Proper Third Division, described as follows:

the northeasterly eight feet of Lot 67, Block 121, Duluth Proper Third Division.

Resolution 03-0153 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to acquire a utility easement hereinafter described from Judith M. Maki for a consideration of \$1,000, payable from Stormwater Utility Fund 0535.

A permanent easement for utility purposes over, under and across that part of Lot 69, Block 121, Duluth Proper Third Division, described as follows:

the southwesterly eight feet of Lot 69, Block 121, Duluth Proper Third Division.

Resolution 03-0154 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the wastewater collection system in the Morgan Park neighborhood has shown signs of surpassing its useful life; and

WHEREAS, based on a preliminary utility assessment study, an area-wide repair/replace-ment of sanitary sewer lines and lift station is needed; and

WHEREAS, the city has completed an evaluation of the wastewater system, retained a consulting engineer to undertake design of the Phase I improvements, and defined the first Phase of the Morgan Park wastewater utility improvements.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) The city is hereby authorized to apply to the Minnesota public facilities authority for a loan from the water pollution control revolving fund for Morgan Park's wastewater collection system improvements - Phase I, as described in the loan application, the form of which is on file in the office of the city clerk as Public Document No. 03-0310-11;

(b) The city estimates the loan amount to be \$1,100,000 or the as-bid cost of the projects;

(c) 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;

(d) The city hereby expresses its official intent to use proceeds of this loan to reimburse

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

construction expenditures made prior to the issuance of its general obligation bond to the public facilities authority.

Resolution 03-0169 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the water system in the Morgan Park neighborhood has shown signs of surpassing its useful life; and

WHEREAS, based on a preliminary utility assessment study, an area-wide repair/replacement of water lines is needed; and

WHEREAS, the city has completed an evaluation of the water system, retained a consulting engineer to undertake design of the Phase I improvements and defined the first Phase of the Morgan Park utility improvements.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) The city is hereby authorized to apply to the Minnesota public facilities authority for a loan from the drinking water revolving fund Morgan Park's drinking water system improvements - Phase I, as described in the loan application, the form of which is on file in the office of the city clerk as Public Document No. 03-0310-12;

(b) The city estimates the loan amount to be \$1,300,000 or the as-bid cost of the projects;

(c) 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;

(d) 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 bond to the public facilities authority.

Resolution 03-0170 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 01-0471 to Salo Engineering, Inc., for the engineering services required for preliminary design and contract administration phases of Airport Loop Road, be amended to increase the amount by \$89,942.69 for a new total of \$250,289.48, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2114, Object 5530.

Resolution 03-0173 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0851 to Nels Nelson and Sons, Inc., for the construction of Maryland Street between Dodge Avenue and Victoria Street, be amended to increase the amount by \$110,858.29 for a new total of \$438,606.64, payable out of Special Assessment Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

0410, Department/Agency 038, Organization 5354, Object 5530.

Resolution 03-0174 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, filed as Public Document No. 03-0310-13, with the city of Hermantown to reconstruct approximately 250 feet of the Stebner Road in Hermantown as a part of Duluth's Airport Road loop project; funds to be deposited in Permanent Improvement Fund 0411, Agency 035, Organization 2114.

Resolution 03-0175 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources, Minnesota conservation corps; said agreement filed with the city clerk as Public Document No. 03-0310-14, for mapping and field identification of trout stream in the city of Duluth for a consideration of \$9,900 to be paid from Stormwater Utility Fund 0535.

Resolution 03-0181 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized to enter into agreements, substantially in the form of the one filed as Public Document No. 03-0310-15 and accept grant monies from the Minnesota department of public safety, nightcap program, to reimburse the Duluth police department for costs incurred in performing saturation patrols for alcohol impaired drivers in an amount not to exceed \$3,500 during the grant period ending December 31, 2003.

BE IT FURTHER RESOLVED, that all revenue received under this agreement shall be deposited in General Fund 0100, Agency 200, Organization 1640.

Resolution 03-0179 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

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 \$10,800. The grant shall be used to pay for a part-time recreation staff and supplies at Endion Recreation Community Center for the period of January 1, 2003, through June 30, 2003. Such funds shall be deposited into Parks and Recreation Account No. 0100-400-1812-4259.

Resolution 03-0160 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STAUBER:

WHEREAS, the United States environmental protection agency (EPA) administers financial assistance for environmental education projects through their environmental education grants program; and

WHEREAS, the city of Duluth desires financial assistance under the EPA environmental education grant program to develop an energy resource center at the Duluth public library;

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 the United States EPA environmental education grant program for financial assistance toward the development and implementation of an energy resource center at the Duluth public library;

(b) That the proper city officers are hereby authorized and directed to execute and file an application with the United States EPA 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, labor and materials required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms and conditions of the EPA environmental education grant program.

Resolution 03-0167 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 03-0135, by Councilor Hogg, approving the transfer of the on sale intoxicating liquor license, on sale Sunday license and dancing license from LAC/TOM Investments, LTD (J&J Limit Bar), 1426 Commonwealth Avenue to D.S. Property Management, Inc. (MAX Limit Bar), same address, was introduced for discussion.

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

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BY COUNCILOR HOGG:

RESOLVED, that J.R. Jensen and Son, Inc., be and hereby is awarded a contract for construction of Clayton-Jackson-McGhie Memorial sitework for the architect division in accordance with specifications on its low specification bid of \$35,600, terms net 30, FOB job site, payable out of General Fund 0100, Agency 700, Organization 2725, Object C222.

Resolution 03-0178 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are authorized to enter into an amendment, on file in the office of the city clerk as Public Document No. 03-0310-16, to City Contract No. 19085

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

with Community GIS Services, Inc., extending the term of their contract through May 31, 2003, at no additional cost.

Resolution 03-0161 was adopted upon the following vote:

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

Nays: None -- 0

Absent: Councilor Atkins -- 1

Abstention: Councilor Gilbert -- 1

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established:

No Parking This Side - on the north side of Laurie Street from Lakeview Drive to the beginning of the cul-de-sac;

No Parking This Side, Nov. 1 - May 31 - on the north side of Laurie Street in the cul-de-sac.

Resolution 03-0162 was unanimously adopted.

Approved March 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Paul Schintz to operate the concessions and manage the golf facilities at Enger Park and Lester Park golf courses, which agreement shall be substantially in the form of that document on file in the office of the city clerk as Public Document No. 03-0310-17. These costs are to be paid from Golf Fund 503, Agency 400, Organization 0500.

Resolution 03-0165 was unanimously adopted.

Approved March 10, 2003

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 STENBERG

03-014 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 14, 15, 17 AND 18 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-2, COMMERCIAL; R-2, TWO-FAMILY RESIDENTIAL; AND R-3 AND R-4, APARTMENT RESIDENTIAL, TO TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT NO. 1, PROPERTY BOUNDED ON THE NORTH BY THE BURLINGTON NORTHERN AND SANTA FE RAILROAD (BNSF); ON THE EAST BY MENARD'S, 50TH AVENUE WEST AND COLALILLO DRIVE; ON THE SOUTH BY BRISTOL STREET; AND ON THE WEST BY 54TH ALLEY WEST (SPIRIT VALLEY CITIZENS NEIGHBORHOOD DEVELOPMENT ASSOCIATION, INC. (SVCNDA)).

- - -

BY COUNCILORS BERGSON AND STOVER

03-015 - AN ORDINANCE PROHIBITING THE OPERATION OF UNMANNED RAILROAD LOCOMOTIVES IN THE CITY OF DULUTH; ADDING A NEW SECTION 42-10 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

03-013 - AN ORDINANCE AMENDING THE REGULATIONS PERTAINING TO SMOKING IN BARS/RESTAURANTS; AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY PRESIDENT STENBERG

03-012 (9592) - AN ORDINANCE AMENDING THE SIGN REGULATIONS OF THE CITY OF DULUTH; ALLOWING A-FRAME SIGNS UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 44-11, 44-12 AND 44-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR NESS

03-011 (9593) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE SOUTHEASTERLY PORTION OF LOTS 1-9, BLOCK 50, LESTER PARK FOURTH DIVISION TO THE DULUTH/NORTH SHORE SANITARY DISTRICT FOR A NOMINAL CONSIDERATION.

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

- - -

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9592

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING THE SIGN REGULATIONS OF THE CITY OF DULUTH; ALLOWING A-FRAME SIGNS UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 44-11, 44-12 AND 44-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 44-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 44-11. Prohibited locations.

Except for A-frame signs allowed pursuant to Section 44-12 and temporary signs approved pursuant to Section 44-9 of this Chapter, no sign shall be placed on any street, highway or pedestrian easement or be attached to or painted on a tree, fence or accessory building.

Section 2. That Section 44-12 of the Duluth City code, 1959, as amended, be amended to read as follows:

Sec. 44-12. Certain signs and advertising devices prohibited.

Portable stand signs, signs resembling public authority signs and roof signs are hereby prohibited. On premises, A-frame signs shall be allowed only in commercial zones and only if they extend no more than three feet into the public right-of-way and provide an unobstructed sidewalk width of at least five feet for pedestrian passage. Wind oscillating pennants and propellers are prohibited for use on a permanent basis and may be used only for carnivals, bazaars and similar events for a period of time not to exceed ten days in any calendar year. This Section shall not be deemed to prohibit holiday season decorations or those articles regulated by Article III of Chapter 45 of this Code.

Section 3. That Section 44-26 of the Duluth City Code 1959, as amended, be amended to read as follows:

Sec. 44-26. Regulations in C-1 commercial zoning districts.

The following signs are permitted to be located in the C-1 districts set forth in Chapter 50 of this Code:

(a) All signs which are permitted and as limited in Section 44-25;

(b) Portable A-frame signs. The total dimensions which are not less than 24 inches wide by 36 inches tall nor more than 30 inches wide by 40 inches tall; limit of one per store front, no more than three feet into the public right-of-way and provide an unobstructed sidewalk width of at least five feet for pedestrian passage subject to an individual permit; subject to a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$1,000,000 for bodily injuries or property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas;

(c) On premises wall signs. The aggregate gross area of all wall signs on a building wall shall not exceed twice the number of lineal feet of the length of such wall of the building; provided, however, that no such aggregate total need be less than 40 square feet. Direct and indirect illumination are permitted. Flashing, animated and revolving signs are not permitted. Permit required;

(d) On premises pole signs, 30 inches in thickness and 20 feet in height, provided that spherical signs may be more than 30 inches in thickness. The area of a double or triple faced pole sign shall be the area of the largest face. If such signs are located in the required yards they shall not be closer than 100 feet from any residential structure located in a residential zone. The bottom of such signs shall not be less than eight feet above the ground level of the nearest property line; provided, however, that decorative planters or other similar structures shall be permitted in connection with such signs if they are no more than three feet above such ground level and contain no advertising devices. Pole signs shall not be constructed on or project into or over any public street easement. Only one pole sign shall be permitted on each street front of a site; provided, however, that where property has frontage on more than two streets, only street frontages of 100 feet or more shall be counted in determining the number of pole signs permitted. Direct and indirect illumination is permitted. Flashing, animated and revolving signs are not permitted. Permits required;

(e) Marquee signs which are structurally integrated into the marquee fascia and which do not project above or below such fascia. Marquee signs shall

be constructed of individual numbers and letters not exceeding ten inches in height and may contain a logo 28 inches square or less, all of which are individually attached to the fascia and which do not project outward more than three inches from such fascia. Letters, numbers and logos may be individually illuminated only, and shall not flash or convey an animated message. The message conveyed shall be limited to the name or address of the building or the name of a principal occupant or business and a logo. The message may be placed on three sides of the marquee. Permit required;

(f) Awning signs that are an integral part of a first floor awning. The message of such sign shall consist of the letters and numbers ten inches high or less and a logo not exceeding 18 inches square, all of which shall be fabricated into or printed on the awning cover, and shall convey only the name or address of the building or the name of the principal occupant or business. No lighting apparatus shall be attached to the awning, but it may be indirectly illuminated. Permit required.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 13, 2003)

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

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

Nays: None -- 0

Absent: Councilor Atkins -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 10, 2003
Approved March 10, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9593

BY COUNCILOR NESS:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE SOUTHEASTERLY PORTION OF LOTS 1-9, BLOCK 50, LESTER PARK FOURTH DIVISION TO THE DULUTH/NORTH SHORE SANITARY DISTRICT FOR A NOMINAL CONSIDERATION.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim its right, title and interest to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to the Duluth/North Shore Sanitary District for \$1 and other valuable consideration.

That part of Tract A described below:

Tract A: Lots 1 through 9 inclusive, Block 50, Lester Park Fourth Division, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota, the title thereto being registered;

which lies southeasterly of a line run parallel with and distant 55 feet northwesterly of Line 1 described below:

Line 1: From a point on the north line of Section 4, Township 50 North, Range 13 West, distant 1320.54 feet west of the northeast corner thereof, run southwesterly at an angle of 45 degrees 08 minutes 41 seconds from said north section line (measured from west to south) for 904.99 feet; thence deflect to the left at an angle of 04 degrees 25 minutes 45 seconds for 336.67 feet; thence deflect to the left on a 04 degree 00 minute 00 second curve

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(delta angle 26 degrees 52 minutes 15 seconds) for 671.77 feet; thence on tangent to said curve for 1049.97 feet to the point of beginning of Line 1 to be described; thence deflect to the left at an angle of 148 degrees 42 minutes 20 seconds for 900 feet and there terminating;

together with all that part of Lot 1, said Block 50, which lies northwesterly of the above described strip and southerly of the following described line: From the point of beginning of Line 1 described above, run northerly at an angle of 31 degrees 17 minutes 40 seconds with said Line 1 for 320.09 feet to the point of beginning of the line to be described; thence deflect to the right at an angle of 90 degrees 00 minutes 00 seconds for 150 feet and there terminating.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: April 13, 2003)

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

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

Nays: None -- 0

Absent: Councilor Atkins -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 10, 2003

Approved March 10, 2003

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, March 20, 2003, 6:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Bergson -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0320-02 Steve Townsend submitting communication regarding the issuance, sale and delivery of a revenue recreation facility bond for Spirit Mountain recreation area (03-0203R). -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 03-0203, by Councilor Hogg, providing for the issuance, sale and delivery of \$1,646,749.70 gross revenue recreation facility bond (Spirit Mountain recreation area), Series 2003, establishing the terms and form therefor; and awarding the sale thereof; and approval of a use and management agreement, was introduced for discussion.

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

Rick Certano, Spirit Mountain recreation area director, explained that the board would like to refinance the existing debt to free up money to rebuild the facility. He explained that the agreement provides for Spirit Mountain to contribute \$75,000 in November, December and January of each year into a special city fund controlled by the city treasurer and then recommend to the council which specific project the authority would like to work on to rebuild the facility.

Responding to councilor questions, Mr. Certano stated that the reason there is a need for this funding is because after making the current annual debt payment, there is not enough money for repair and maintenance for the 30 year old facility. He continued that the city will make the bond payment for Spirit Mountain from the tourism tax fund, which will allow Spirit Mountain to put \$225,000 in a fund to be used for capital improvements to the facility.

Councilors Hogg and Ness expressed concern that while this debt refinancing has merit and Spirit Mountain will be able to upgrade their facility, this is a large commitment of tourism tax dollars and there seems to be no control on the tourism tax fund and where the money is being spent.

Yvonne Prettner Solon, Minnesota state senator and Spirit Mountain recreation area authority board member, reviewed that after investigating where the tourism tax dollars are to be dedicated, the language states that the tourism tax dollars are to go for the support of the Duluth Entertainment Convention Center (DECC), Spirit Mountain, Duluth Convention and Visitors' Bureau and other tourism attractions. She stated that the language is already in bill form in the legislature for the Great Lakes Aquarium bond payments and should have a hearing before the tax committee the first part of April.

Ed Kale expressed his appreciation for the work that Rick Certano has done at Spirit Mountain and urged the councilors to support this resolution.

Resolution 02-0203 was adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Definitions; recitals; purpose.

1.01 Definitions. For purposes of this resolution, the following terms have the meanings given unless the context hereof clearly requires otherwise:

"Act" means Minnesota Statutes, Sections 471.15 through 471.191, as the same may be

amended.

“Agreement” shall mean the use and management agreement dated the date of original issuance of the bonds between the issuer and the authority.

“Authority” means the Spirit Mountain recreation area authority, an authority created pursuant to the Recreation Area Act.

“Board” shall mean the board of directors of the authority.

“Bonds” means the gross revenue recreation facility bond (Spirit Mountain recreation area), Series 2003, the form of which is set forth in Section 5 hereof.

“City council” means the governing body of the issuer, and any successor to its functions.

“Code” means the Internal Revenue Code of 1986, as amended.

“Debt service” means the principal installment of the bonds and interest on the bonds and any service charge or premium, if any, due thereunder.

“Debt service fund” means the 2003 revenue bond account created in Section 6.02A hereof.

“Fiscal year” shall mean the twelve-month period beginning on May 1 of the one year and ending on April 30 of the next year.

“Fund” means the issuer’s Spirit Mountain recreation area fund created in Section 6.01 hereof.

“Gross revenues” shall mean the gross revenues generated from the project. All gross revenues (before reduction for costs of goods sold), income and receipts, rents, issues, profits, reversions, royalties, bonuses, commissions, sales, tourism taxes pledged pursuant to Section 6.02B, rights and benefits due, payable or accruing (including all deposits of money as advanced rent or for security) from the operation of the project and any part thereof, from services and facilities furnished or made available to any person, and from any and all leases, subleases, concessions or renewals thereof, with respect to any part of the project, and all earnings on the investments thereof.

“Installment payment date” means June 1 and December 1, commencing December 1, 2003, the dates on which a payment of principal of or interest on the bonds is due and payable.

“Issuer” means the city of Duluth, St. Louis County, Minnesota, a home rule Charter city and political subdivision of the state of Minnesota.

“Lease” means the lease-purchase agreement between the purchaser and the authority dated April 2, 2001.

“Operating expense” shall mean those items of cost which under accepted accounting practice are normal, reasonable, current and necessary expenses of the operation and maintenance of the project.

“Prepayment account” shall mean the account established within the fund, pursuant to Section 6.01B hereof.

“Primary lease” means the primary lease between the authority and the purchaser dated as of April 2, 2001.

“Project” or “recreation facility” shall mean the recreation area and the buildings, improvements and equipment now or hereafter part of or located in the recreation area and any part thereof.

“Purchaser” shall mean Wells Fargo Bank Minnesota, National Association, or the registered assigns of the bonds registered as to principal and interest.

“Recreation area” shall mean the tracts of land used by the city and managed by the authority and described on Exhibit A hereto.

“Recreation Area Act” shall mean Minnesota Laws 1973, Chapter 327 as amended by Minnesota Laws 1974, Chapter 345; Minnesota Laws 1979, Chapters 88 and 270; Minnesota Laws 1984, Chapter 390; and Minnesota Laws 1992, Chapter 476, Section 13, as may be further

amended from time to time.

“Registrar” or “bond registrar” has the meaning given in Section 4.01 of this resolution.

“Spirit Mountain operating fund” shall mean such fund maintained by the city treasurer, pursuant to the Recreation Area Act and referred to in Section 6.01B hereof.

“State” shall mean the state of Minnesota.

“Tourism taxes” shall mean 1 percent of the sales tax imposed by the issuer pursuant to Laws of Minnesota 1980, Chapter 511, Section 1, Subd. 2, and Section 2, as amended, and implementing ordinances, on gross receipts on sales of certain food and beverage and on lodging in hotels and motels within the city of Duluth (excluded therefrom, however, other sales tax including the additional one-half percent tax authorized by Laws of Minnesota 1998, Chapter 389, Article 8, Sections 25 and 26).

1.02 Pursuant to the act, the issuer operates a program of public recreation, of which the Spirit Mountain recreation area and the buildings, fixtures and equipment thereon are a part.

1.03 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 and Section 471.191, the city Charter and other laws thereunto enabling, the issuer is authorized to issue its revenue bonds payable solely from the income of land, buildings and facilities and secured by a pledge of all income and revenues of whatsoever nature derived from any such land, buildings and facilities as a first charge on the gross revenues thereof to the extent necessary to pay bonds and the interest thereon when due and to accumulate and maintain additional reserves for that purpose.

1.04 The authority, as the operator of the Spirit Mountain recreation area and the buildings, fixtures and equipment thereon, and the issuer deem it necessary and in the best interest of the issuer and the authority and for the fulfillment of the obligations of the legislation authorizing the creation of recreation facility, to refinance certain obligations of the authority, the proceeds of which were used to construct, acquire and improve recreation facility.

1.05 The issuer shall enter into a use and management agreement with the authority regarding the use and management of recreation area, and the bonds shall be issued pursuant to this resolution.

1.06 A form of the agreement proposed to be made and entered into between the issuer and the authority is on file in the office of the city clerk (Public Document No. 03-0203-01).

1.07 The city council hereby determines that it is necessary, expedient and in the best interests of its residents that the Issuer issue and sell the bonds, the proceeds of which, along with other available funds of the issuer and the authority, will be used to prepay the lease and refinance the obligations thereunder.

Section 2. Authorization and sale of the bonds.

2.01 The bonds. The sale of the bonds is hereby authorized.

2.02 Limited obligation. The bonds and the interest accruing thereon are payable solely from the gross revenues and do not give rise to a charge against the general credit or taxing powers of the Issuer and neither the full faith and credit nor the taxing powers of the issuer are pledged for the payment of the bonds or interest thereon.

2.03 Sale. The offer of the purchaser to purchase the bonds at a cash price equal to the stated principal amount of the bonds, upon the terms and conditions hereinafter specified, is hereby accepted.

2.04 Use and management agreement. The agreement is hereby approved. The mayor and the city clerk are hereby authorized and directed to execute and deliver the agreement, substantially in the form now on file with the city clerk, with such necessary and appropriate omissions, modifications, insertions and additions as do not materially affect the substance of the transaction, consistent with the act and with the Recreation Area Act, as the mayor in his

discretion shall determine. The execution of the agreement by the mayor, with the advice of the city attorney, shall be conclusive evidence of such determination. All of the provisions of the agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated herein and shall be in full force and effect from the date of execution and delivery thereof.

Section 3. Terms of the bonds.

3.01 The bonds.

A. Terms. The bonds shall be dated as of the date of its execution and delivery, shall be issued as a single bond in the denomination of \$1,646,749.70, in fully registered form and lettered and numbered R-1. The bonds shall mature in installments as set forth in the bond, with a final installment on December 1, 2012, and shall bear interest at the annual rate of 4.50 percent from the date of the first advance thereunder until the principal amount of the bonds is fully paid or the payment thereof has been duly provided.

B. Installment payment dates. Interest on the bonds will be payable commencing December 1, 2003, and semiannually thereafter on June 1 and December 1 through and including December 1, 2012. Principal of the bonds will be payable in installments commencing June 1, 2004, and semiannually thereafter on June 1 and December 1 through and including December 1, 2012. Interest will be computed upon the basis of a year of 360 days composed of twelve 30-day months and actual days elapsed and rounded according to the rules of the Municipal securities rulemaking board.

3.02 Prepayment.

A. Prepayment. The issuer may prepay the bonds in whole or in part without penalty on any business day.

B. Notice of prepayment. All prepayments are subject to 30 days' prior notice to the purchaser as provided in the bonds and Section 4.02D of this resolution (provided that the purchaser may waive or shorten such notice requirement).

C. Optional call by purchaser. The purchaser may, at its option, require the issuer to prepay and redeem the outstanding bonds on October 1, 2006; provided, however, the purchaser shall provide the Issuer with at least six months written notice of such election to call the bonds for prepayment. Such prepayment shall be at par plus accrued interest to such redemption date.

3.03 Application of payments. Payments on the bonds and the proceeds and avails of any remedy exercised by the purchaser shall be applied as follows:

A. First, to the payment of all costs and proper expenses (including reasonable attorneys' fees as provided herein or as otherwise permitted by law), liabilities incurred or advances made hereunder by the purchaser;

B. Second, to the payment to the purchaser of the amount then owing or unpaid for interest due on the bonds;

C. Third, to the payment to the purchaser, of the amount then owing or unpaid for principal due on the bonds and then to the installments of principal last coming due on the bonds;

D. Fourth, provided that all other amounts owing under the bonds have been paid, to the payment of any excess to the issuer, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

3.04 Preparation. The bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual signature of the mayor and attested by the manual signature of the clerk. The corporate seal of the issuer need not be used. The legal opinion of bond counsel shall be attached to the bonds. In case any officer whose signature shall appear on the bonds shall cease to be an officer before delivery of the bonds, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in

office until delivery.

3.05 Delivery. Delivery of the bonds and payment of the purchase price shall be made at a place mutually satisfactory to the Issuer and the purchaser. A typewritten and executed bonds shall be furnished by the issuer without cost to the purchaser. The bonds when prepared in accordance with this resolution and executed shall be delivered by or under the direction of the treasurer of the issuer to the purchaser.

Section 4. Registration and payment.

4.01 Designation of bond registrar. The city council hereby appoints the city treasurer as bond registrar, paying agent and transfer agent for the bonds (the "registrar").

4.02 Registration and transfer.

A. Bond register. The issuer shall cause to be kept at the principal office of the registrar, a register in which, subject to such reasonable regulations as it may prescribe, the issuer shall provide for the registration of transfers of ownership of the bonds as herein provided.

B. Registration. The bonds shall be initially registered in the name of the purchaser and the bonds, or any portion thereof, shall be transferable upon the bond register by the purchaser in person or by its agent duly authorized in writing, upon surrender of the bonds together with a written instrument of transfer, in form satisfactory to the registrar, duly executed by the purchaser or its duly authorized agent. Upon such transfer the registrar shall note the date of registration and the name and address of the new holder in the bond register and in the registration blank appearing on the bonds.

C. Exchange or transfer. All bonds issued in exchange for or upon transfer of the bonds shall be valid obligations of the issuer evidencing the same debt and entitled to the same benefits under this resolution as the bonds surrendered for such exchange or transfer.

D. Notice of redemption. In the event the bonds are called for redemption, notice thereof will be given by the registrar by mailing a copy of the redemption notice by first class mail, postage prepaid, not less than 30 days prior to the date fixed for redemption to the registered owner of the bonds at the address shown on the registration books kept by the registrar, provided that the registered holder of the bonds may waive or shorten such notice.

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

4.04 Payment; record date.

A. The principal of and interest on the bonds shall be payable by the registrar as paying agent in such funds as are legal tender for the payment of debts due the United States of America. principal and interest shall be payable at the principal office of the purchaser, or at such other place as the purchaser may designate in writing.

B. Interest on the bonds which is payable, and is punctually paid or duly provided for, on any installment payment date shall be paid to the person in whose name the bonds is registered at the close of business on the 15th day of the month preceding such installment payment date.

Section 5. Form of bonds. The bonds shall be typewritten in substantially the form set forth as follows:

R-1

\$1,646,749.70

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

CITY OF DULUTH, MINNESOTA
GROSS REVENUE RECREATION FACILITY BOND
(SPIRIT MOUNTAIN RECREATION AREA), SERIES 2003

Rate	Final Maturity Date	Date of Original Issue
4.50%	December 1, 2012	March 28, 2003

THIS BOND HAS NOT BEEN REGISTERED UNDER THE FEDERAL SECURITIES ACT OF 1933, AS AMENDED AND MAY NOT BE SOLD OR OTHERWISE DISPOSED OF FOR VALUE, OR TRANSFERRED, WITHOUT (i) AN OPINION OF COUNSEL APPROVED BY THE ISSUER THAT SUCH SALE, DISPOSITION OR TRANSFER MAY LAWFULLY BE MADE WITHOUT REGISTRATION UNDER THE FEDERAL SECURITIES ACT OF 1933, AS AMENDED AND UNDER APPLICABLE STATE SECURITIES LAWS, OR (ii) SUCH REGISTRATION. THE TRANSFERABILITY OF THIS BOND IS SUBJECT TO RESTRICTIONS REQUIRED BY (1) FEDERAL AND STATE SECURITIES LAWS GOVERNING UNREGISTERED SECURITIES; (2) THE RULES, REGULATIONS, AND INTERPRETATIONS OF THE GOVERNMENTAL AGENCIES ADMINISTERING SUCH LAWS; AND (3) THE PROCEDURE ESTABLISHED BY THE ISSUER TO EFFECT COMPLIANCE THEREWITH AND AGREED TO BY THE OWNER OF SUCH SECURITIES.

THIS BOND HAS NOT BEEN REGISTERED UNDER CHAPTER 80A OF THE MINNESOTA SECURITIES LAWS OR APPLICABLE STATE BLUE SKY LAWS AND MAY NOT BE SOLD, TRANSFERRED, OR OTHERWISE DISPOSED OF FOR VALUE EXCEPT PURSUANT TO REGISTRATION OR OPERATION OF LAW.

REGISTERED OWNER: WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION

PRINCIPAL AMOUNT: ONE MILLION SIX HUNDRED FORTY-SIX THOUSAND SEVEN HUNDRED FORTY-NINE AND 70/100 DOLLARS

The CITY OF DULUTH, MINNESOTA, in St. Louis County, Minnesota (the "Issuer") for value received promises to pay to the registered owner specified above or registered assigns (hereinafter called the "Purchaser"), the principal amount specified above or a lesser amount which is advanced and outstanding hereunder, with interest on the outstanding principal balance as set forth below or so much thereof as remains unpaid and outstanding hereunder from time to time (the "Principal Balance"), and to pay interest on said Principal Balance to the registered owner hereof from the date of original issue set forth above, or from the most recent Installment Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged at the annual rate set forth above. The principal and interest must be paid in any coin or currency which at the time or times of payment is legal tender for the payment of public and private debts in the United

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States of America. This Bond is payable in the amounts and at the times described below.

A. Schedule of Payments.

Payments of principal and interest at the rate set forth above on the outstanding principal amount hereof will be payable on the dates and in the amounts set forth below. (Any date on which an installment of principal and/or interest is due and payable is referred to herein as an "Installment Payment Date.")

Installment Payment Date	Principal	Interest	Total
June 1, 2004	\$ 75,448.13	\$37,051.87	\$112,500.00
December 1, 2004	\$ 77,145.71	\$35,354.29	\$112,500.00
June 1, 2005	\$ 78,881.49	\$33,618.51	\$112,500.00
December 1, 2005	\$ 80,656.33	\$31,843.67	\$112,500.00
June 1, 2006	\$ 82,471.09	\$30,028.91	\$112,500.00
December 1, 2006	\$ 84,326.69	\$28,173.31	\$112,500.00
June 1, 2007	\$ 86,224.04	\$26,275.96	\$112,500.00
December 1, 2007	\$ 88,164.09	\$24,335.91	\$112,500.00
June 1, 2008	\$ 90,147.78	\$22,352.22	\$112,500.00
December 1, 2008	\$ 92,176.10	\$20,323.90	\$112,500.00
June 1, 2009	\$ 94,250.06	\$18,249.94	\$112,500.00
December 1, 2009	\$ 96,370.69	\$16,129.31	\$112,500.00
June 1, 2010	\$ 98,539.03	\$13,960.97	\$112,500.00
December 1, 2010	\$ 100,756.16	\$11,743.84	\$112,500.00
June 1, 2011	\$ 103,023.17	\$ 9,476.83	\$112,500.00
December 1, 2011	\$ 105,341.19	\$ 7,158.81	\$112,500.00
June 1, 2012	\$ 107,711.37	\$ 4,788.63	\$112,500.00
December 1, 2012	\$ 105,116.58	\$ 2,365.12	\$107,481.70

The entire outstanding Principal Balance and interest, if not sooner paid, must be paid in full on the final Installment Payment Date set forth above.

B. Calculation of Interest.

Interest will be computed upon the basis of a year of 360 days composed of twelve, 30-day months and actual days elapsed and

rounded according to the rules of the Municipal Securities Rulemaking Board.

C. Application of Payments.

Payments will be applied in accordance with Section 3.03 of the Resolution described below.

D. Prepayment.

The Issuer may prepay the Bond in whole or in part without penalty on any business day, upon notice as provided in the Resolution.

The registered owner of the Bond may, at its option, require the Issuer to prepay and redeem the Bond on October 1, 2006, upon written notice provided to the Issuer at least six months prior to the redemption date as provided in this Resolution.

Payment; Record Date. Both the principal thereof and the interest thereon are payable in lawful money of the United States of America on each Installment Payment Date in the amount necessary to pay Debt Service due on such Installment Payment Date or by check or draft by the City Treasurer as registrar, paying agent and transfer agent (the "Registrar"). The Registrar shall make all principal and interest payments with respect to this Bond directly to the registered owner hereof shown on the registration records maintained on behalf of the Issuer by the Registrar at the close of business on the 15th day of the month next preceding the Installment Payment Date (whether or not a business day) at such owner's address shown on said registration records without presentation or surrender of this Bond, and all such payments shall discharge the obligation of the Issuer to the extent of the payments so made.

Purpose. This Bond is issued as a single, fully registered bond in the amount of \$1,646,749.70, pursuant to and in full compliance with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 471.15 through 471.191, and pursuant to a resolution duly adopted by the City Council of the Issuer on March 20, 2003 (the "Resolution"). This Bond is issued for the purpose of refinancing certain obligations incurred in connection with the Spirit Mountain Recreation Area, the proceeds of which were used to construct, acquire and improve the various recreational buildings, facilities and equipment within such Recreation Area. The use of the Spirit Mountain Recreation Area, its management and the improvement thereof are provided for in a Use and Management Agreement, dated as of March 28, 2003, by and between the Issuer and the Spirit Mountain Recreation Area Authority.

Security. This Bond, along with other bonds similarly issued, is payable solely from gross revenues to be derived by the Issuer from the operation of the Recreation Facility (the "Gross Revenues") and from certain other funds of the

Issuer described in the Resolution.

Transfer and Exchange. As provided in the Resolution and subject to certain limitations set forth therein, this Bond, or any portion thereof, shall be transferable upon the books of the Issuer at the office of the Registrar, by the registered owner hereof in person or by its agent duly authorized in writing, at the owner's expense, upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its duly authorized agent. Upon such transfer the Registrar will note the date of registration and the name and address of the new registered owner in the resignation blank appearing below. The Issuer may deem and treat the person in whose name this Bond is last registered upon the books of the Issuer with such registration noted on this Bond, as the absolute owner hereof, whether or not overdue, for the purpose of receiving payment of or on the account, of the Principal Balance, redemption price or interest and for all other purposes, and all such payments so made to the registered owner or upon its order shall be valid and effective to satisfy and discharge the liability upon this Bond to the extent of the sum or sums so paid, and the Issuer shall not be affected by any notice to the contrary.

Limited Obligation. This Bond is a special limited obligation of the Issuer payable solely from the Gross Revenues. This Bond and the interest hereon shall not be deemed to constitute a general obligation of the State of Minnesota or any political subdivision thereof, including, without limitation, the Issuer, and neither the full faith and credit, the assets, nor the taxing power of the State of Minnesota, or any political subdivision thereof, including, without limitation, the Issuer are pledged to payment of principal of or interest on this Bond, or other costs incident hereto.

IT IS HEREBY FURTHER CERTIFIED AND RECITED that all conditions, acts and things required by the Constitution and the laws of the State of Minnesota to be done, to exist, to happen and to be performed precedent to or in the issuance of this Bond have been done, do exist, have happened and have been performed in regular and due form as required by law, and that the issuance of this Bond does not cause the indebtedness of the Issuer to exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be duly executed in its name by the manual signatures of the Mayor and Clerk, and has caused this Bond to be dated as of the date of original issue set forth above.

CITY OF DULUTH, MINNESOTA

Mayor

ATTEST:

Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

PROVISIONS AS TO REGISTRATION

The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City of Duluth, St. Louis County, Minnesota, in the name of the holder last noted below.

Date of Registration	Name and Address of Registered Owner	Signature of Treasurer
March 28, 2003	Wells Fargo Bank Minnesota, National Association Attn: S.J. Krmpotich 230 West Superior Street Duluth, Minnesota 55802 Tax I.D. 41-_____	_____
_____	_____ _____ _____	_____
_____	_____ _____ _____	_____

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 with every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

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

Section 6. Disposition of bonds proceeds; covenants, accounts and representations.

6.01 Spirit Mountain recreation area fund.

A. Pursuant to Section 471.191 of the act, the issuer covenants with the purchaser that, until the bonds are fully paid or discharged as provided in this resolution, it will establish and continue to maintain on its official books and records the separate and special Spirit Mountain recreation area fund (the fund), into which it will pay as received all gross revenues, and will maintain separate and accurate bookkeeping accounts in this fund to record all receipts and disbursements for the acquisition, betterment, operation, maintenance and financing of the recreation facilities, as provided in this section.

B. As long as any portion of the bonds is outstanding and unpaid either as to principal or as to interest, or until all of the bonds then outstanding have been discharged and satisfied in the manner provided in this resolution, the gross revenues shall be deposited as collected in the fund and will be credited and disbursed only as set forth in this resolution and the agreement from the fund and the following accounts:

1. 2003 Bond debt service account
2. Prepayment account
3. Repair and replacement account
4. Spirit Mountain operating fund

C. Any gross revenues not needed for deposits required in Sections 6.02, 6.03 and 6.04 shall be available for creating an operating reserve, capital improvements to the recreation facility or prepayment of the bonds.

6.02 Debt service fund.

A. Creation of debt service fund. The issuer hereby creates and establishes its 2003 revenue bond account as an account in the fund (the debt service fund) as a separate and distinct bookkeeping account in the fund into which it will deposit gross revenues in an amount sufficient for payment of principal of and interest on the bonds.

B. Pledge of gross revenues.

In order to provide for payment of debt service on the bonds, the Issuer hereby irrevocably pledges and appropriates and will credit to the debt service fund as a first lien and charge on all gross revenues, at the times and amounts needed to pay debt service on the bonds when due on the installment payment dates. To fulfill the pledge in the prior sentence, pursuant to Laws of Minnesota 1980, Chapter 511, Subd. 3, as amended, the issuer hereby pledges and appropriates

tourism taxes in the amount of \$225,000 per year, commencing in calendar year 2004, to pay principal of and interest on the bonds. Such amounts appropriated from tourism taxes shall constitute a portion of the gross revenues of the recreation facility.

C. Sufficiency of gross revenues. The issuer represents and covenants that gross revenues are and shall be during the term of the bonds deposited in the debt service fund in an amount sufficient to pay when due the debt service thereon.

6.03 Spirit Mountain operating fund. In order to provide for payment of the operating expenses of the recreation facility, the Issuer shall transfer gross revenues to and deposit in the Spirit Mountain operating fund, created and maintained by the city treasurer pursuant to the Recreation Area Act, each month the amount needed for payment of the operating expenses for the project which are then due and owing.

6.04 Repair and replacement account. In order to provide for proper and adequate repairs and replacements to the facilities and equipment used in connection with the recreation area, the issuer shall transfer to and deposit in the repair and replacement account from gross revenues in the fund, \$75,000 on each November 15, December 15 and January 15, commencing on November 15, 2003. The monies in such account may be expended by the authority for such repairs and replacements to the recreation facilities in accordance with the terms and procedures set forth in the agreement.

6.05 Prepayment account. The proceeds of the bonds shall be credited to the prepayment account and shall be used to prepay the lease on the date of issuance of the bonds. In connection with such prepayment, the lease and the primary lease shall terminate.

6.06 Investments. Monies on deposit in the fund and the accounts therein may, at the discretion of the treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investments shall mature at such times and in such amounts as will permit for payment of the principal and interest on the bonds when due and the operating expenses. Investment earnings on monies in the fund and the accounts therein shall be credited to respective fund and accounts.

6.07 Limited obligation of the issuer.

A. Limitation. Debt service shall be payable solely from the gross revenues and any proceeds derived from the bonds which are not otherwise expended in redeeming and prepaying the Lease and interest accrued thereon and is not payable from or a charge upon any funds other than the gross revenues and proceeds pledged to the payment thereof, and the purchaser or other holder of the bonds shall never have the right to compel any exercise of the taxing power of the issuer to pay the bonds or the interest thereon, and the bonds does not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the issuer other than the gross revenues.

B. No parity debt. The obligation to apply gross revenues to the payment of debt service on the bonds and the pledge of gross revenues for such purpose shall at all times be prior and superior to any other obligation of the issuer to apply all or any part of gross revenues to the payment of debt service due on any other indebtedness of the issuer hereafter incurred in connection with the recreation facility and the pledge of such gross revenues; and provided, however, in no event shall the foregoing provision be deemed to excuse or limit in any respect the issuer's payment obligations set forth in the bonds.

Section 7. Covenants.

7.01 Operating covenants. The issuer covenants and agrees with the purchaser that so long as any amounts due on the bonds remain outstanding and unpaid, the issuer will keep and enforce the following covenants and agreements:

A. Continued ownership. Except as provided in clause C, the issuer (or the authority) will continue its ownership of the recreation facility and will not sell or dispose of its interest in all

or any portion thereof.

B. Fees, rentals and charges. The issuer hereby covenants that it will, to the extent authorized by law and the agreement, or will cause the authority to, establish, maintain, revise when necessary and collect charges for all services, use, and occupancy of the project in the amounts and at the times required to produce the revenues pledged, including but not limited to, to produce gross revenues in each fiscal year at least equal to the amount of the annual debt service on the bonds, and also sufficient, with any other funds appropriated by the city council from time to time, to provide adequately for the operation and maintenance of the project.

C. Financial statements; audit.

(1) The issuer and the authority shall keep proper books of record and amount in which full, true and correct entries shall be made of all dealings or transactions of or in relation to the business and affairs of the project, in accordance with generally accepted accounting principles consistently applied.

(2) The city auditor, under the direction of the director of finance, is required by the Recreation Area Act at least once each year to make or cause to be made a complete examination and audit of all books and accounts of the project at its expense. The issuer covenants that such audit will be made by the state auditor, or by an independent certified public accountant, and that a copy of the report of each such audit will be filed with the purchaser as soon as possible after the end of each fiscal year. Each report of audit shall be based upon an examination made in accordance with generally accepted auditing standards and shall include, in addition to any other matters thought appropriate by the auditor:

(i) a statement in detail of the income and expenditures of the project for the year, separating and identifying gross revenues, operating expenses and capital expenditures;

(ii) a balance sheet as of the end of the year;

(iii) the amount then on hand in the fund and separate accounts therein;

and

(iv) a statement of insurance then in effect with respect to any of the properties and operations of the project.

D. Collections. The authority is directed by the Recreation Area Act to appoint a person responsible for the custody and control of all monies received and collected from the operation of the project until delivered to and receipted for by the city treasurer, or deposited in a bank account under the control of the city treasurer; except that the authority may enter into a contract with any person for the management of all or part of the facilities of the project, and to delegate to such person the custody and control of monies necessary under such an arrangement. In the agreement, the authority has entered into such an arrangement with the issuer. Should a person other than the Issuer enter into such an arrangement and only if the Issuer has approved such an arrangement, the following shall apply: each such responsible person or manager shall be bonded with a qualified surety company in an amount not less than \$50,000, and not less than the amount which he may reasonably be expected to control at any time prior to the deposit thereof with or to the credit of the city treasurer, as determined by the authority in the exercise of reasonable discretion. In accordance with the Recreation Area Act each other officer or employee authorized to control funds at any time shall be similarly bonded in an amount not less than the amount so authorized. All such bonds shall be approved in form and substance by the city attorney. Premiums therefor shall be paid as an operating expense unless paid by a manager under contract. A list of all such persons and the amounts of and sureties on their bonds, certified by the representative of the authority, shall be filed with the Issuer and revised at least once annually.

E. Leases, sales and use contracts.

(1) Pursuant to the agreement, the issuer may lease, sell or contract in any

manner for the use of real and personal property within the recreation area, for any use consistent with the purposes of the recreation area act. The proceeds of any such sale and the rentals or other payments under any such lease or contract are part of the gross revenues pledged and assigned to the purchaser by this resolution.

(2) Personal property may be sold upon receipt of adequate consideration therefor, but the issuer covenants that:

(i) no property will be disposed of in violation of the terms of a grant of funds used to acquire it;

(ii) operating equipment and furnishings will not be disposed of if such disposition will cause a material adverse effect on the ability of the project to produce, in each fiscal year, gross revenues that are two times the annual debt service on the bonds; and

(iii) the net proceeds of any such property will be deposited in the fund.

(3) The issuer covenants that personal property now or hereafter situated on the recreation area will not be leased nor will any concession or other contract for the use thereof be granted, without express subordination of the interest of the lessee or other contracting party to the pledge of this resolution; and that every such lease, concession or contract shall require the lessee or other contracting party to pay all costs of operation and maintenance of the property to be used thereunder, and to pay rentals therefor on an absolute net basis, which rentals shall be deposited as received in the fund.

7.02 Payment of bonds. The issuer will promptly pay the principal of and interest on the bonds according to the true intent and meaning thereof, at the places, on the dates and in the manner provided herein and in the bonds and will pay interest (to the extent enforceable under applicable law) on any overdue installments of principal or interest at the same rate per annum as stated in the bonds, but solely from the gross revenues herein pledged and appropriated for such payments.

7.03 Execution of additional instruments. The issuer will, upon reasonable request by the purchaser, execute and deliver and secure the execution and delivery by the proper officers of the issuer of such instruments, and will do such further acts, as may be necessary or proper to carry out more effectually the purpose of this resolution.

7.04 Tax covenants. The issuer shall take all steps necessary to preserve the tax-exempt status of the bonds, including without limitation the taking of all such actions as are required and lawful to prevent the interest on the bonds from becoming taxable for federal income tax purposes to the owners thereof, all of which actions shall include, but are not limited to, the following:

(1) The issuer hereby covenants not to use the recreation facility or to cause or permit the recreation facility to be used by a non-governmental person, in such a manner as to cause the bonds to be a private activity bond within the meaning of Sections 103 and 141 through 150 of the Code.

(2) The issuer shall spend the gross proceeds of the bonds to pay the redemption price of the lease on the date of issuance of the bonds, and shall take other actions as may be necessary to exempt the gross proceeds of the bonds from the arbitrage rebate requirements of Section 148(f) of the Code.

(3) 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 (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the bonds were issued, and (2) 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 issuer 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.

(4) The proceeds of the bonds and money in the debt service fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the Code.

7.05 Operation and maintenance.

(1) The issuer hereby covenants that it:

(i) will or will cause the authority to maintain and operate the project as a public ski area so long as any of the bonds are outstanding;

(ii) will continuously furnish and equip the project so that it shall at all times be an operational complex of facilities suitable as a public ski area;

(iii) will at all times maintain, preserve and keep the project and every part thereof in good condition, repair and working order;

(iv) will from time to time make all needful and proper repairs, replacements, additions, betterment and improvements so that its operations and business may at all times be conducted properly and advantageously;

(v) will do all things possible to encourage the use and improve and maintain the character of the recreational opportunities available so as to fulfill the purpose and policy of the act;

(vi) whenever any facility in the recreation area is worn out or destroyed or becomes obsolete, inefficient or otherwise unfit for use, will procure and install a substitute of at least equal utility and efficiency, so that the efficiency of the project will at all times be fully maintained;

(vii) will provide in its budget each year for any anticipated deficiency in the gross revenues available for the operation and maintenance of the project;

(viii) will pay for the costs of operation and maintenance of the project which are not otherwise paid from gross revenues, provided however the city shall not be required to fund such deficiency in any year beyond the amount budgeted in accordance with paragraph (vii) above for such year and monies so appropriated are limited as provided in Section 10 of the Recreation Area Act; and

(ix) will not mortgage or otherwise encumber the project, the recreation area or any part thereof, except as provided herein and in the agreement.

7.06 Insurance.

(1) Liability insurance. The issuer shall take such measures as may be necessary to ensure that any liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or the operation of the recreation facility or any part thereof, is covered (i) by a blanket or other general liability insurance policy maintained by issuer (or the authority) or (ii) through the issuer's self insurance program, with a limit of not less than the maximum limits of liability of the issuer and the authority prescribed in Minnesota Statutes, Chapter 466, as now in effect or hereafter amended.

(2) Property insurance. The authority, pursuant to the agreement, shall procure and maintain continuously in effect during the period that the bonds are outstanding all-risk insurance, subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient either: (a) so that a claim may be made for the full replacement cost of any part thereof

damaged or destroyed or (b) to pay the outstanding principal amount of the bonds. Such insurance may be provided by a rider to an existing policy or under a separate policy. Such insurance may be written with customary deductible amounts. The net proceeds of insurance required by this section shall be applied either (i) to the prompt repair, restoration or replacement of the recreation facility or (ii) to the prepayment and redemption of the bonds.

(3) Worker's compensation insurance. If required by state law, issuer shall cause the authority to carry worker's compensation insurance covering all employees of the authority.

(4) Requirements for all insurance. All insurance policies (or riders) required by this section shall be taken out and maintained within responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the state of Minnesota, and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the certificate holders at least 10 days before the cancellation or revision becomes effective. All insurance policies or riders required by clause (1) and (2) shall name the Issuer and authority as insured parties.

7.07 Restoration upon damage and condemnation. If while any bonds remain outstanding all or any part of the project is taken by eminent domain or destroyed or damaged, unless the issuer exercises its option to call the outstanding bonds for redemption, pursuant to Section 3.02C hereof, the issuer shall proceed promptly to replace, repair, and rebuild the project and restore it as nearly as practicable to the same condition as existed before the taking or the event causing the damage or destruction, with such changes, alterations and modifications (including substitution or addition of other property) as may be desired by the Issuer and will be suitable for continued operation of the project, and the Issuer will pay all costs thereof and shall be entitled to reimbursement from the net proceeds of the condemnation award or insurance claim;

Section 8. Certificate of proceedings.

8.01 Filing with county auditor. The clerk of the Issuer is directed to file in the offices 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 a certificate stating that the bonds as a bond of the issuer has been duly entered on his bond register.

Section 9. Miscellaneous.

9.01 Proceedings. The officers of the Issuer are authorized and directed to prepare and furnish to the purchaser, and to bond counsel, certified copies of all proceedings and records of the issuer 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 Issuer as to the correctness of the facts recited therein and the action stated therein to have been taken.

9.02 Absent or disabled officers. In the event of the absence or disability of the mayor or the clerk, such officers of the issuer as, in the opinion of the issuer's attorney, may act in their behalf, shall without further act or authorization, execute and deliver the bonds, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

9.03 Implied authority. The approvals given to the various documents referred to in this resolution include approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by counsel to the Issuer and the Issuer officials authorized herein to execute said documents prior to their execution; and said Issuer officials are hereby authorized to approve said changes on behalf of the issuer. The execution of any instrument by the appropriate officer or officers of the Issuer herein authorized shall be conclusive evidence of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

approval of such documents in accordance with the terms hereof.

9.04 Additional authority of officers. The officers, attorneys, engineers and other agents or employees of the Issuer are hereby authorized to do all acts and things required of them by or in connection with this resolution for the full, punctual and complete performance of all the terms, covenants and agreements contained in the bonds and this resolution.

Resolution 03-0203 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Hogg, Ness Stauber, Stover and President Stenberg --1

Nays: Councilor Stewart --1

Absent: Councilor Bergson --1

Approved March 20, 2003

GARY L. DOTY, Mayor

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The meeting was adjourned at 7:05 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 24, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the city council meetings held on January 27 and February 10 and 20, 2003, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0324-01 James Brown, et al. (three signatures), submitting petition to vacate the portion of 129th Avenue West easement between Sixth Street and Fourth Street. -- Assessor

03-0324-03 Michelle D. Hayko, et al. (seven signatures), submitting petition to construct a sanitary sewer along Decker Road. -- Assessor

03-0324-02 Members Cooperative Credit Union submitting petition to vacate the unused alley located southwest of 40th Avenue West near Grand Avenue. -- Assessor

03-0324-04 Software Diversified Services submitting petition to vacate an easement at 4210 Minnesota Avenue. -- Assessor

03-0324-12 Karen Anderson submitting communication regarding city funding for the Depot (03-0147R). -- Received

03-0324-13 Heather Odden submitting communication regarding the proposed issuance of a special use permit to Mill Hill 47 Limited Partnership for a low-density planned development on property located at 1516-1710 Sundby Road (03-0213R and 03-0214R). -- Received

03-0324-14 Harold P. Otter submitting communication regarding additional funding for the Great Lakes Aquarium (03-0189R). -- Received

03-0324-16 The following submitting communications regarding the proposed amendment to regulations regarding smoking in public places (03-013-O): (a) Nancy and Dwight Gruetzmacher; (b) Rod Lubiani; (c) Ken Nebel; (d) Bilin P. Tsai. -- Received

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REPORTS OF OFFICERS

03-0324-05 Assessor submitting:

(a) Affidavit of mailing of notice of an informational hearings to be held on April 2, 2003, at 5:00 p.m. in the City Council Chamber; and by the city council on April 14, 2003, at 7:30 p.m. in the City Council Chamber, regarding the ordering and levying of assessments against real estate specially benefitted by the 2004 street improvement program including Cody Street and the neighborhoods of Duluth Heights, East Hillside, Lakeside and Woodland. -- Clerk

(b) Letters of sufficiency of petitions for the construction of:

(1) Eight inch ductile iron watermain in McCulloch Street from Superior Street to 48th Avenue East Alley;

(2) Sanitary sewer along Decker Road;

(3) Sanitary sewer (280 lineal feet) within 91st Avenue West beginning at the intersection of Clyde Avenue and extending southerly. -- Received

03-0324-06 Clerk submitting applications to Minnesota gambling control board for exemptions from lawful gambling licenses from:

(a) Holy Family Catholic Church on September 6, 2003 (raffle);

(b) Lake Superior Marine Museum Association on November 8, 2003 (raffle);

(c) Order of AHEPA, Duluth Chapter No. 267, on April 6 and November 23, 2003

(bingo);

(d) St. Luke's Foundation on July 7, 2003 (raffle). -- Received
03-0324-07 Engineering division submitting monthly project status report of March 1, 2003. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0324-08 Commission on disabilities minutes of: (a) January 8, (b) February 5, 2003, meetings. -- Received

03-0324-09 Duluth/North Shore Sanitary District board minutes of March 11, 2003, meeting. -- Received

03-0324-17 Housing and redevelopment authority minutes of: (a) January 28 (annual); (b) January 28 (regular), 2003, meetings. -- Received

03-0324-10 Human rights commission minutes of February 12, 2003, meeting. -- Received

03-0324-11 Special assessment board minutes of: (a) October 8; (b) November 12; (c) December 10, 2002; (d) January 14; (e) February 11, 2003, minutes. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Steve Townsend voiced concern that the tourism tax fund is being used for any purpose that the city sees fit, even if it does not seem to fit the purpose of the tourism tax.

- - -

Rick Nelson, Joel Sipress, Elizabeth Stich, Sharla Gardner, Sienna Effinger, Van Presley, Penny Cragun, Katherine Hart, Bob Kosuth, Cole Maki, Rodger Cragun and Andrew Olson urged the council to place a resolution on the agenda in support of peace and stopping the war in Iraq for the following reasons: this would give the citizens of Duluth a forum to discuss the issue; there is support in the community for peace instead of war; war is wrong; the cost of the war affects all Duluthians; illegitimate war is an act of aggression; we need to reclaim democracy; for Duluthians, the council is the closest link to the federal government; the way to support the troops is to bring them home and the troops are being exposed to bad things, including uranium.

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Peter Martin reviewed that homeland security is causing a budget shortage for the state and the city and the Great Lakes Aquarium is a drain on the city budget.

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KL Lewis congratulated the University of Minnesota - Duluth women Bulldogs for winning the Final Frozen Four and stated that the administration should review the need for liquor licenses for Duluth.

- - -

Peggy Marrin voiced concern that legislation for the McQuade Road safe harbor has been introduced at the legislature and urged the council to send a resolution to the legislature to have Duluth's reference taken off the bill.

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RECONSIDERED RESOLUTION

President Stenberg moved to reconsider Resolution 03-0148, issuing a C-5 plan approval to Kohl's Department Store for expansion of the property located at 2115 Miller Trunk Highway, which motion was seconded and unanimously carried.

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

John Hinzmann, architect for the project, stated he will bring the concerns of the council to Kohl's as they want to be a good neighbor to the neighborhood.

Resolution 03-0148 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Kohl's Department Store has submitted to the city council a request for C-5 plan approval, in accordance with Section 50-140(a) of the Duluth City Code, for an addition of 12,200 square feet of floor space on property described as Lot 1, Block 1, Miller Creek Division, located at 2115 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 Kohl's Department Store for the addition of 12,200 square feet of floor space to the Kohl's Department Store located at 2115 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. 03-0324-18.

Resolution 03-0148 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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RESOLUTION TABLED

President Stenberg moved to remove Resolution 03-0156, authorizing an amendment to city contract No. 18994 with Soft Center Duluth, extending the term thereof and increasing compensation payable by \$30,000, from the table, which motion was seconded and unanimously carried.

Resolution 03-0156 was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are authorized to enter into an amendment, on file in the office of the city clerk as Public Document No. 03-024-19 to City Contract No. 18944 with Soft Center Duluth extending the term of their contract through December 31, 2003, and increasing the amount payable thereunder by \$30,000, payable from Fund 0255.

Resolution 03-0156 was unanimously adopted.

Approved March 24, 2003

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 ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute a professional services agreement between the city of Duluth and Carin K. Skoog for energy management and environmental coordination services; said agreement filed as Public Document No. 03-0324-20, for a consideration of \$33,750 payable from the Energy Management Special Projects Fund 0210-030-2107-5310.

Resolution 03-0183 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals with any specific restrictions:

Hermantown Volunteer Fire Department, 4015 Airpark Boulevard, for April 26, 2003, with Tim Anderson, manager.

College of St. Scholastica, 1200 Kenwood Avenue, for April 25, 2003, with Dan Sepion, manager.

Resolution 03-0190 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

Marshall School, 1215 Rice Lake Road, for May 2, 2003, with Marlene David, manager.

Resolution 03-0191 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale nonintoxicating malt liquor license and on sale wine license for the period ending April 30, 2003, and August 31, 2003, respectively, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

At Sara's Table Chester Creek Café, LLC (At Sara's Table Chester Creek Café), 1902 East Eight Street, transferred from Carla Blumberg (Chester Creek Café), same address.

Resolution 03-0192 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the liquor control commissioner issuing the following bottle club license renewal for the 2003-2004 license period, subject to departmental approvals and the payment of sales and property taxes: Order of Owls, Nest #1200, 118 East Second Street.

Resolution 03-0194 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

WHEREAS, a copy of said application was also filed with the city of Duluth as required by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Minnesota Statutes 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth alcohol, gambling and tobacco commission; and WHEREAS, the city council approves of the issuance of said license.

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

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

Licensee	Gambling site	Date application filed
Owls Club	118 East Second Street	February 19, 2003

Resolution 03-0195 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the Ruffed Grouse Society and "B" Company, Fourth Infantry Battalion, 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 Ruffed Grouse Society and "B" Company, Fourth Infantry Battalion, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 03-0196 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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, 2003, and ending April 30, 2004, subject to departmental approvals:

RWM Baseball, Inc. (Duluth Huskies Baseball Club), Wade Stadium, with Craig Smith, manager.

Resolution 03-0197 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to enter into Supplemental Agreement No. 1 (Public Document No. 03-0324-21) to Department of the Army Easement No. DACW35-2-91-3001 with the United States of America relating to the north pier walkway in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Canal Park, at no charge to the city.

Resolution 03-0199 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Xerox Corporation be and hereby is awarded a contract for furnishing copier rental/maintenance during year 2003 for the various departments/divisions in accordance with specifications on its low specification bid of \$45,039.36, terms net, FOB destination, payable out of various funds, various departments/agencies, various organizations, various objects.

Resolution 03-0206 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar equipment for the fleet services division in accordance with specifications on its low specification bid of \$30,000, terms net 30, FOB destination, \$25,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5404.

Resolution 03-0207 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Isobel Rapaich to the sister city commission by Mayor Doty for a term expiring on March 30, 2006, is confirmed.

FURTHER RESOLVED, that the following appointments to the sister city commission by Mayor Doty are confirmed:

Kelly Ravenfeather, replacing Marvin Heikkinen, who resigned, for a term expiring on March 30, 2005.

Susan Stenerson, replacing Melissa Kadlec, who resigned, for a term expiring on March 30, 2004.

Resolution 03-0198 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alleyway between Woodlawn and Lester streets and between Skyline Parkway and 49th Avenue East, legally described as the alley adjoining Blocks 154 and 155, Crosley Park Addition, excepting that portion for Skyline Parkway; and

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

WHEREAS, the city planning commission unanimously approved the street vacation

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

petition at its March 11, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alleyway between Woodlawn and Lester streets and between Skyline Parkway and 49th Avenue East described above and as more particularly described on Public Document No. 03-0324-22.

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

Resolution 03-0201 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley between 12th and 13th streets West and 25th and 26th avenues West, legally described as the alley within Block 7, Merchants Park Division; and

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

WHEREAS, the city planning commission approved unanimously the alley vacation petition at its March 11, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of alley described above and as more particularly described on Public Document No. 03-0324-23.

RESOLVED FURTHER, that the vacated alleyway described above be retained as a utility easement.

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

Resolution 03-0202 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the certain second amendment to agreement between the Duluth economic development authority (DEDA) and J&S Properties, L.L.C., approved by the DEDA board of commissioners at its meeting of March 18, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0324-24, is hereby approved.

Resolution 03-0220 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, acceptance of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

property from the city of Duluth by the Duluth economic development authority (DEDA) relating to the Riverside residential development as approved by the DEDA board of commissioners at its meeting of March 18, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0324-25, is hereby approved.

Resolution 03-0221 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the subordination by the Duluth economic development authority (DEDA) of the historic preservation loan for Hacienda Del Sol to NSBC/SBA loan as approved by the DEDA board of commissioners at its meeting of March 18, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0324-26, is hereby approved.

Resolution 03-0222 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 03-0324-27, with the Minnesota department of economic security to provide services under Title I of the Workforce Investment Act, the Minnesota youth program and the older American program as defined in the local workforce investment plan. The contract begins April 1, 2003, and ends March 31, 2006. Program funds will be accepted upon receipt of notices of funds available and shall be deposited in Fund 0268 for Title I Workforce Investment Act and Minnesota youth program funds and in Fund 0271 for older American program funds.

Resolution 03-0180 was unanimously adopted.

Approved March 24, 2003

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 a contract in substantially the same form and containing the terms of that contract on file with the city clerk as Public Document No. 03-0324-28, with St. Louis County for the use of the county jail to house prisoners of the city of Duluth, for a cost of \$40,000 per year, payable from General Fund 0100, Agency 200, Organization 1610, Object 5445.

Resolution 03-0217 was unanimously adopted.

Approved March 24, 2003

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 state of Minnesota which authorizes the city of Duluth to participate in federal transportation funding by designating, pursuant to Minnesota Statutes Section 161.36, the commissioner of transportation as its agent for accepting federal aid funds, subject to the terms

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

of said agreement; said agreement filed as Public Document No. 03-0324-29.

Resolution 03-0219 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Progressive Consulting Engineers, Inc., for professional services relating to the development of a water rate model for the Stora Enso paper mill in Duluth, which agreement is on file in the office of the city clerk as Public Document No. 03-0324-30, for a consideration of \$6,050, payable from the Public Utility Fund 0510, Agency 500, Organization 1915, Object 5310.

Resolution 03-0184 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 280 feet of sanitary sewer in 91st Avenue West beginning at the intersection of Clyde Avenue and extending southerly.

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

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

Resolution 03-0185 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 03-0138 the council did request the administration to prepare plans and specifications for the construction of 150 feet of sanitary sewer in Morgan Street beginning at the intersection of Joshua Avenue and extending westerly (City Job No. 0304SN) at an estimated cost of \$20,250; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$20,250, payable from Special Assessment Fund 0410, Agency 038, Organization 5367, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board; 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 03-0200 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hiller Brothers Construction be and hereby is awarded a contract for painting 25 traffic control signal systems throughout the city of Duluth for the engineering division in accordance with specifications on its low specification bid of \$140,000, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2228, Object 5400; to be reimbursed by M.S.A. (municipal state aid).

Resolution 03-0204 was unanimously adopted.

Approved April 28, 2003

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 Kent Road between Chester Park Drive to 19th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$99,782.96, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2188, Object 5530; to be reimbursed by municipal state aid (M.S.A.).

Resolution 03-0205 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement between the city of Duluth and Independent School District No. 709, said agreement on file as Public Document No. 03-0324-31, for the construction of a ten foot wide by 440 foot long bus turnout to be constructed in 44th Avenue West between Fourth Street and Sixth Street as a part of the 2003 street improvement program.

Resolution 03-0209 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Mueller Pipeliners, Inc., be and hereby is awarded a contract for construction of eight inch steel high pressure gas main and related work in Martin Road from Arnold Road to Jean Duluth Road, Jean Duluth Road from Martin Road to Old Howard Mill Road, Old Howard Mill Road from Jean Duluth Road to Glenwood Street and Glenwood Street from Old Howard Mill Road to South Ridge Road for the utility operations division in accordance with specifications on its low specification bid of \$777,645, terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Department/Agency 500, Object 5532.

Resolution 03-0211 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to purchase an ALTA Title Insurance Policy from the First American Title Insurance Company insuring title to property purchased from the Union Pacific Railroad that is referred to in Resolution No. 03-0103 for \$2,000, payable from Fund 0522, Agency 500, Object 5310.

Resolution 03-0218 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established: both sides of Irving Place from Kent Road to Clover Street.

Resolution 03-0182 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established on the following streets:

south side of Greysolon Road between 17th Avenue East and 18th Avenue East;

east side of 17th Avenue East between Jefferson Street and Superior Street;

both sides of Carver Avenue between Maryland Street and Arrowhead Road;

no parking during school hours - on the east side of Hawthorne Road between

Superior Street and Greysolon Place.

Resolution 03-0187 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0193, by Councilor Atkins, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license from Lincoln Park Western Corporation (Western Tavern), 2801 West Superior Street, to Cliff Lanthier as receiver for Lincoln Park Western Corporation (Western Tavern), same address, was introduced for discussion.

Councilor Gilbert stated that he will abstain from voting on the resolution.

Resolution 03-0193 was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2003, subject to departmental approvals and the payment of sales and property taxes:

Cliff Lanthier as receiver for Lincoln Park Western Corporation (Western Tavern),

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

2801 West Superior Street, transferred from Lincoln Park Western Corporation (Western Tavern), same address.

Resolution 03-0193 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0189, by President Stenberg, approving DEDA's payment in the amount of \$148,900.81 to Lake Superior Center authority as approved by DEDA Resolution 03D-11, was introduced for discussion.

Councilor Gilbert reviewed that this payment is for cost overruns that are two years old and although the Duluth economic development authority (DEDA) has an obligation to pay those costs, there has been a deviation from the construction and disbursement policy which is not sound fiscal policy for DEDA. He continued saying what should happen is that the city, DEDA, Great Lakes authority and council should meet together to structure a plan for those cost overruns instead of approving the payments in this manner. Councilor Gilbert continued saying the city needs to be very diligent to get the maximum efficiency for the city's dollars for the benefit of the public.

Responding to Councilor Atkins, Administrative Assistant Winson said that if the funds do not come from DEDA to reimburse the aquarium, the money will ultimately come from the city from either the general fund or tourism fund.

Councilor Gilbert moved to table the resolution until a meeting with the Great Lakes authority board can be held, which motion passed upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Ness, Stewart and Stover -- 6

Nays: Councilors Hogg, Stauber and President Stenberg -- 3

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Resolutions 03-0213 and 03-0214, by President Stenberg, granting and denying, respectively, conditional approval of a special use permit request by James and Linda Kaiser and Miller Hill 47 Limited Partnership for a low-density, planned development on property located at 1516-1710 Sundby Road, were introduced for discussion.

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

David Sorenson stated that while the proposal is good and will fill a need in the city, there are several issues that have not been resolved that could affect the neighborhood and urged the council not to approve this project at this point.

Frank Jewell, chair of the Duluth housing commission, stated that the commission is in support of this project because of the great need for housing in Duluth. He continued saying that the neighborhood input, which is against this project because it is a low income housing project, should not be a reason to vote against the project as 37,000 people in Duluth would qualify to live in this housing development. He urged the council to support this project and allow the developer to work on the criteria as required by the planning commission and come back to the council for a status of the project.

Councilor Gilbert voiced concerns that the developer, who will make money on this project, is proposing creation of a tax increment financing district to use tax increment financing and tax credits to finance this project instead of using his own money and questioned whether an out of town management company will have sufficient control of the residents who will reside in this housing project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Stan Kaiffors noted the crisis state of low income housing in Duluth and urged the council to support this project.

Ken Zwak reviewed that this special use permit has conditions that must be met before the permit is issued.

Mike Saxton, representing Miller Hill Suites, reviewed that in order to proceed with this project, a special use permit is required because the city does not have a planned unit development ordinance, and he believes that all the criteria required in the ordinance have been met. He continued saying that property values of surrounding households will not go down because of this development; that this development will not radically change the character of the community because of the commercial and residential properties surrounding it; that economic development will be stimulated by new water and sewer services that will be constructed and paid for by the project; and that his firm has retained companies for the preservation of significant natural features. Mr. Saxton went on by saying that the project includes only 62 units, rather than the 89 that would be allowed under the current zoning, and that a financing plan has been established and housing revenue bonds sold in support of the project with the developer's contribution of \$1.67 million which includes the tax credits.

Responding to Councilor Gilbert, Mr. Saxton replied that if this special use permit is not issued now, sale of the \$3.6 million housing revenue bonds, which were approved by DEDA and are scheduled to be sold by May 14, cannot take place and will result in the loss of revenue bond financing and the tax credits. He continued that if financing is lost, the project cannot proceed without coming to the city asking for \$5 million.

Councilors Hogg and Bergson stated that while they support the project and are aware the council has made housing a priority, they cannot support this project because the planning commission report has recommended denial of the project due to the inadequate detail in the application and stated there is a need to see the developer demonstrate his commitment to completing these details.

Councilor Ness voiced concern that developers spend thousands of dollars developing a project and then come to the council only to have the project be rejected, which results in the developer going away again; proving that it is impossible to do business in Duluth.

Responding to council questions, City Attorney Brown stated that the standard for addressing the criteria is there must be an adequate showing supplied by the applicant addressing the criteria, that the council must be satisfied that they have had a showing on the issues that are a part of the criteria and that the showing is satisfactory to the council.

Councilor Ness expressed concern regarding the density of the project when the nature of the area is presently a low density neighborhood and deserves more attention.

Councilor Hogg moved to remove Resolution 03-0213 from the agenda, which motion was seconded and unanimously carried.

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Resolution 03-0214 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, James and Linda Kaiser and Miller Hill 47 Limited Partnership have submitted to the city council a request for a special use permit for a low-density planned development on property described as:

Duluth lands in the city: Sec. 18, T50, R14;

(a) Beginning at the southwest corner of the E $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$, running thence north 208 feet thence east 420 feet then south 208 feet thence west 420 feet to the point of beginning and excepting that part lying west of Sundby Road;

(b) The west 154 feet of North 452 feet of SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$; and

(c) That part of NE ¼, NE¼, SW¼, lying east of the county road, except one acre on the south side, and located at 1516-1710 Sundby Road; said permit is a low-density planned development, consisting of 62 units with one community room in eight buildings, and one single family home on a combined 11.5 acre parcel, providing for "Section 42" low and moderate income housing for senior citizens; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its recommendation of denial to the city council; and

WHEREAS, the city planning commission's findings that the application is lacking adequate detail, of the following documents as required by: Sec. 50-1.60, Site plan; Section 50-36.1, Compatibility with the massing, use and scale of buildings within established neighborhoods; Section 50-36.3(c), Useable open space; and (d) Natural features, to allow the evaluation of the land planning, building design and other aspects of the development.

NOW, THEREFORE, BE IT RESOLVED, that based on the above cited findings, the special use permit request is hereby denied.

Resolution 03-0214 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stauber and Stover -- 5

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

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a two inch watermain in McCulloch Street from Superior Street to 48th Avenue East.

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

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

Resolution 03-0210 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a four inch force main sanitary sewer along Decker Road beginning at a point at the existing sanitary manhole in Anderson Road and Decker Road to a point approximately 800 feet northerly along Decker Road.

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

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

Resolution 03-0212 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 03-0210 the council did request the administration to prepare plans and specifications for the construction of a two inch water main in McCulloch Street from Superior Street to 48th Avenue East (City job No. 0057WA) at an estimated cost of \$29,000; and

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

NOW, THEREFORE, BE IT RESOLVED, that said extension as described above be constructed; that the estimated total cost of said improvement as estimated by the city engineer is \$29,000, payable from Special Assessment Fund 0410, Agency 038, Organization 5368, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0215 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

WHEREAS, on October 25, 2002, the city building official issued an order condemning for demolition the premises located at 117 Park Avenue; and

WHEREAS, on November 6, 2002, the owner of said property, James McCauley, appealed the building official's order to the building appeal board on the basis that the structure could be repaired to bring it into compliance with applicable codes and requested a stay in the implementation of the building official's demolition order to do so; and

WHEREAS, at its meeting of February 12, 2003, the building appeal board denied Mr. McCauley's appeal; and

WHEREAS, James McCauley has appealed to the city council and the city council has considered this appeal and Mr. McCauley has presented appropriate evidence that he has the means to correct such fire damage; and

WHEREAS, the city council has inquired and requested a report on whether the order was proper and legally enforceable and received the report that it is not;

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that the building official's order condemning the premises for demolition is void and of no consequence and the building appeal board's decision of February 12, 2003, is hereby reversed.

Resolution 03-0176 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth

City Code, 1959, as amended, the following no parking zone is hereby rescinded: the south side of Greysolon Place between Hawthorne Road and Congdon Park Drive.

Resolution 03-0186 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0208, by Councilor Stauber, authorizing an agreement with the Duluth state convention center administrative board for the production of the fourth of July festival celebration at Bayfront Festival Park for a consideration of \$25,000, was introduced for discussion.

Mr. Winson requested that the council return the resolution to the administration.

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

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STEWART

03-013 - AN ORDINANCE AMENDING THE REGULATIONS PERTAINING TO SMOKING IN BARS/RESTAURANTS; AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

Councilor Stewart moved to withdraw the ordinance from the agenda, which motion was seconded and unanimously carried.

The following entitled ordinances were read for the first time:

BY PRESIDENT STENBERG

03-016 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED AT 2401 LONDON ROAD IN THE ENDION NEIGHBORHOOD (SCOTT NELSON/DUNN BROTHERS COFFEE SHOP).

- - -

BY PRESIDENT STENBERG

03-017 - AN ORDINANCE TO RENAME LOVERS LANE AS HOVLAND LANE (HOVLAND).

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

KL Lewis questioned if there will be any other Lover's Lanes designated in Duluth.

- - -

BY COUNCILOR STOVER

03-018 - AN ORDINANCE AUTHORIZING CONDITIONAL CONVEYANCE OF THE OLD ARMORY BUILDING TO THE ARMORY ARTS AND MUSIC CENTER AT NO COST.

- - -

BY COUNCILOR STOVER

03-019 - AN ORDINANCE AUTHORIZING SALE OF 59TH AVENUE WEST TOOL HOUSE TO CENTAUR, L.L.C., FOR \$162,500.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT STENBERG

03-014 (9594) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 14, 15, 17 AND 18 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-2, COMMERCIAL; R-2, TWO-FAMILY RESIDENTIAL; AND R-3 AND R-4, APARTMENT RESIDENTIAL, TO TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT NO. 1, PROPERTY BOUNDED ON THE NORTH BY THE BURLINGTON NORTHERN AND SANTA FE RAILROAD (BNSF); ON THE EAST BY MENARD'S, 50TH AVENUE WEST AND COLALILLO DRIVE; ON THE SOUTH BY BRISTOL STREET; AND ON THE WEST BY 54TH ALLEY WEST (SPIRIT VALLEY CITIZENS NEIGHBORHOOD DEVELOPMENT ASSOCIATION, INC. (SVCNDA)).

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

- - -

BY COUNCILORS BERGSON AND STOVER

03-015 - AN ORDINANCE PROHIBITING THE OPERATION OF UNMANNED RAILROAD LOCOMOTIVES IN THE CITY OF DULUTH; ADDING A NEW SECTION 42-10 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

KL Lewis expressed concern that this ordinance is not clear in what exactly it prohibits.

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

- - -

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

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

- - -

ORDINANCE NO. 9594

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 14, 15, 17 AND 18 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-2, COMMERCIAL; R-2, TWO-FAMILY RESIDENTIAL; AND R-3 AND R-4, APARTMENT RESIDENTIAL, TO TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT NO. 1, PROPERTY BOUNDED ON THE NORTH BY THE BURLINGTON NORTHERN AND SANTA FE RAILROAD (BNSF); ON THE EAST BY MENARD'S, 50TH AVENUE WEST AND COLALILLO DRIVE; ON THE SOUTH BY BRISTOL STREET; AND ON THE WEST BY 54TH ALLEY WEST (SPIRIT VALLEY CITIZENS NEIGHBORHOOD DEVELOPMENT ASSOCIATION, INC. (SVCNDA)).

The city of Duluth does ordain:

Section 1. That Plate Nos. 14, 15, 17 and 18 of the zoning district map as contained in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

the Appendix to Chapter 50 of the Duluth City Code, 1959, are amended to read as follows:

[MAPS]

(see pages at end of meeting)

Section 2. That development within the boundaries of TND No. 1 shall be governed by and regulated in accordance with Public Document No. 03-0324-15 entitled, "Ramsey Village Neighborhood Documents of Implementation."

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 4, 2003)

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

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

Nays: None -- 0

Passed March 24, 2003

Approved March 24, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, March 31, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Gilbert, Stewart, Stover and President Stenberg -- 6

Absent: Councilors Hogg, Ness and Stauber -- 3

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0331-02 The following submitting communications regarding additional funding for the Great Lakes Aquarium (03-0189R): (a) Peter Clark; (b) Harry P. Otter. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 03-0189, by President Stenberg, approving DEDA's payment in the amount of \$148,900.81 to Lake Superior Center authority as approved by DEDA Resolution 03D-11, was introduced for discussion.

- - -

At this time, 7:05 p.m., Councilor Stauber took his seat.

- - -

Mayor Doty urged the council to support this resolution as there are negotiations going on between Minnesota Aquarium and the aquarium board for Minnesota Aquarium to manage the aquarium with an anticipated takeover by May 1. He continued to say that not having the money in place has stalled negotiations with Minnesota Aquarium as they are concerned there is not money available for the aquarium to pay their obligations. Mayor Doty went on by saying that if negotiations stop and the city is left without a management company, the city would have to take over the operation of the facility which would not work well because the city does not know how to operate an aquarium. He also stated that it is not an option to close the aquarium as the city would then owe over \$7 million in bonds plus obligations to the state of Minnesota. Mayor Doty added that although the aquarium has had problems, it is a great educational facility and an attraction for people who come from out of town, and by approving this money, it will keep the aquarium intact.

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

Todd Torvinen, chair of the aquarium board, stated that negotiations with Minnesota Aquarium have been going on for them to manage the day-to-day operations for the 501c3 aquarium board who has a contract with the Lake Superior Center authority to run the affairs of the aquarium. He continued by saying that the aquarium should have enough money for the first month's payrolls and some operating expenses, so there is some working capital for Minnesota Aquarium until they reach the break even point in mid-May when the revenues will exceed the expenses. Mr. Torvinen stated that this money will pay some existing construction bills that are still outstanding from the initial construction and provide working capital to make the payrolls and the first payroll when Minnesota Aquarium takes over. He reviewed that this management agreement is very tough to create as there are state legislative acts that need to be incorporated into it, Duluth economic development authority (DEDA) and city agreements that also need to be incorporated, a management agreement between the authority and the 501c3 aquarium board, and the biggest hurdle is to incorporate safe harbor revenue rulings that allow \$22 million in bonds that are outstanding to maintain their tax exempt status. Mr. Torvinen went on by saying that this agreement needs state approval by the bond counsel of the commissioner of finance's office and the attorney general.

To questioning from Councilor Bergson, Mr. Torvinen replied that there are outstanding

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

private pledges in the amount of approximately \$700,000 that should be collected over the next three to four years. He continued by saying that approximately \$55,000 would be considered to be delinquent and that the pledgers are waiting to see what direction the aquarium is going to go in. Mr. Torvinen went on to say that the board believes that once the management agreement is resolved, they can go back to the pledgers and tell them the board is living up to the original mission of the aquarium and their pledge is still needed.

- - -

At this time, 7:20 p.m., Councilor Ness took his seat.

- - -

John Driscoll stated that the aquarium has been able to take advantage of several events going on in Duluth which has helped the weekend attendance, and there has also been over \$100,000 of "in kind" advertising over the last couple months which has helped publicize the facility.

Councilor Gilbert expressed his appreciation to the mayor, Mr. Torvinen and Mr. Driscoll for their hard work as he wants to see the aquarium succeed, but voiced concern that the city is spending taxpayers' money to allow the aquarium to go ahead with a management agreement that has not been finalized. He continued by saying that until an agreement is finalized and details are available to the public, the council needs to hold the line and look out for the taxpayer's interest.

Councilor Stewart reviewed that this resolution would fulfill the legal obligation of DEDA because of the 1999 agreement which states they are responsible for all project costs needed to complete construction in excess of the those amounts previously budgeted in the project financing plan.

Resolution 03-0189 was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) payment in the amount of \$148,900.81 to Lake Superior Center Aquarium approved by the DEDA board at its meeting of March 10, 2003, pursuant to DEDA Resolution No. 03D-13, a copy of which is on file in the office of the city clerk as Public Document No. 03-0331-01, is hereby approved.

Resolution 03-0189 was adopted upon the following vote:

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

Nays: Councilor Gilbert -- 1

Absent: Councilor Hogg -- 1

Approved March 31, 2003

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:35 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 14, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Stover -- 1

- - -

The minutes of the city council meetings held on February 24 and March 3, 2003, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0414-22 Mary Streufert submitting communication regarding the distribution of 100 percent of the present allocation of 2003 tourism taxes to the Depot if certain conditions are met (03-0147R). -- Received

03-0414-23 The following submitting communications regarding the ordering of the improvement known as the 2004 street improvement program (03-0241R): (a) John and Sarah Brandt; (b) Travis Hall; (c) Nancy Nelson; (d) Kelly Rajewsky; (e) Maggie Scheibe; (f) Dale Vig; (g) Chris von Rabenau. -- Received

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REPORTS OF OFFICERS

03-0414-01 Assessor submitting:

(a) Affidavit of mailing of notice of a public hearing by the special assessment board regarding the proposed improvement of a sanitary sewer for 91st Avenue West beginning at the intersection of Clyde Avenue and extending southerly on April 8, 2003, at 4:00 p.m. in Room 106A, first floor, City Hall (estimated cost - \$26,950; assessable amount - \$13,475). -- Clerk

(b) Letters of sufficiency to vacate:

(1) Portion of 129th Avenue West easement that falls between Fourth and Sixth Streets;

(2) Portion of the unused alley located southwest of 40th Avenue West near Grand Avenue;

(3) Utility easement currently running between Lots 17, 18, 46 and 47, Block 3, Oatka Beach Addition. -- Received

03-0414-02 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from Regents of the University of Minnesota on July 21, 2003 (raffle). -- Received

03-0414-10 Engineering division submitting monthly project status report of April 1, 2003. -- Received

03-0414-25 Parks and recreation department director submitting 2002 annual report. -- Received

03-0414-03 Purchasing agent submitting emergency order awarded to Reuben Johnson and Son of Superior, Wisconsin, for a water leak in the middle system water reservoir. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0414-26 American Indian commission submitting communication regarding the revised Spirit Mountain master plan (03-0010R and 03-0050R). -- Received

03-0414-27 Civil service board minutes of: (a) July 11; (b) August 6; (c) September 3; (d) September 12; (e) October 1; (f) November 5; (g) November 18; (h) December 3, 2002; (i) January 7; (j) February 4; (k) March 4, 2003, meetings. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

- 03-0414-04 Commission on disabilities minutes of March 5, 2003, meeting. -- Received
- 03-0414-05 Duluth airport authority: (a) Minutes of February 18, 2003, meeting; (b) Unaudited balance sheet of January 31, 2003. -- Received
- 03-0414-06 Duluth human rights commission submitting copies of letters sent to the Duluth delegation regarding the Human Rights Act of Minnesota. -- Received
- 03-0414-24 Duluth/North Shore Sanitary District board minutes of April 1, 2003, meeting. -- Received
- 03-0414-07 Duluth transit authority: (a) Income statement for January 2003; (b) Minutes of January 22, 2003, meeting. -- Received
- 03-0414-08 Parking commission minutes of March 4, 2003, meeting. -- Received
- 03-0414-09 Special assessment board: (a) Minutes of March 11, 2003, meeting; (b) Public hearings, reports, findings and recommendations for the proposed improvements of: (1) Anderson Road from Haines Road to Decker Road; (2) McCulloch Street from Superior Street to 48th Avenue East. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented on: the good clean-up in the parks this spring; dry conditions that could be a fire hazard; that Duluth's liquor laws should be reviewed; and that there is no need for new golf courses.

- - -

Peggy Marrin commented relative to the comprehensive plan: that good questions that are being asked by some councilors; that the city should not get involved with other corporations for development; and that there is resistance to get information from the administration.

- - -

Tom Alnew spoke on the issue of the building demolition ordinance and the right to own property.

- - -

Dennis Setter, representing the painters union, addressed the union's concern that the bid for the contract awarded by Resolution 03-0204, which was passed at the last meeting, did not go out under a prevailing wage rate clause.

- - -

RESOLUTION RECONSIDERED

Councilor Ness moved reconsideration of Resolution 03-0204, awarding contract to Hiller Brothers Construction for painting traffic control signal system throughout the city of Duluth in the amount of \$140,000, which motion was seconded and unanimously carried.

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

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RESOLUTION TABLED

Councilor Atkins moved to remove Resolution 03-0135, approving the transfer of the on sale intoxicating liquor license, on sale Sunday license and dancing license from LAC/TOM Investments, LTD (J&J Limit Bar), 1426 Commonwealth Avenue to D.S. Property Management, Inc., (MAX Limit Bar), same address, from the table, which motion was seconded and unanimously carried.

Resolution 03-0135 was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing license for

the period ending August 31, 2003, subject to departmental approvals and the payment of sales and property taxes:

D.S. Property Management, Inc. (Max Limit Bar), 1426 Commonwealth Avenue, transferred from Lac/Tom Investments, Ltd. (J&J Limit Bar), same address.

Resolution 03-0135 was unanimously adopted.

Approved April 14, 2003

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

BY COUNCILOR ATKINS:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering ten marked patrol vehicles for the police department in accordance with specifications on its low specification bid of \$209,405, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization RS03, Object V303.

Resolution 03-0238 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale nonintoxicating malt liquor license and on sale wine license for the period ending April 30, 2003, and August 31, 2003, respectively, subject to departmental approvals and the payment of sales and property taxes:

Thai Mia, Inc. (Thai Krathong), 114 West First Street, with Robert Benkoski, president, and Duangrnde Benkoski, vice president, transferred from Loy Krathong, Inc. (Thai Krathong), same address.

Resolution 03-0246 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fire marshal, which were approved by the civil service board on April 1, 2003, and which are filed with the city clerk as Public Document No. 03-0414-21, are approved. This classification shall remain subject to the city's collective bargaining agreement with its fire unit employees and compensated at Pay Range 233, \$5,265 per month.

Resolution 03-0231 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the Housing and Community Development Act of 1974, as amended, and the regulations promulgated thereunder require its grantees, such as the city of Duluth, to have in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

place a fair housing implementation plan in order to receive funding under this program.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby approves the analysis of impediment to fair housing and fair housing plan, a copy of which is on file with the city clerk as Public Document No. 03-0414-20.

Resolution 03-0230 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2003 HOME accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increase in the Federal Program Fund 0260, Agency 020, 2003 HUD-funded community development accounts as set forth below:

2003 HOME
accounts revised -2003

Project #	Project	Original amount	New grant	Difference
2631 h003	Duluth property rehabilitation - HRA/NCLT	\$287,900	\$317,900	+\$ 30,000
2631 h008	Program administration	\$ 79,000	\$ 84,122	+\$ 5,122
2631 h012	MURL-HRA	\$ 95,400	\$100,000	+\$ 4,600
2631 h001	City homes - NCLT	\$236,100	\$246,600	+\$ 10,500
2631 h002	Phoenix House - Life House	\$ 9,500	\$ 10,000	+\$ 500
2631 h009	CHDO operating	\$ 19,100	\$ 19,600	+\$ 500
			Total	\$ 51,222

Resolution 03-0232 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2003 ESGP accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund decrease in the Federal Program Fund 0262, Agency 020, 2003 HUD-funded community development accounts as set forth below:

2003 ESGP
account revised - 2003

Project	Original Amount	New Grant	Diff Difference
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

CHUM Shelter	\$19,710	\$19,610	- \$100
CHUM Drop In Center	\$ 9,660	\$ 9,560	- \$100
Life House	\$13,570	\$13,470	- \$100
AICHO - Oshki	\$ 4,930	\$ 4,830	- \$100
AICHO - Dabin	\$ 6,150	\$ 6,050	- \$100
Shelter Operations-Safe Haven	\$19,230	\$19,130	- \$100
Family transitional housing - Salvation Army	\$21,370	\$21,270	- \$100
Veteran's Outreach North - VON	\$ 4,980	\$ 4,880	- \$100
Transitional housing - WTHC	\$16,300	\$16,200	- \$100
Program administration	\$ 6,100	\$ 6,000	- \$100
			Total - \$1,000

Resolution 03-0233 was unanimously adopted.
 Approved April 14, 2003
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2003 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund decrease in the Federal Program Fund 0262, Agency 020, 2003 HUD-funded community development accounts as set forth below:

2003 CDBG
 account revised - 2003

Project #	Project	Original Amount	New Grant	Difference
6601	Duluth property rehabilitation - HRA/NCLT	\$839,400	\$836,000	-\$ 3,400
6622	Hunger Project - CHUM	\$ 74,900	\$ 74,860	-\$ 40
6623	Primary health care - LSHC	\$ 59,400	\$ 59,360	-\$ 40
6624	Housing Access Center	\$ 59,900	\$ 59,860	-\$ 40
6625	Youth Center-Life House	\$ 25,500	\$ 25,460	-\$ 40
6627	Shelter operations - Safe Haven	\$ 30,200	\$ 30,160	-\$ 40
6628	Family transitional housing - Salvation Army	\$ 26,800	\$ 26,600	-\$ 40
6629	Veteran's Outreach North - VON	\$ 10,500	\$ 10,460	-\$ 40

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Project #	Project	Original Amount	New Grant	Difference
6630	Transitional housing - WTHC	\$ 31,900	\$ 31,860	-\$ 40
6631	Lincoln Park Youth Enrichment - B&G el.	\$ 47,400	\$ 47,360	-\$ 40
6632	Copeland Community Center	\$ 24,000	\$ 23,960	-\$ 40
6633	Coll. youth program - grant coll.	\$ 20,600	\$ 20,560	-\$ 40
6634	Washington Activity Center - NYS	\$ 29,800	\$ 29,760	-\$ 40
6635	YMCA Community Services	\$ 29,800	\$ 29,760	-\$ 40
6636	YWCA girls and youth services	\$ 37,600	\$ 37,560	-\$ 40
			Total	-\$ 4,000

Resolution 03-0234 was unanimously adopted.
 Approved April 14, 2003
 GARY L. DOTY, Mayor

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 CDBG accounts; and
 WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increase in the Federal Program Fund 0262, Agency 020, 2002 HUD-funded community development accounts as set forth below:

2002 CDBG transfers
 account revised - 2002

Project #	Project	Budget amount	New amount	Amount of increase or decrease
6520	Acquisition/demolition	\$153,551	\$156,376	+ \$ 2,825
4706	Revenue source	\$ 2,825	-0-	(\$ 2,825)

Resolution 03-0236 was unanimously adopted.
 Approved April 14, 2003
 GARY L. DOTY, Mayor

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain HOME accounts; and
 WHEREAS, the community development committee (CD committee) for the HOME investment partnerships program established the following housing programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following transfer in the Federal Program Fund 260-2002 HUD-funded community development account as set forth below:

2002 HOME transfers

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Project #	Project	Budget amount	New amount	Amount of increase or decrease
2621 h003	Duluth property rehabilitation	\$325,884.10	\$342,246.10	\$ 16,326
4706	Revenue source	\$ 16,362.00	-0-	(\$ 16,362)

Resolution 03-0237 was unanimously adopted.
 Approved April 14, 2003
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 CDBG accounts; and
 WHEREAS, the community development committee (CD committee) for the CDBG program recommends funding projects as set forth below,

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-2002 HUD-funded community development accounts as set forth below:

2002 CDBG transfers

Project #	Project	Budget amount	New amount	Amount of increase or decrease
6514	Hillside streetscape Phase V	\$ 57,707	\$ 62,000	\$4,293
6513	Citywide street	\$137,000	\$132,707	(\$4,293)

Resolution 03-0240 was unanimously adopted.
 Approved April 14, 2003
 GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 20-foot wide utility easement legally described as: ten feet along the rear of Lots 17, 18, 46, 47, 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 unanimously approved the easement vacation petition at its March 26, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation described above and as more particularly described on Public Document No. 03-0414-11.

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

Resolution 03-0228 was unanimously adopted.
 Approved April 14, 2003

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to acquire from the state of Minnesota, department of transportation, the real property described as follows:

that part of Tract A described below:

Tract A: The westerly 25 feet of Lot 355, and the east one-half of Lot 357, Block 174, Duluth Proper Second Division, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota; the title thereto being registered property;

which lies southerly of Line 1 described below:

Line 1. Beginning at a point on the northwesterly line of Tract A hereinbefore described, distant 35 feet southeasterly of the most westerly corner thereof; thence run easterly to a point on the southeasterly line of said Tract A, distance 70 feet southeasterly line of said Tract A, distant 70 feet southeasterly of the most northerly corner of said Tract A and there terminating;

subject to the following restriction:

no access shall be permitted to Trunk Highway No. 53 from the lands herein conveyed;

subject to the following reservation:

the state of Minnesota reserves the right to use that part of Tract A herein conveyed for the purpose of removing or demolishing building thereon, said reservation shall cease upon removal or demolition of said building, or in any event no later than December 1, 2003;

for a consideration of \$2,191.75, to be paid from General Fund 0100, Balance Sheet 2021.

Resolution 03-0225 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to acquire from the state of Minnesota, through St. Louis County, the tax forfeit real property described as follows:

the northerly 100 feet of the westerly 60 feet of that part of Lot 3, Auditor's Plat No. A, New Duluth Lands, lying southerly of McCuen Street extended;

for a consideration of \$6,224.80, to be paid from Fund 0521, Agency 500, Organization 5532.

Resolution 03-0229 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, the city of Duluth desires to provide a storm sewer system; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases of the storm sewer system in Berwick Circle, Berwick Court and Valhalla Drive to be added to the Maryland Street development; 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 0410, Department/Agency 038, Organization 5354, Object 5530.

Resolution 03-0239 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that Earth Burners, Inc., be and hereby is awarded a contract for construction of sanitary sewer and watermain in Tioga Street from 200 feet west of 42nd Avenue East to 500 feet west of 42nd Avenue East for the engineering division in accordance with specifications on its low specification bid of \$36,311.60, terms net 30, FOB job site, \$13,435.29 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5533 and \$22,876.31 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5533.

Resolution 03-0243 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that Stack Brothers, Inc., be and hereby is awarded a contract for construction of 16 inch steel high pressure gas main reroute and related work in Mike Colalillo Drive from 49th Avenue West to 125 feet easterly for the utility operations division in accordance with specifications on its low specification bid of \$27,300, terms net 30, FOB job site, payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5533.

Resolution 03-0244 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for the construction of airport loop road located on Airport Road between TH 53 and Airport Approach Road and Stebner Road between TH 53 and Airport Approach Road for the engineering division in accordance with specifications on its low specification bid of \$1,124,396.49, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2114, Object 5530; to be reimbursed as follows: federal aid - \$852,923.68; city of Duluth municipal state aid - \$89,083.75; city of Hermantown - \$16,917.06; St. Louis County - \$105,107.98; Minnesota DOT - \$60,364.02.

Resolution 03-0245 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to purchase and accept a street easement hereinafter described, including the moving of a dwelling, from Thomas J. Sega and Cheryl D. Sega for a consideration of \$145,033, payable from Permanent Improvement Fund 0411, reimbursable from M.S.A.; said purchase agreement and easement are filed as Public Document No. 03-0414-12, with the easement described as:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

a permanent easement for street and utility purposes over, under and across that part of Lots 16 and 17, Block 4, Brookline Duluth, described as follows:

that portion of Lots 16 and 17, Block 4, Brookline Duluth, lying northerly of the following described line:

commencing at the most westerly corner of said Lot 17, thence northeasterly along the northwesterly line 37.18 feet to the point of beginning of the line to be described; thence deflecting to the right 68°38'07" a distance of 144.83 feet to a point; thence deflecting to the right 63°30'19" a distance of 60.85 feet to the most easterly corner of said Lot 17 and there terminating.

Resolution 03-0247 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that St. Louis County sheriff, Arrowhead Regional Corrections, be and hereby is awarded a contract for providing for reimbursement of the sheriff for certain identification services during year 2003, at a cost to the city of \$12,720 payable out of General Fund 0100, Department/Agency 200, Organization 1610, Object 5319.

Resolution 03-0067 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to apply for and accept grant monies up to \$924,998 from the Minnesota department of public safety pursuant to Minnesota Statutes Section 299A.66 in the grant period from July 1, 2003, to June 30, 2005, to reimburse expenditures related to the grant to expand local capacity to combat gangs.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in Police Grant Fund 0215-200-2463-4230.

Resolution 03-0226 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized to accept a \$7,523 grant from the Minnesota department of public safety, division of emergency management, and to execute the grant agreement, filed as Public Document No. 03-0414-13, for the city of Duluth fire department's emergency preparedness planning.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into General Fund 0100, Agency 100, Organization 1502, Revenue Source 4230.

Resolution 03-0227 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that Duluth Lawn and Sport, Inc./John Deere Credit be and hereby is awarded a contract for furnishing and delivering four John Deere Model 1600 turbo commercial wide area

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

mower and one John Deere Model 1435 four wheel drive front mower for Lester Park Golf Course in accordance with specifications on its bid of \$38,203.29, terms net 30, FOB destination, payable out of Golf Fund 0503, Department/Agency 400, Organization 0500, Object 5580.

Resolution 03-0242 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth Community Sailing Association, filed with the city clerk as Public Document No. 03-0414-14, authorizing said Duluth Community Sailing Association to operate a community sailing program at Park Point in the Summer of 2003.

Resolution 03-0248 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a one year lease with the Duluth Area Family Services Collaborative for the lease by the collaborative of 750 square feet of office space identified as Room 114 located in Washington Center, for a consideration of \$500 per month to be deposited in General Fund 0100-015-1515-4612; said lease filed as Public Document No. 03-0414-15.

Resolution 03-0249 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 03-0251, by Councilor Atkins, memorializing the Duluth delegation to the state legislature to secure passage of legislation granting an additional on sale intoxicating liquor license for use at the St. Louis County Heritage and Arts Center, was introduced for discussion.

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

Steve Townsend opposed the resolution because it is premature, given that the county has not approved a long range plan for the facility and that it will be putting another liquor license in the hands of a publically funded facility that will be in direct competition with the bars and restaurants in the Downtown.

Councilors Bergson, Stauber and President Stenberg opposed the resolution because: it will be in competition with the local private businesses and the city does not support additional private liquor licenses.

Councilors supporting the resolution noted that: this resolution is only requesting the legislature for this authority; this needs to be done now or it will not be given consideration until next year at the legislature; while larger management issues for the Depot need to be resolved, this could be another tool to assist in the financial plans; there is precedence for special liquor licenses, such as the Airport, DECC, Spirit Mountain and the Aquarium; and that currently liquor is served at the Depot by means of contracting with licensed liquor establishments to cater events.

Resolution 03-0251 was adopted as follows:

BY COUNCILOR ATKINS:

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 for use on premises known as the St. Louis County Heritage and Arts Center, said legislation to be substantially in the form of Public Document No. 03-0414-16 and made a part thereof.

Resolution 03-0251 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Hogg, Ness and Stewart -- 5

Nays: Councilors Bergson, Stauber and President Stenberg -- 3

Absent Councilor Stover -- 1

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

At this time, 7:45 p.m., President Stenberg announced that the public hearing on ordering of the improvement known as the 2004 street improvement program would begin.

Mike Metso, city engineer, reviewed the history of the street improvement program, the details of the 2004 program and criteria used in the selection of what streets are to be improved.

Nancy Nelson presented a petition and map (Public Document No. 03-0414-23(c)) and spoke in support of postponing the reconstruction of Tenth Street for the reasons of: the canopy of 25 maple trees that line the street; the east neighborhood planning district has designated these trees as one of the defining places in the neighborhood; the majority of the people did not realize that those trees would have to come down due to the street improvement; and that the trees still have a 15 to 20 year life.

Dale Kempton spoke in opposition of Oakbend Drive drive being improved, for reasons of: the majority of the neighbors do not want the improvement because they do not think it is bad enough; there is already a safety issue relative to the speed of the cars and busses that use that street which will only increase with a new pavement and there are no other side streets for this traffic to use.

Gary Kolojeski, representing the Blackman Avenue neighborhood, spoke in opposition to the South Blackman improvement because the school district would like to put in an access road from Wilber Street connecting to South Blackman Avenue and having high school drivers exit onto this neighborhood street will create unsafe traffic conditions and there are other options the school district can use to create a second access.

At this time, 8:10 p.m., President Stenberg closed the public hearing and announced that the regular order of the council meeting would resume.

- - -

Councilor Stauber moved to consider Resolution 03-0241, ordering the improvement known as the 2004 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$5,611,760, at this time, which motion was seconded and unanimously carried.

Councilor Ness moved to amend the resolution by removing "Tenth Street - Eighth Avenue East to 11th Avenue East" from the East Hillside - Upper West 2 designation of the 2004 street improvement program, which motion was seconded for discussion.

Councilor Ness requested that the administration make recommendations to the council as to what alternatives exist for the area including a resurfacing of this Tenth Street section.

The council discussed the tree replacement program and how trees are replaced during the improvement of streets and at other times.

Councilor Ness's amendment carried upon a unanimous vote.

Councilor Atkins moved to amend the resolution by removing "Blackman Avenue - Palm Street to 1,300 feet southerly" from the Duluth Heights - Southeast 2 designation of the 2004 street improvement program, which motion was seconded and discussed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilors opposing the amendment felt that: South Blackman Avenue needs to be improved now regardless of plans that the school district has for Wilbur Street; that the school districts plan for connecting Wilbur Street to South Blackman Avenue is a school district issue; and it is more cost effective to do South Blackman Avenue now with the other part of Blackman Avenue.

Councilor Atkins' amendment carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Ness and Stewart -- 5

Nays: Councilors Hogg, Stauber and President Stenberg -- 3

Absent: Councilor Stover -- 1

Resolution 03-0241, as amended, was adopted upon a unanimous vote.

[Editor's note: Resolution 03-0241 was vetoed by Mayor Doty on April 24, 2003 (Public Document No. 03-0428-08).]

- - -

Resolution 03-0250, by Councilor Ness, expressing support for the *Adventure Duluth Race* to receive tourism tax dollars, was introduced for discussion.

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

Steve Townsend expressed concern that this organization is neither a 501(C)(3) organization, a charitable entity, nor a city affiliated organization, but it is a privately operated organization. He did not feel that this is an appropriate use of tourism tax dollars.

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

- - -

Resolution 03-0235, by Councilor Stauber, awarding contracts to various vendors for I&I separation/discharge at various locations in the approximate total amount of \$764,375, was introduced for discussion.

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

- - -

BY COUNCILOR STAUBER:

WHEREAS, by Resolution of Intent numbered 03-0145 the council did request the administration to prepare plans and specifications for the construction of 2,700 feet of sanitary sewer in Anderson Road from Haines Road to Decker Road (City Job No. 0224SN) at an estimated cost of \$213,000; and

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

NOW, THEREFORE, BE IT RESOLVED, that said extension as described above be constructed; that the estimated total cost of said improvement as estimated by the city engineer is \$213,000, payable from Special Assessment Fund 0410, Agency 038, Organization 5369, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board; and which report is on file in the office of the city clerk as Public Document No. 03-0414-09(b)(1) and which description is hereby incorporated herein by reference to Public Document No. 03-0414-09(b)(1); that those assessed be permitted to pay said

assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0216 was unanimously adopted.

Approved April 14, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0224, by councilors Bergson and Stover, pertaining to the operation of unstaffed railroad locomotives in the city of Duluth, was introduced for discussion.

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

Kay L. Lewis raised concerns about locomotives that are totally unmanned.

Councilors Bergson and Gilbert stated support for the resolution.

Councilors reviewed and discussed a memo prepared by City Attorney Brown relative to the federal government's intent to preempt local control over locomotives, specifically, other than cabooses, and that this resolution would just be a request and is not binding.

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

Yeas: Councilors Bergson, Gilibert, Hogg and Stewart -- 4

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

Absent: Councilor Stover -- 1

Councilors opposing this resolution commented that this is the newest technology, with significant increased safety, and that there are no large railroad yards in the city of Duluth.

Resolution 03-0224 failed upon the following vote (Public Document No. 03-0414-19):

Yeas: Councilors Bergson and Gilbert -- 2

Nays: Councilors Atkins, Hogg, Ness, Stauber, Stewart and President Stenberg -- 6

Absent: Councilor Stover -- 1

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT STENBERG

03-020 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNITED STATES COAST GUARD, STATION DULUTH, FOR A REMOTE OPERATED SECURITY GATE KEYPAD PEDESTAL AND UNDER STREET WIRE LOOP AND ASSOCIATED CABLE CONDUIT IN THE EASEMENT OR RIGHT-OF-WAY OF 12TH STREET SOUTH.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT STENBERG

03-016 (9595) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED AT 2401 LONDON ROAD IN THE ENDION NEIGHBORHOOD (SCOTT NELSON/DUNN BROTHERS COFFEE SHOP).

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

Scott Nelson, applicant, explained the nature of his coffee shop that is planned for this location and noted that a coffee shop is intended to be the concept of "fixture" to a neighborhood.

President Stenberg moved passage of the ordinance and the same was adopted upon a

unanimous vote.

- - -

BY PRESIDENT STENBERG

03-017 (9596) - AN ORDINANCE TO RENAME LOVERS LANE AS HOVLAND LANE (HOVLAND).

Responding to Councilor Ness, Mr. Brown stated that a planning department representative indicated that lacking any other formal process, the naming of streets is treated the same as vacation of property and follows those procedures, and that the planning commission, to date, has not named a street for a living person. He further commented that the name listed here is the name of a city in northeastern Minnesota.

Councilors supporting the ordinance noted that this is only a platted street which is owned by a private party and that the party has not been able to sell a developer this property.

Councilors Ness and Gilbert felt that: there needs to be a process that is followed in naming streets in honor of individuals; that individuals should not be initiating the naming of a street after themselves, that it should come from the community and that in the future, this street could be sold and the area developed.

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

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stewart and President Stenberg -- 6

Nays: Councilors Gilbert and Ness -- 2

Absent: Councilor Stover -- 1

- - -

BY COUNCILOR STAUBER (INTRODUCED BY COUNCILOR STOVER)

03-018 (9597) - AN ORDINANCE AUTHORIZING CONDITIONAL CONVEYANCE OF THE OLD ARMORY BUILDING TO THE ARMORY ARTS AND MUSIC CENTER AT NO COST.

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

Susan Phillips, executive director of the Armory Arts and Music Center (AAMC), spoke in support of the ordinance.

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

- - -

BY COUNCILOR STAUBER (INTRODUCED BY COUNCILOR STOVER)

03-019 (9598) - AN ORDINANCE AUTHORIZING SALE OF 59TH AVENUE WEST TOOL HOUSE TO CENTAUR, L.L.C., FOR \$162,500.

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

- - -

The meeting was adjourned at 9:30 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9595

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED AT 2401 LONDON ROAD IN THE ENDION

NEIGHBORHOOD (SCOTT NELSON/DUNN BROTHERS COFFEE SHOP).

The city of Duluth does ordain:

Section 1. That Plate No. 38 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

MAP

(see page at end of meeting)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 25, 2003)

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

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

Nays: None -- 0

Absent: Councilor Stover -- 1

Passed April 14, 2003
Approved April 14, 2003
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9596

BY PRESIDENT STENBERG:

AN ORDINANCE TO RENAME LOVERS LANE AS HOVLAND LANE (HOVLAND).

The city of Duluth does ordain:

Section 1. That the following public thoroughfare shall be and is hereby renamed Hovland Lane: Lovers Lane in Block 2, Lakeview Addition, First Division, according to the plat thereof on file with the registrar for St. Louis County, Minnesota.

Section 2. That the city clerk, upon passage of this ordinance, shall:

(a) Notify the director of public works to proceed with erection of street signs relating to such change;

(b) Notify the following agencies and utilities of the specific changes:

- (1) Business office of Qwest Communications;
- (2) Manager of delivery and collection, main post office;
- (3) County auditor, St. Louis County;
- (4) President, Minnesota Power;
- (5) Chief, Duluth fire department;
- (6) Chief, Duluth police department;
- (7) Director, department of public works and utilities;
- (8) City assessor;
- (9) Voter registration department;
- (10) Minnesota department of transportation;
- (11) St. Louis County 911 agency.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 25, 2003)

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

Yeas: Councilors Atkins, Bergson, Hogg, Stauber, Stewart and President Stenberg -- 6

Nays: Councilors Gilbert and Ness -- 2

Absent: Councilor Stover -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2003
Approved April 14, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9597

BY COUNCILOR STAUBER (INTRODUCED BY COUNCILOR STOVER):
AN ORDINANCE AUTHORIZING CONDITIONAL CONVEYANCE OF
THE OLD ARMORY BUILDING TO THE ARMORY ARTS AND
MUSIC CENTER AT NO COST.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to convey the old Duluth Armory property located at 13th Avenue East and London Road in Duluth, Minnesota, by quit claim deed, the form of which is on file in the office of the city clerk as Public Document No. 03-0414-17, to the Armory Arts and Music Center, a Minnesota nonprofit corporation, at no cost to said organization and to execute all documents necessary with regard to said conveyance.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: May 25, 2003)

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

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

Nays: None -- 0

Absent: Councilor Stover -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2003
Approved April 14, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9598

BY COUNCILOR STAUBER (INTRODUCED BY COUNCILOR STOVER):
AN ORDINANCE AUTHORIZING SALE OF 59TH AVENUE WEST
TOOL HOUSE TO CENTAUR, L.L.C., FOR \$162,500.

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. 03-0414-18, to sell the old 59th Avenue West tool house to Centaur, L.L.C., for the sum of \$162,500, 1/2 payable to the Water Fund 0510, Agency 500, Source 4853 and 1/2 payable to the Gas Fund 0520, Agency 500, Source 4853.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: May 25, 2003)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Nays: None -- 0

Absent: Councilor Stover -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2003
Approved April 14, 2003
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 28, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the city council meetings held on March 10 and 20, 2003, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0428-02 J&S Partnership submitting petition to reclassify from R-1-b to R-3 the north half of southwest quarter of Section 19, Township 50 North, Range 14 West of the Fourth Principle Meridian. -- Assessor

03-0428-01 Neil Mathison, et al. (ten signatures), submitting petition to construct a permanent improvement alley in 102nd Avenue West between Gary Street and McGonagle Street, including the segment from 101st Avenue West to 102nd Avenue West Alley. -- Assessor

03-0428-03 Minnesota state auditor submitting Duluth transit authority audit report for the years ended December 31, 2001 and 2002. -- Received

03-0428-09 Gary Glass submitting communication regarding allocation of 2004 low income housing tax credits (03-0283R). -- Received

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REPORTS OF OFFICERS

03-0428-08 Mayor Doty submitting veto of Resolution 03-0241, ordering the improvement known as the 2004 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the City of Duluth at an estimated cost of \$4,856,320. -- Received

03-0428-04 Administrative services project administrator submitting lease agreement with Bridget Bicha and Jared Moser for rental of the Wheeler Fieldhouse building, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

03-0428-05 Assessor submitting affidavit of mailing of notice of a public hearing of the city council to be held on April 28, 2003, at 7:30 p.m. in the Council Chamber, City Hall, regarding the proposed MSA improvement of 19th Avenue East - Eighth to College streets. -- Received

03-0428-06 Community development and housing division manager submitting HRA housing rehabilitation report for March, 2003. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-0428-07 Building appeal board minutes of February 12, 2003, meeting. -- Received

03-0428-10 Duluth transit authority: (a) Income statement for February, 2003; (b) Minutes of March 25, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Lynn Williams expressed her appreciation to the council and administration for listening to her complaints about the building safety office and the city working to review the condemnation process with possible changes to the building safety office's internal process.

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K. L. Lewis questioned if the city is ready for a large quarantine if a large epidemic were to spread in Duluth.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Dr. R.E. Powless stated that the planning process for Spirit Mountain should incorporate new ideas for a new golf course location.

- - -

Char Goon stated that she has a physical disability and expressed frustration that she is unable to park on her avenue because the street is too narrow. She asked the council for help in achieving a handicapped parking spot for her.

- - -

Peggy Marrin voiced her frustration that the mayor has not stopped the bonding request for the McQuade safe harbor project and, after contacting the local legislators, stated that they would not be able to stop the bonding project.

- - -

At this time, 7:30 p.m., President Stenberg announced that the public hearing regarding the 2004 qualified allocation plan for housing tax credits would begin.

Keith Hamre, community development and housing division manager, reviewed that this public hearing is the start of the process for submission of applications for 2004 housing tax credits. He continued that the housing commission will review the applications and provide the council with recommendations for allocating the tax credits in October.

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

- - -

Councilor Gilbert moved to consider Resolution 02-0283, approving 2004 low income housing tax credit qualified allocation plan, at this time, which motion was seconded and unanimously carried.

Resolution 03-0283 was adopted as follows:

BY COUNCILOR GILBERT:

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

WHEREAS, the city of Duluth as a suballocator is authorized to administer 2004 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 2004; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 2004 (the plan) setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the plan was available for review and written comments by the general public and a public hearing was held on April 28, 2003; and

WHEREAS, the Duluth housing commission met on April 10, 2003, and recommended approval of the plan to the city council.

NOW, THEREFORE, BE IT RESOLVED, that the 2004 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 03-0428-28, is hereby approved.

Resolution 03-0283 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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At this time, 7:36 p.m., President Stenberg announced that the public hearing regarding the municipal state aid (MSA) improvement of 19th Avenue East from Eighth Street to College Street would begin.

City Engineer Metso reviewed that the 19th Avenue East street improvement project from Eighth Street to College Street will be done this year and that the assessment to the abutting property owners will be 1/2 of the annual street improvement program (SIP) assessment because

it is a MSA street.

At this time, 7:40 p.m., President Stenberg closed the public hearing and stated that the regular order of business would resume.

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RESOLUTION RECONSIDERED

Councilor Ness moved to reconsider Resolution 03-0241, ordering the improvement known as the 2004 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$5,611,760, which motion was seconded and unanimously carried.

Responding to Councilor Hogg, City Attorney Brown stated that the council will need to override the veto in order for the street improvement project to proceed. If the veto is not overridden, then no street projects can move forward unless another resolution is brought to the council for approval.

Responding to councilor questions, Administrative Assistant Winson stated that if the council does not override the mayor's veto, the administration will present another resolution containing the other four projects while they try to work out the issues involved with the Duluth Heights Southeast 2 and East Hillside Upper West 2 projects. He continued saying that the administration would prefer the council pass the resolution as presented, but in order to move this resolution forward, the council could remove the two projects from the resolution so the rest of the projects could proceed and hopefully have resolution to the issues on the last two projects very soon.

Councilor Ness moved to amend the resolution by removing the entire Duluth Heights Southeast 2 and East Hillside Upper West 2 projects from resolution, which motion was seconded and unanimously carried.

Resolution 03-0241, as amended, was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of those streets, avenues and parkways set forth in Public Document No. 03-0428-11 on file with the office of the city clerk; that the costs of said improvement estimated at \$3,340,400 shall be paid from the Street Improvement Fund 0440 and that one-fourth or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 03-0241, as amended, was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 03-0050, requesting further consideration of revised Spirit Mountain master plan and basis therefore, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to amend the resolution as follows:

(a) Add the words "and this shall be construed to mean that the geographical area of Spirit Mountain is considered to be sacred by virtue of its traditional cultural and religious significance or ceremonial use, including the gathering of natural substances from the site for use

in religious ceremonies” after the word “significant” in the fourth paragraph;

(b) Add a fifth paragraph to read:

“WHEREAS, the SMRA is considered to be historically and aesthetically significant by many citizens of Duluth and the surrounding area; and”;

(c) Add a paragraph at the end of the resolution to read:

“BE IT FURTHER RESOLVED, that the Duluth City Council acknowledges that the Mountain Villas constitute a conversion to private use under the Land and Water Conservation Act (LAWCON) and request that this conversion be addressed by the administration. The council also requests that no further conversions to private use be considered at the SMRA until all of the above issues have been thoroughly addressed in a comprehensive master plan developed with significant community participation,”

which motion was seconded and unanimously carried.

- - -

President Stenberg moved to remove Resolution 03-0010, amending the Spirit Mountain recreation area master plan, from the table, which motion was seconded and unanimously carried.

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

John Rathe encouraged the development of the golf course because it will bring tourism tax revenue into the city; the “say no” attitude of the city needs to stop and this development would help further that statement.

K. L. Lewis, Warren Wirta, CJ Bird, Doug Happy, Greg Price, Kristine Osbakken, Nancy Nelson, Ed Kale, Linda Wolz, Greg Price, Iver Bogen, Jim Fetzer, and Peggy Marrin urged the council to support Resolution 03-0050 for the following reasons: Spirit Mountain will be developed into a friendlier place for the people without the golf course; public lands should not be used for private greed; golf is no longer a growth sport; the public will be responsible for this project if it fails; the project will not preserve the environment at Spirit Mountain; the city needs to seek public input before the master plan is amended; some councilors are not listening to the unbiased experts who have pointed out the problems with building the golf course; Duluth should capitalize on local ecological tourism opportunities; the master plan should represent all the people who have a right to use this land, not a few who want to play golf; the Fond du Lac nation has not been given their due respect in the planning process of this project, as they are a contributing partner in this city by the money the city gets from the casino in Duluth; the council cannot allow itself to be held hostage because the developer claims he has spent \$1 million so far on this project; it is disrespectful and irresponsible to pass a master plan that does not preserve a place forever on Spirit Mountain for the Fond du Lac nation.

Terry Brown, representing Duluth Public Policy Alliance, stated that the review process used by the administration, planning commission and council should work by providing checks and balances. He continued that the process has not worked in this instance as the council has already stated it does not support a land swap, however, the administration has ignored the council’s decision and proceeded with land exchange preparation anyway.

Bill Burns, attorney for the developer, reviewed that the developers have an agreement with the city and Spirit Mountain recreation area authority and that the existing master plan allows for the construction of a hotel and golf course. He continued saying his clients have had an ongoing commitment to compliance with the law and agreements. Mr. Burns reviewed that environmental issues have already been litigated during the Corps of Engineers process, but noted that there will be an additional required study and conclusions reached on any remaining Native American cultural issues.

Eric Dings raised several issues of concern on the project that could involve the state of Minnesota being responsible for the LAWCON issues.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilor Gilbert stated that the process used for the current master plan was created to fit the end result of a golf course and that there was no public input as is required now.

Councilor Stewart referenced a letter from Mayor Doty which stated that the department of natural resources (DNR) will accept the proposed land exchange which would solve the LAWCON issue. He continued that the mayor was not totally accurate in summarizing the letter from the DNR. Councilor Stewart voiced frustration that the administration pursued a land swap even after the council voted no on that action and that the administration has vetoed or ignored council decisions and requests. He urged councilors to support his resolution that will start the process for creation of a master plan that will call for a meaningful engagement of the public to help decide a use of the land.

Councilor Ness stated the public policy decisions at the council level are not getting anywhere, which is unfortunate for the public and all parties concerned, and it would be best for the council and community to come to some final resolution sooner rather than later. He suggested that if this issue cannot be resolved through the council vote, it could possibly be decided in the courts or through the next mayoral election, however, electing a mayor on one issue is doing a disservice to the community or by holding a public referendum during the upcoming elections.

Councilor Stewart moved to further amend Resolution 03-0050 by striking the following words in the last paragraph: "acknowledges that the Mountain Villas constitute a conversion to private use under the Land and Water Conservation Act and request that this conversion be addressed by the administration. The council also" and the word "further" between the words "no" and "conversions," which motion was seconded and carried upon a unanimous vote.

Councilor Stauber disagreed that there has not been public input in this process as the SMRA approved the plan and the parks and recreation commission passed the plan with public input, and no issue has had as much public input as this issue with all the speakers, phone calls and e-mails. He continued saying that any person who wishes to donate private land to the city for public use should be commended and not chastised. Councilor Stauber reviewed that if this new master plan is not approved, the current master plan will remain in effect which includes a hotel and golf course.

Councilor Hogg reviewed that the city has entered into a legal contract with the developer and even if some councilors wish we could get out of that contract, the city needs to honor that contract.

Councilor Atkins stated that if the golf course development does not proceed at all, the city needs to make long term plans to make Spirit Mountain a year round facility that brings in revenue.

President Stenberg reminded the council that if this project had moved forward in a timely manner, the golf course would already have been open for five years with an estimated impact on the city of \$30 million a year, not including payrolls or the labor to build the project and this gives a message to developers that Duluth does not want economic development for the city.

Resolution 03-0050, as amended, was adopted upon the following vote:

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

Nays: Councilors Atkins, Hogg, Stauber and President Stenberg -- 4

[Editor's Note: Resolution 03-0050 was vetoed by Mayor Doty on May 6, 2003 (Public Document No. 03-0512-15).]

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Resolution 03-0010 failed upon the following vote (Public Document No. 03-0428-12):

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

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

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilor Ness moved to remove Resolution 03-0204, awarding contract to Hiller Brothers Construction for painting traffic control signal system throughout the city of Duluth in the amount of \$140,000, from the table, which motion was seconded and unanimously carried.

Resolution 03-0204 was adopted as follows:

BY COUNCILOR NESS:

RESOLVED, that Hiller Brothers Construction be and hereby is awarded a contract for painting 25 traffic control signal systems throughout the city of Duluth for the engineering division in accordance with specifications on its low specification bid of \$140,000, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2228, Object 5400; to be reimbursed by M.S.A. (municipal state aid).

Resolution 03-0204 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

Councilor Ness moved to remove Resolution 03-0250, expressing support for the Adventure Duluth Race to receive tourism tax dollars, from the table, which motion was seconded and unanimously carried.

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

Steve Townsend expressed frustration that one councilor can request that tourism tax dollars can be spent wherever he wants and that giving tourism tax dollars to a nonprofit agency is a dangerous precedent.

Councilor Ness moved to remove the resolution 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.)

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

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period beginning May 1, 2003, and ending April 30, 2004, subject to departmental approvals:

Paul Schintz, Inc. (Enger Park Golf Course), 1801 West Skyline Parkway, with Paul Schintz, 100 percent stockholder.

Resolution 03-0253 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals with any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Grandma's Marathon Duluth, Inc., Morse Street and Canal Park Drive, for June 20, 21 and 22, 2003, with Scott Keenan, manager, with the music and serving ceasing at 12:30 a.m.
Resolution 03-0254 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

Grandma's, Inc. (Grandma's Saloon & Grill), 522 Lake Avenue South, for June 21, 2003, with the serving and dancing ceasing at 12:30 a.m.

Resolution 03-0255 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2003, subject to departmental approvals:

Grandma's Grand Avenue, Inc. (Grand Avenue Café), 4602 Grand Avenue.

Resolution 03-0256 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby issues on sale nonintoxicating malt liquor license renewals for the period beginning May 1, 2003, and ending April 30, 2004, 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. 03-0428-13.

Resolution 03-0257 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth hereby issues off sale nonintoxicating malt liquor license renewals for the period beginning May 1, 2003, and ending April 30, 2004, 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. 03-0428-14.

Resolution 03-0258 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Lincoln Park Business Group 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 Lincoln Park Business Group and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 03-0259 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling site	Date application filed
Hillside Business Association	C W Chips	March 10, 2003
Duluth Curling Club	R T Quinlan's Saloon	April 1, 2003
Duluth Curling Club	Buena Vista Lounge	April 1, 2003

Resolution 03-0260 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas bounded by Commerce Street, the Lakeshore, Canal Park Drive and Lake Avenue during the marathon on June 21, 2003, and confined to the fenced in parking lot at night on June 20-22, 2003, 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 2003

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 03-0262 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering one John Deere utility tractor Model 4100 for the fleet services division in accordance with specifications on its low specification bid of \$16,355.47, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization RS01, Object V109.

Resolution 03-0296 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional services agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0428-15, with Enventis Telecom, Inc., for completion of Phase 2 and 3 of the city's telecommunications upgrade project, specifically the City Hall, Garfield and core equipment installation and implementation phases, for the sum of \$140,000 payable as follows:

Public works and utilities:

Garfield Construction Fund 0522-0500-5580 - \$49,000;

2002 Capital Equipment Bond Fund 0250-015-NR02-E215 - \$91,000.

Resolution 03-0305 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to purchase equipment and supplies, substantially in the form and quantity of that listed on the bill of materials on file in the office of the city clerk as Public Document No. 03-0428-16, necessary to proceed with phases 2 and 3 of the city's telecommunications upgrade project, specifically the City Hall, Garfield and core equipment purchase, installation and implementation phases, for a sum of \$668,000 payable as follows:

Public works and utilities:

Garfield Construction Fund 0522-0500-5580 - \$231,000;

2002 Capital Equipment Bond Fund 0250-015-NR02-E215 - \$159,000;

2003 Capital Equipment Bond Fund 0250-015-NR03-E305 - \$278,000.

Resolution 03-0306 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) exchange of property with Menard, Inc., approved by the DEDA board at its meeting of April 15, 2003, pursuant to DEDA Resolution No. 03D-20, a copy

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

of which is on file in the office of the city clerk as Public Document No. 03-0428-17, is hereby approved.

Resolution 03-0273 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) approval of a housing program for a project by Merritt School LLC approved by the DEDA board at its meeting of April 15, 2003, pursuant to DEDA Resolution No. 03D-25, a copy of which is on file in the office of the city clerk as Public Document No. 03-0428-18, is hereby approved.

Resolution 03-0274 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) amendment to DEDA Resolution No. 03D-01 by extending the term of officers through May 31, 2003, therefore approved by the DEDA board at its meeting of April 15, 2003, pursuant to DEDA Resolution No. 03D-26, a copy of which is on file in the office of the city clerk as Public Document No. 03-0428-19, is hereby approved.

Resolution 03-0275 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) license agreement with Grandma's Marathon, Inc., approved by the DEDA board at its meeting of April 15, 2003, pursuant to DEDA Resolution No. 03D-18, a copy of which is on file in the office of the city clerk as Public Document No. 03-0428-20, is hereby approved.

Resolution 03-0276 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and URS BRW, Inc., for professional services relating to the clean-up of the former Atlas Cement Plant site in the amount of \$224,000, as approved by the DEDA board of commissioners at its meeting of April 15, 2003, pursuant to DEDA Resolution No. 03D-22, a copy of which is on file in the office of the city clerk as Public Document No. 03-0428-21, is hereby approved.

Resolution 03-0277 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Barr Engineering company for professional services in connection with the Duluth Downtown waterfront restoration project the amount of \$240,000, as approved by the DEDA board of commissioners at its meeting of April 15, 2003, pursuant to DEDA Resolution No. 03D-23, a copy of which is on file in the office of the city clerk as Public Document No. 03-0428-22, is hereby approved.

Resolution 03-0278 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 129th Avenue West from Fourth Street to Sixth Street, excluding the Fifth Street right-of-way, legally described as 129th Avenue West adjoining Lots 120 and 122, Fond Du Lac Fourth Street, Duluth; Lots 119, 120, 121 and 122, Fond Du Lac Fifth Street, Duluth; and Lots 119 and 121, Fond Du Lac Sixth Street, Duluth (Ref. F.N. 03027); 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 April 8, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 129th Avenue West from Fourth Street to Sixth Street, excluding Fifth Street right-of-way described above and as more particularly described on Public Document No. 03-0428-23.

RESOLVED FURTHER, that the easterly 20 feet of the vacated 129th Avenue West adjoining Lot 122, Fond Du Lac Fifth Street, Duluth, and Lot 121, Fond Du Lac Sixth Street, Duluth, described above be retained as a utility easement.

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

Resolution 03-0281 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the following initiatives recognizing the housing needs in the city of Duluth be added to the 2003 primary legislative objectives of the Duluth City Council:

Maintain or expand current levels of government funding for affordable housing production and preservation currently available through the Minnesota housing finance agency;

Provide additional new resources for housing development in the form of tax credits, tax incentives and tax exemptions, including exemptions for certain geographical areas, expanding the sales tax exemption for affordable housing tax credits, limiting tax assessments on income-restricted rental property and protecting the renters' credit;

Increase the state's bonding resources for development of affordable housing including the state's general obligation bonds, seeking a constitutional amendment to allow state

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

general obligation bonds for affordable housing that is not publicly owned and increasing the percentage of Minnesota's private activity bonds for housing; and

Maintain or expand current levels of funding to provide a comprehensive response to homelessness and homeless prevention programs through the MHFA, the department of trade and economic development, the department of children, families and learning and the department of human services.

Resolution 03-0304 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute a grant agreement filed as Public Document No. 03-0428-24 accepting a \$7,048.44 state energy office-rebuild Minnesota grant from the Minnesota department of commerce for energy conservation and education projects at the library and zoo and to deposit said funds into the Energy Management Fund 0210-030-2107.

Resolution 03-0294 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS AND PRESIDENT STENBERG:

WHEREAS, Minnesota contains over 135,000 miles of roadway, and over 19,000 miles, or 14 percent, are owned and maintained by Minnesota's 853 cities; and

WHEREAS, city streets are a separate but integral piece of the network of roads supporting movement of people and goods; and

WHEREAS, existing funding mechanisms, such as municipal state aid (MSA), property taxes, special assessments and bonding have limited applications, leaving cities under-equipped to address growing needs; and

WHEREAS, maintenance costs increase as road systems age and no city, large or small, is spending enough on roadway capital improvements to maintain a 50-year life cycle; and

WHEREAS, the council of the city of Duluth finds it is difficult to develop adequate funding systems to support the city's needed street improvement and maintenance programs while complying with existing state statutes; and

WHEREAS, the League of Minnesota Cities, the Minnesota Public Works Association and the City Engineers Association of Minnesota have jointly sponsored the development of a report entitled "Funding Street Construction and Maintenance in Minnesota's Cities" wherein (1) the street systems of the cities within the state are inventoried; (2) the existing funding systems are detailed and evaluated; and (3) recommendations are made; and

WHEREAS, cities need flexible policies and greater resources in order to meet growing demands for street improvements and maintenance.

NOW, THEREFORE, BE IT RESOLVED, by the council of the city of Duluth that this council supports the adoption of legislation that would provide cities with the policy options they need to address current and future challenges in providing adequate street improvement and maintenance programs.

Resolution 03-0303 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Charles R. Swanson the sum of \$38,559.75 in full and final settlement of the claim which arose out of a break in a city watermain occurring on February 21, 2003; payment to be made from the Self Insurance Fund 0610.

Resolution 03-0270 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that 19th Avenue East from Eighth Street to College Street (City Job No. 0073TR) be improved.

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$850,000; \$776,300 from municipal state aid funds, and \$73,700 is assessable to abutting property.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter, and that said improvement is hereby ordered.

Resolution 03-0271 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 03-0185 the council did request the administration to prepare plans and specifications for the construction of 280 feet of sanitary sewer in 91st Avenue West beginning at the intersection of Clyde Avenue West and extending southerly (City Job No. 0322SN) at an estimated cost of \$26,950; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment and 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 \$26,950, payable from Special Assessment Fund 0410, Agency 038, Organization 5370, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0279 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that Fisher Control, c/o Novaspect, be and hereby is awarded a contract for furnishing and delivering 700 regulators for the utility operations division in accordance with specifications on its low specification bid of \$10,417.83, terms net 30, FOB destination, payable out of Gas Fund 0520, Department/Agency 500, Organization 2410, Object 5227.

Resolution 03-0284 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that National Meter, Inc., be and hereby is awarded a contract for furnishing and delivering 1,000 gas meters for the utility operations division in accordance with specifications on its low specification bid of \$52,264.88, terms net 30, FOB destination, payable out of Gas Fund 0520, Department/Agency 500, Organization 2410, Object 5227.

Resolution 03-0285 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction year 2003 street improvement of Ramsey South for the engineering division in accordance with specifications on its low specification bid of \$257,967.18, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0305, Object 5530.

Resolution 03-0286 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction year 2003 street improvement of Denfeld West for the engineering division in accordance with specifications on its low specification bid of \$756,907.18, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0302, Object 5530.

Resolution 03-0287 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Glacier Paving, Inc., be and hereby is awarded a contract for the bituminous surfacing on Mall Drive, Mountain Shadow Drive and Burning Tree Road for the engineering division in accordance with specifications on its low specification bid of \$84,915.97, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2189, Object 5530; to be reimbursed by municipal state aid (M.S.A.) funds.

Resolution 03-0288 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Reuben Johnson and Son, Inc., be and hereby is awarded a contract for construction year 2003 street improvement of Congdon Park for the engineering division in accordance with specifications on its low specification bid of \$938,000, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0301, Object 5530.

Resolution 03-0289 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement with St. Louis County in substantially the same form and containing the same terms and conditions as that contract on file with the city clerk as Public Document No. 03-0428-25, which contract sets out the responsibilities of the parties in relation to maintenance and plowing of various roads during a ten year term. Any payments due will be from the General Fund 0100-500-1920-5310.

Resolution 03-0290 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a Vactor sewer machine for the utility operation division in accordance with specifications on its low specification bid of \$117,553.35, terms net 30, FOB destination, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0298 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Twin Cities Mack and Volvo Trucks be and hereby is awarded a contract for furnishing and delivering one Mack Model CV713 tandem axle cab and chassis for the utility operation divisions in accordance with specifications on its low specification bid of \$103,171.88, terms net 30, FOB destination, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0299 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Twin Cities Mack and Volvo Trucks be and hereby is awarded a contract for furnishing and delivering two Mack Model CV713 tandem axle cab and chassis for the utility operation divisions in accordance with specifications on its low specification bid of \$203,137.41, terms net 30, FOB destination, \$81,254.96 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580 and \$121,882.45 payable out of Gas Fund 0520, Depart-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

ment/Agency 500, Organization 1905, Object 5580.
Resolution 03-0300 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Miller Pipeline Corporation be and hereby is awarded a contract for installation of a 36 inch watermain internal joint seal in Greysolon Road for the engineering division in accordance with specifications on its low specification bid of \$47,075, terms net 30, FOB job site, payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5533.
Resolution 03-0301 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

BE IT RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zones are hereby established:
front of 1128 East Sixth Street;
next to 145 West Winona Street;
next to 2310 East Fourth Street.
Resolution 03-0261 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a facility use agreement with the College of St. Scholastica, a copy of which is filed as Public Document No. 03-0428-26, for the use of the Wade Municipal Stadium, for a consideration of \$4,000 in 2003 and \$5,000 in 2004, such funds to be deposited in Special League Fund 0210, Agency 030, Organization 2190, Revenue Source 4615.
Resolution 03-0263 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

BE IT RESOLVED, that the proper city officials are authorized to accept a \$5,000 environmental contribution grant from Minnesota Power in conjunction with renewable energy projects completed by the city at the Duluth public library and to deposit said funds into the Energy Management Fund 0210-030-2107.
Resolution 03-0293 was unanimously adopted.
Approved April 28, 2003
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 03-0266, by Councilor Hogg, approving the budget for the fiscal year May 1, 2003, to April 30, 2004, in the amount of \$3,380,855 for the Spirit Mountain recreation area authority (SMRAA), was introduced for discussion.

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

Eric Lehto, representing Local 66, reviewed that there have been employee problems at Spirit Mountain with management laying off regular and part time employees while temporary employees remain, which has led to several arbitration hearings. He requested the council to table this resolution to investigate unfair labor practices at the authority.

Responding to councilor questions regarding the city's jurisdiction over Spirit Mountain, Mr. Brown replied that Spirit Mountain is not a city operation and the enabling legislation specifically states that the Spirit Mountain employees are not city employees, therefore, the city has no jurisdiction over employment matters at Spirit Mountain. He continued saying that while the property at Spirit Mountain is owned by the city, the operations that occur on the property are under the authority of the SMRAA board with some exceptions, such as the Spirit Mountain master plan and approval of their budget, but that employee relations are not one of those. Mr. Brown also stated that the exact parameters pertaining to employment matters have not been previously researched and, other than the exact duties set out in the enabling legislation, he would need to decide what power, if any, the council had to go beyond the specific tasks listed in the legislation. To further questioning, he responded that the city is required to provide legal services for Spirit Mountain and that the amount of time spent is not any greater than what is provided to other authorities.

Steve Townsend encouraged the council to review the SMRAA process of giving out bonuses, setting salaries and giving raises, and to find out exactly what services the city does provide Spirit Mountain.

Al Netland, president of Local 66, stated that he and union representatives have tried to meet with the SMRAA and Mr. Certano to stop wasting taxpayers' money through all the arbitration hearings and he encouraged the council to take a look at how much money the authority is spending on city attorney fees.

Peggy Marrin stated that there is a conflict of interest when one entity represents two different parties.

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

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement (Public Document No. 03-0428-27) to make a loan of \$60,000 to the Duluth Public Arts, Inc. These funds will be used to cash flow the construction of the Clayton, Jackson, McGhie Memorial.

RESOLVED FURTHER, that said loan shall be drawn from the General Fund 0100 and repaid from donations and grants received by the CJM Memorial committee with half of the loan due September 1, 2003, and the balance due on or before September 1, 2004.

Resolution 03-0280 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0312, by Councilor Hogg, terminating the inflow and infiltration grant program and requesting the administration to recommend a program closure plan, was introduced for discussion.

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

- - -

Resolution 03-0252, by Councilor Atkins, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license from Cliff Lanthier as receiver for Lincoln Park Western

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Corporation (Western Tavern), 2801 West Superior Street, to GMRI, Inc. (Olive Garden), 901 Mall Drive, was introduced for discussion.

Councilor Gilbert stated that he would abstain from voting on this resolution.

Resolution 02-0252 was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2003, subject to departmental approvals and the payment of sales and property taxes:

GMRI, Inc. (Olive Garden), 901 Mall Drive, with Darden Restaurants, Inc., owning 100 percent of GMRI, Inc., transferred from Cliff Lanthier as receiver for Lincoln Park Western Corporation (Western Tavern), 2801 West Superior Street.

Resolution 03-0252 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved April 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the day of May 7, 2003, has been designated as Community Development Day, Duluth, Minnesota, in which Duluth is a participant in the community development block grant program which funds a myriad of public facility improvements, public social services, economic development and housing programs in this community; and

WHEREAS, in the city of Duluth and in communities throughout the nation, 29 years of community development block grant program funding has developed a strong network of relationships between local government, residents and the many nonprofit agencies that provide services and help make possible our commitment to those neighborhoods; and

WHEREAS, the city of Duluth recognizes that the community development block grant program is a partnership of federal, state and local government, business, nonprofit and community efforts, and that the services funded by the federal CDBG program, administered by the local government and often delivered by local nonprofit organizations, relies heavily on the dedication of and good will of our combined efforts.

THEREFORE, BE IT RESOLVED, that on Community Development Day 2003, the city of Duluth will give special thanks and recognition to all participants whose hard work and devotion to the neighborhood and their low and moderate income residents that help insure the quality and effectiveness of the community development block grant program.

BE IT FURTHER RESOLVED, that the city of Duluth, along with the service providers and others' names are appended to this resolution, hereby petition the U.S. Congress and administration to recognize the outstanding work being done locally and nationally by the community development block grant program, and of its vital importance to the community and to the people who live in its lower income neighborhoods.

BE IT FURTHER RESOLVED, that copies of this resolution be conveyed to the appropriate elected and appointed officials of the federal government and that the city of Duluth and all of its nonprofit service providers be added to the roll of those committed to the preservation and full

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

funding of the community development block grant program and maintenance of its essential features over the course of the next session of Congress.

Resolution 03-0269 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0295, by Councilor Ness, authorizing a joint powers agreement with the DECC for the operation of the pedestrian bridge over Minnesota slip in the amount of \$81,000, was introduced for discussion.

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

- - -

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 Wallace Avenue between St. Marie Street and Arrowhead Road, said agreement filed as Public Document No. 03-0428-29. The city's cost in this project, which is estimated to be \$193,215.98, is payable with \$80,330.48 coming from Fund 0535, Agency 500, Object 1905, Organization 5533, \$31,553.90 coming from Fund 0510, Agency 500, Object 1905, Organization 5533 and \$81,331.60 from Fund 0530, Agency 500, Object 1905, Organization 5533.

RESOLVED FURTHER, that the plans and specifications prepared by St. Louis County for the reconstruction of Wallace Avenue, city of Duluth Project Number 9306MC03, are hereby approved.

Resolution 03-0265 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED that the proper city officials are authorized to execute and implement a contract, in the form of and containing substantially the same terms as that contract on file with the clerk as Public Document No. 03-0428-30 with MPCA, WLSSD and St. Louis County, for the clean-up and remediation of the Sargent Creek dump site, at a cost to the city of not to exceed \$600,000 payable from the Self Insurance Fund 0610.

Resolution 03-0291 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to Contract 19239 between the city and Short Elliott Hendrickson, Inc., filed as Public Document No. 03-0428-31, for professional services needed in conjunction with the remediation and restoration of the Sargent Creek dump site; increasing the compensation under this agreement by \$210,000, which shall be paid from the Self Insurance Fund 0610-036-1651-5319.

Resolution 03-0292 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that North Star Environmental Construction be and hereby is awarded a contract for restoration of Sargent Creek for the administrative services department in accordance with specifications on its low specification bid of \$625,968.71, terms net 30, FOB job site, payable out of Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1651, Object 5319.

Resolution 03-0297 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to purchase from the Northwestern Mutual Life Insurance company that property described in the deed on file in the office of the city clerk as Public Document No. 03-0428-32, for \$1,500, payable from Fund 0522, Agency 500, Object 5310.

Resolution 03-0311 was unanimously adopted.

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0282, by Councilor Stauber, authorizing an agreement with the Duluth state convention center administrative board and the Duluth economic development authority relating to the production of the fourth of July festival celebration at Bayfront Festival Park for a consideration of \$25,000.

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

K. L. Lewis suggested the council turn this event into a income producing venue instead of spending taxpayers' money.

Councilor Atkins expressed concern that the city is spending too much money for this event compared to what the event used to entail when it first started.

Councilor Ness stated that since the city is experiencing a budget shortfall, it should not be held as it is a nonessential event.

Councilor Hogg requested the administration to provide how the budget will be spent, who the national act is and how much they are being paid, what the hours will be and if it will be a family oriented act.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR BERGSON

03-021 - AN ORDINANCE PERTAINING TO THE SALE OF LAWFULLY PERMITTED FIREWORKS; REQUIRING A PERMIT TO SELL SUCH FIREWORKS; ADDING A NEW ARTICLE III TO CHAPTER 21 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY PRESIDENT STENBERG

03-020 (9599) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNITED STATES COAST GUARD, STATION DULUTH, FOR A REMOTE OPERATED SECURITY GATE

KEYPAD PEDESTAL AND UNDER STREET WIRE LOOP AND ASSOCIATED CABLE CONDUIT IN THE EASEMENT OR RIGHT-OF-WAY OF 12TH STREET SOUTH.

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

- - -

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

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

- - -

ORDINANCE NO. 9599

BY PRESIDENT STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNITED STATES COAST GUARD, STATION DULUTH, FOR A REMOTE OPERATED SECURITY GATE KEYPAD PEDESTAL AND UNDER STREET WIRE LOOP AND ASSOCIATED CABLE CONDUIT IN THE EASEMENT OR RIGHT-OF-WAY OF 12TH STREET SOUTH.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100(d) of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the United States Coast Guard, Station Duluth, its successors and interests, referred to herein as the permittees, to occupy, erect and maintain a remote operated security gate keypad pedestal and under street wire loop and associated cable conduit in that part of 12th Street South way adjoining Lots 136 - 144 (even-numbered lots) Upper Duluth, Minnesota Avenue, as the same was dedicated to the use of the public and the plat of Upper Duluth Division, on file and of record in the office of the registrar of deeds in and for the St. Louis County, Minnesota, described on Exhibit A (Public Document No. 03-0428-33(a)).

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk an executed copy of the license, Exhibit B (Public Document No. 03-0428-33(b)).

Section 3. That by the adoption of this ordinance, the city council herewith authorizes the mayor to execute the license (Exhibit B).

Section 4. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use that is inconsistent with permitted use of the easement. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 5. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said fixtures and appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 6. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree that the city of Duluth shall not be liable for damage caused to such gate keypad pedestal, under street wire loop and associated cable conduit while the city is engaged in plowing or maintaining the street or in making repairs to public utilities provided that the city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 gate keypad pedestal and under street wire loop and associated cable conduit in said 12th Street South.

Section 7. That the permittee shall further observe the following condition:

To the extent not inconsistent with any other local law, all wires, conduits, cable and other property and facilities of grantee shall be located constructed, installed and maintained in compliance with applicable codes. Grantee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the streets and public places of the franchise area or endanger the lives or property of any person.

Section 8. That this ordinance shall take effect and be in force 30 days from and after its passage and publication (Ref. FN. 03024). (Effective date: June 8, 2003)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 28, 2003

Approved April 28, 2003

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 12, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0512-01 Theresa A. Gouin, et al. (two signatures), submitting petition to vacate the most southern end of Bowser Street from 97th Avenue West to 96th Avenue West. -- Assessor

03-0512-02 Leo Koski, et al. (four signatures), by William B. Scalzo, architect, submitting petition to reclassify from R-1-c to R-2, Lots 11, 12, 13, 14, 15, 16 and 17; Block 6, Merritts Addition; Lots 7, 8 and 9, Block 1, Wheelers Addition and Lots 1, 2, 3 and 4, Block 1, Schleunes Addition. -- Assessor

03-0512-03 Lakewalk Townhomes, et al. (eight signatures), by William M. Burns, attorney, submitting petition to reclassify from M-1 and C-2 to R-3 portions of Blocks 1, 2, 3 and E, Endion Division of Duluth and Blocks 1 and 2, Langellier's Rearrangement of Block D, Endion Division of Duluth. -- Assessor

03-0512-04 Donald Morse, et al. (three signatures), submitting petition to reclassify from R-1-b to R-3, Lots 12 through 27, Block 9, Motorline Division of Duluth. -- Assessor

03-0512-05 Tom Ornell, et al. (two signatures), submitting petition to vacate the alley in Lots 1-15, Block 59, Gary Central Division. -- Assessor

03-0512-06 William Stroozas, et al. (nine signatures), submitting petition to construct a sanitary sewer within Anoka Street. -- Assessor

03-0512-32 Gary Glass submitting communications regarding the proposed: (a) Regulatory controls for planned unit developments (03-005-O); (b) Amendment to the HOME program grant agreement with the housing and redevelopment authority (03-0316R). -- Received

03-0512-33 Ken Loeffler-Kemp submitting communication regarding the proposed budget for Spirit Mountain recreation area authority (03-0226R). -- Received

03-0512-16 The following submitting communications regarding the proposed redevelopment project and a redevelopment plan proposed by the housing and redevelopment authority of Duluth (03-0317R): (a) CHUM; (b) Gary Glass; (c) HRA, by Daniel Maddy, attorney; (d) Diane Palmstein; (e) Scott Torvinen. -- Received

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REPORTS OF OFFICERS

03-0512-15 Mayor Doty submitting veto of Resolution 03-0050 requesting further consideration of revised Spirit Mountain master plan. -- Received

03-0512-07 Assessor submitting:

(a) Affidavit of mailing of notice of a public hearing of the special assessment board on May 13, 2003, at 4:30 p.m. in Room 106A, City Hall, regarding the proposed street improvement in Decker Road sanitary sewer from Anderson Road northerly. -- Clerk

(b) Letters of sufficiency to:

(1) Construct a permanent improvement alley in 102nd Avenue West Alley between Gary Street and McConagle Street, including the segment from 101st Avenue West to 102nd Avenue West Alley;

(2) Construct 300 lineal feet of sanitary sewer within Anoka Street beginning 560 feet west of the intersection of Maxwell Avenue and extending easterly;

(3) Reclassify from R-1-b to R-3 the north half of north half of the southwest quarter of northwest quarter of Section 19, Township 50 North, Range 14 West of the Fourth Principal Meridian;

(4) Reclassify from R-1-b to R-3 Motor Line Division of Duluth, Lots 7-27, Block 9;

(5) Vacate the alley in Block 59, Gary Central Division. -- Received
03-0512-08 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license from the Boys and Girls Club of Duluth on August 11, 2003 (raffle). -- Received

03-0512-09 Planning and business development department director submitting quarterly financial report for Duluth 1200 Fund, Inc., for December 31, 2002. - Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0512-11 Duluth airport authority minutes of March 18, 2003, meeting. -- Received

03-0512-12 Duluth state convention center administrative board minutes of March 31, 2003, meeting. -- Received

03-0512-13 Housing and redevelopment authority minutes of February 25, 2003, meeting. -- Received

03-0512-14 Parks and recreation commission minutes of March 12, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented on: the lack of ads for Duluth in out of town papers; that the state of Wisconsin buys advertisement space in bulk and then sublets it to cities at a lower than normal rate and that residents in the Lakeside-Lester Park neighborhoods should have a referendum vote with regard to allowing liquor to be available for sale in the neighborhood.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 03-0266, approving the budget for the fiscal year May 1, 2003, to April 30, 2004, in the amount of \$3,380,855 for the Spirit Mountain recreation area authority, from the table, which motion was seconded and unanimously carried.

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

Steve Townsend expressed support for receiving more information on this resolution.

Ken Loeffler-Kemp, business agent for AFSCME, Council 96, that represents the employees at Spirit Mountain, presented materials (Public Document No. 03-0512-33) covering grievances that have been filed against Spirit Mountain. He commented about the amount of city funds that have been spent in the authority's defense and the number of cases that have gone to arbitration and the resulting awards.

City Attorney Brown reviewed the nature and extent of work provided by his office to Spirit Mountain recreation area authority.

Councilor Atkins move to retable the resolution, which motion was seconded and unanimously carried.

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Councilor Hogg moved to remove Resolution 03-0312, terminating the inflow and infiltration grant program and requesting the administration to recommend a program closure plan, from the table, which motion was seconded and unanimously carried.

Councilor Hogg noted that his concerns in have been addressed in a memo from Dick Larson, director of the public works and utilities department.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Resolution 03-0312 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, by Resolution 96-0098 passed on January 29, 1996, the council authorized a grant program to provide grants to individual owners of residential properties to eliminate the discharge clear water from foundation drains into the sanitary sewer; and

WHEREAS, approximately \$7,032,000 has been made to residential property owners in 2,459 individual grants; and

WHEREAS, the original program assumptions underlying the grant program have been accomplished and further foundation disconnections and sump pump installation can be achieved without the aid of the grant program; and

WHEREAS, the city of Duluth and the WLSSD are co-permittees of a national pollution discharge elimination system permit which strictly limits sewer system overflows and provides penalties for non-compliance; and

WHEREAS, the continuation of the inflow and infiltration reduction program in some form is necessary to assure NPDES permit compliance and a plan to close the grant program and redirect resources to accomplish the I&I reduction program objectives needs to be developed;

NOW, THEREFORE, BE IT RESOLVED, by the council of the city of Duluth that the inflow and infiltration grant program be terminated effective December 31, 2003.

BE IT FURTHER RESOLVED, that the council requests the administration to prepare a plan which will redirect the resources allocated to the grant program to other activities and projects which will further the objectives of inflow and infiltration reduction in fulfillment of the requirements of the NPDES permit.

Resolution 03-0312 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

[Editor's Note: Resolution 03-0312 was reconsidered at the May 27, 2003, city council meeting.]

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Councilor Stover moved to remove Resolution 03-0235, awarding contracts to various vendors for I&I separation/dischARGE at various locations in the approximate total amount of \$764,375, from the table, which motion was seconded and unanimously carried.

Resolution 03-0235 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that Northland Builders & Remodeler (approximately \$400,000 for 250 homes); Calgary Building (approximately \$80,000 for 50 homes); Tims Landscaping & Sump Pump (approximately \$284,375 for 175 homes) be and hereby are awarded contracts for I&I separation/dischARGE to disconnect and install a total of approximately 475 sump pumps at various locations within sanitary sewer basins 1 through 5 for the utility operations division in accordance with specifications on their low specification bids for an approximate total amount of \$764,375, terms net 30, FOB job site, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1970, Object 5482.

Resolution 03-0235 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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At this time, 7:35 p.m., President Stenberg announced that the public hearing regarding the housing and redevelopment authority of Duluth redevelopment plan would begin.

Rick Ball, executive director of the housing and redevelopment authority of Duluth (HRA) reviewed the nature of the plan being presented. He noted that this is an overall framework and will be bound by other approvals that are needed for specific projects.

Pam Kramer, program director for Local Initiatives Support Corporation, Jeff Corey, Kyle Harris and Jerry Kimball spoke in support of the resolution stating: this type of housing plan is good for the community in that it is good for low income individuals; it is also good policy to create housing for all income levels and that the entrepreneurial and professional manner that HRA is using for housing development is of high quality.

Al Parson spoke of his concern that good buildings in Harbor View will be torn down which could be used for student housing.

At this time, 7:50 p.m., President Stenberg closed the public hearing and the regular order of business was resumed.

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The rules were suspended upon a unanimous vote to consider at this time Resolution 03-0317, by Councilor Gilbert, approving a redevelopment project and a redevelopment plan therefore as proposed by the housing and redevelopment authority of Duluth.

Resolution 03-0317 was adopted as follows:

BY COUNCILOR GILBERT:

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

Section 1. Recitals.

1.01 The council has been informed that the housing and redevelopment authority of Duluth, St. Louis County, Minnesota (the authority) desires to promote development of property located in the city.

1.02 In order to promote such development, the authority is considering establishment of Redevelopment Project No. 1 (the project) in the city and adoption of a redevelopment plan (the redevelopment plan) therefore pursuant to Minnesota Statutes, Sections 469.001 through 469.047 (the act). The authority has prepared the redevelopment plan in accordance with Sections 469.027 and 469.028 of the act.

1.03 Pursuant to Section 469.028, Subdivision 1 of the act, and Resolution No. 2460-03 adopted by the authority on March 25, 2003, the authority has requested the city to hold a public hearing on the redevelopment plan and approve the project and the redevelopment plan, which hearing was held this day, at which the views of all interested parties were heard.

1.04 The authority has transmitted to the council:

(a) A copy of authority Resolution No. 2460-03;

(b) a copy of the written opinion of the planning commission plan to the council in a document entitled "Redevelopment Plan/Housing Development Plan for Project Area No. 1" which is now on file in the office of the city clerk (Public Document No. 03-0512-32).

Section 2. Findings. It is hereby found, determined and declared, after investigation of the facts and reports and studies previously presented to this council that:

(a) The land in the project would not be made available for redevelopment without the financial aid to be sought by establishing the project;

(B) The redevelopment plan will afford maximum opportunity, consistent with the needs of the city as a whole, for the redevelopment of the project by private enterprise;

(C) The redevelopment plan conforms to the general plan for the development of the city as a whole.

Section 3. Approval.

3.01 The project is approved.

3.02 The redevelopment plan is approved.
Resolution 03-0317 was unanimously adopted.
Approved May 12, 2003
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.)

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

BY COUNCILOR ATKINS:

RESOLVED, that A.G. O'Brien Plumbing and Heating Company be and hereby is awarded a contract for furnishing and installing a dehumidification unit at the Fryberger Arena for the city architect division in accordance with specifications on its low specification bid of \$26,239.53, terms Net 30, FOB job site, payable out of General Fund 0100, Department/Agency 700, Organization 2725, Object C209.

Resolution 03-0321 was unanimously adopted.
Approved May 12, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Russ Stewart (city councilor) to the Duluth economic development authority by Mayor Doty for a term expiring April 27, 2009, is confirmed.

Resolution 03-0336 was unanimously adopted.
Approved May 12, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointment of Clyde Annala (District 1) to the community development committee by Mayor Doty for a term expiring on March 1, 2006, replacing Chester P. Johnson, is confirmed.

Resolution 03-0337 was unanimously adopted.
Approved May 12, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointment of Todd Erickson (labor) to the Duluth housing commission by Mayor Doty for a term expiring on September 30, 2005, replacing Johnnie Forrest, is confirmed.

Resolution 03-0342 was unanimously adopted.
Approved May 12, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Document No. 03-0512-17, to the HOME program grant agreement with HRA providing for retention by HRA of ten percent of the program income for administrative costs upon the approval of the city's manager of community housing and development (the manager).

Resolution 03-0316 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0512-18, to city Contract No. 18890 with attorney Richard A. Nelson adding services to be provided under the agreement, extending the term of the agreement and increasing the amount payable thereunder by \$2,500, payable from Economic Development Fund 0255.

Resolution 03-0334 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the public easement in the air rights above 18 feet over that portion of the alley easement adjoining the easterly 20 feet of Lot 6, Block 16, and Lot 6, Block 19, Portland Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its April 23, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the air rights described above and as more particularly described on Public Document No. 03-0512-19.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the alley air rights to be vacated. (Ref. FN. 02100)

Resolution 03-0307 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, the Duluth City Council on August 12, 2002, unanimously adopted Resolution 02-0514 which allows for facade changes, remodeling and a 7,200 square foot expansion of the grocery store portion of the Kenwood Shopping Center; and

WHEREAS, POFABE Development Corporation has submitted to the city council a request to replace the existing 60 square foot shopping center sign with a sign of 142 square feet; and said amendment request was duly referred to the city planning commission for a study and report and the city planning commission has subsequently reported its unanimous 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 replace the existing ground sign of approximately 60 square feet in size and approximately 30 feet in height with a proposed sign of 142 square feet and 30 feet in height, the new sign to be located nearer Arrowhead Road, 50 feet north of the existing sign, on condition that the sign be limited to, constructed and maintained in accordance with the plans submitted by Melander Melander & Schilling entitled "Festival Foods, Kenwood Mall, Arrowhead Drive, Duluth, Minnesota," Sheet A-1, dated 03-19-03. (Ref. FN. 02063)

Resolution 03-0309 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

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

WHEREAS, Zenith Terrace Associates has submitted to the city council a request for a special use permit amendment for an expansion of the mobile home park located at the northeast corner of Boundary Avenue and US Highway 2 on property described as:

all of Blocks 5, 6, 7, 8 and 9, including the platted streets and alleys, Steel Plant Terminal Addition to Duluth, except the south 25 feet lying easterly of a line 594.5 feet distant and parallel with the west line of the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 11, Township 49 North, Range 15 West; and the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 11, Township 49 North, Range 15 West of the Fourth Principal Meridian, except the South 25 feet of the west 14 feet, thereof. And, the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 11, Township 49 North, Range 15 West of the Fourth Principal Meridian, except the west 14.00 feet thereof, and subject to an existing right-of-way for U.S. Highway No. 2; and the NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 14, Township 49 North, Range 15 West of the Fourth Principal Meridian lying northeasterly of US Highway No. 2; and Lots 9, 10 and 11, Block 4, Steel Plant Terminal Addition to Duluth;

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

WHEREAS, Resolution 97-0074, unanimously adopted on January 27, 1997, granted conditional approval to Phase II, an 80-site expansion, of Zenith Terrace and as a result of those conditions Phase II has been redesigned to provide 60 lease sites; 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 for Phase II of special use permit Resolution 97-0074 be amended to allow for 60 lease sites, with the following conditions:

(a) That the development be consistent with, constructed and maintained in accordance with plans submitted by Salo Engineering entitled, "Zenith Terrace Expansion Concept Plan," dated 2/12/03, with sites 1 and 2 amended to provide a continuation of the 25-foot wide open space to Arbutus Drive;

(b) That all county and state licensing requirements be met;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

(1) Water and sanitary sewer connections shall be approved by city engineering, public works and utilities department and fire department;

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

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

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

(d) That the necessary permits be obtained to impact wetlands. (Ref. F.N. 03010)

Resolution 03-0310 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

BE IT RESOLVED, that the contract authorized by Resolution 03-0217 is amended to the contract authorized by this resolution, and the proper city officials are authorized to execute and implement a contract in substantially the same form and containing the terms of that contract on file with the city clerk as Public Document No. 03-0512-20, with St. Louis County for the use of the county jail to house prisoners of the city of Duluth during 2003, for a cost of \$40,000 per year, payable from the General Fund 0100, Agency 200, Organization 1610, Object 5445.

Resolution 03-0318 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that pursuant to Minnesota Statute Sec. 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 to execute an agreement with the commissioner of transportation, filed as Public Document No. 03-0512-21, prescribing the terms and conditions of said federal aid participation as set forth and contained in Minnesota department of transportation agency Agreement No. 84195.

Resolution 03-0314 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

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. 03-0512-22, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 03-0320 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Minnesota Aggregates, Inc., be and hereby is awarded a contract for construction year 2003 street improvement of Upper Woodland Far West for the engineering division in accordance with specifications on its low specification bid of \$717,044.36, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0307, Object 5530.

Resolution 03-0322 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Minnesota Aggregates, Inc., be and hereby is awarded a contract for construction year 2003 street improvement of Hunters Park East for the engineering division in accordance with specifications on its low specification bid of \$290,467.57, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0303, Object 5530.

Resolution 03-0323 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of gas mains and services at various locations throughout the city for the utility operations division in accordance with specifications on its low specification bid of \$216,535, terms net 30, FOB job site, payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5533.

Resolution 03-0324 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Premier Companies be and hereby is awarded a contract for furnishing painting of 2,725 gas meter piping throughout the city of Duluth for the utility operations division in accordance with specifications on its low specification bid of \$27,870.41, terms net 30, FOB job site, payable out of Gas Fund 0520, Department/Agency 500, Organization 1945, Object 5310.

Resolution 03-0327 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

[Editor's Note: Resolution 03-0327 was reconsidered at the May 27, 2003, city council meeting.]

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 300 feet of sanitary sewer in Anoka Street beginning 500 feet west of Maxwell Avenue and extending easterly.

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

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

Resolution 03-0328 was unanimously adopted.

Approved May 12, 2003

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. 0066TR).

RESOLVED FURTHER, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$443,000 payable from the Special Assessment Fund 0410, Agency 038, Organization 5373, Object 5530; that approximately \$92,400 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund; that approximately \$39,000 be payable from the Sanitary Sewer Utility Fund 0530; that approximately \$210,000 be payable from the Water Utility Fund 0510; that approximately \$36,000 be payable from the Stormwater Utility Fund 0535; that approximately \$3,600 be payable from the Gas Utility Fund 0520; and that approximately \$62,000 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 03-0329 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that Kent Road from Chester Parkway to 19th Avenue East (City Job No. 9102MA00) be improved, and

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$148,000; \$134,870 from municipal state aid funds, and \$13,130 is assessable from the Special Assessment Fund 0410, Agency 038, Organization 5372, Object 5530.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0330 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that Northland Bituminous be and hereby is awarded a contract for furnishing and delivering bituminous materials as needed for year 2003 for the maintenance and utility operations division in accordance with specifications on its low specification bid for a total of \$45,000, terms net 30, FOB picked up, payable out of various funds, various departments/agencies, various organizations, various objects.

Resolution 03-0331 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay \$20,218.26 to Keely Heim in settlement of all claims arising out of a sewer backup at 1040 Lake Avenue South on or about February 26, 2003; payment to be made from Self Insurance Fund 0610.

Resolution 03-0332 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering 840 cold water meters for the utility operations division in accordance with specifications on its low specification bid of \$54,566.34, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 2410, Object 5227.

Resolution 03-0335 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized to enter into a grant agreement for up to \$10,000 with the state of Minnesota, department of labor and industry, filed as Public Document No. 03-03-0512-23, to fund 50 percent of the purchase of PASS alarms to be used by the fire department in conjunction with self-contained breathing apparatus. Monies from this grant shall be deposited in General Fund 0100-100-1501-4230. The city's matching funds shall come from Fund 0250-015-NR01-E109.

Resolution 03-0333 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with the Woodland Fastpitch Softball League, a copy of which is filed as Public Document No. 03-0512-24, for the maintenance and operation of Tony Emanuel Field. These funds shall be deposited into fund 0210-030-2190-4615.

Resolution 03-0264 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STAUBER:

BE IT RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth YMCA, in the form of and containing substantially the terms of that agreement, filed with the city clerk as Public Document No. 03-0512-25, authorizing said YMCA to operate Camp Kitchigami at Chester Bowl Park. These funds shall be deposited into Fund 0100-400-1812-4615.

Resolution 03-0267 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

BE IT RESOLVED, that the proper City Officers are hereby authorized to execute an agreement with the Duluth YMCA, in the form of and containing substantially the term of that agreement filed with the city clerk as Public Document No. 03-0512-26, authorizing said YMCA to operate Day Camp at Morgan Park Community Recreation Center. These funds shall be deposited into Fund 010-0400-1812-4615.

Resolution 03-0268 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a facility use agreement with Denfeld High School, a copy of which is filed as Public Document No. 03-0512-27, for the use of the Wade Municipal Stadium and Wheeler fields, for consideration of \$1,650 in 2003. These funds shall be deposited into Fund 0210-030-2190-4615.

Resolution 03-0302 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 03-0512-28, between the city of Duluth and the Morgan Park Community Club, which authorizes the Morgan Park Community Club to share in the operation and maintenance of the facilities named in said agreement for recreational and community advancement purposes.

Resolution 03-0308 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0325, by Councilor Hogg, authorizing the city to be a sponsor of the 2003 North Shore Inline Marathon at a cost to the city of \$15,000, was introduced for discussion.

Councilor Hogg moved to amend the resolution by adding the words "plus in-kind services" after "\$15,000" in the title, body and statement of purpose, which motion was seconded and unanimously carried.

Councilor Hogg moved to table Resolution 03-0325, as amended, which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Resolution 03-0326, by Councilor Hogg, authorizing execution of a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2003 Grandma's Marathon at a cost of not to exceed \$15,000, plus in-kind services, was introduced for discussion.

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

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BY COUNCILOR STEWART:

RESOLVED, that the appointment of Glen Porter to the housing and redevelopment authority by Mayor Doty for a term expiring on January 7, 2008, replacing Greg Hansen, is confirmed.

Resolution 03-0340 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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Resolution 03-0338, by Councilor Gilbert, pertaining to traffic management on Arrowhead Road from Kenwood Avenue to Rice Lake Road, was introduced for discussion.

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

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Resolution 03-0341, by Councilor Ness, calling for an advisory referendum to be held in conjunction with the municipal general election on whether the Duluth City Council should approve future amendments to the Spirit Mountain master plan if said master plan includes plans for a hotel and golf course, was introduced for discussion.

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

Warner Wirta expressed concern that a referendum would not be binding upon the council.

Kay L. Lewis suggested that the words "if that plan includes plans for" be replaced with the words "which permits." She felt that there were enough new and existing golf courses in the area already.

Councilors Ness, Bergson and Stover supported the resolution for the following reasons: this issue has been back and forth to the council for the last six years; this issue divides the community; this issue is at a legislative standstill; two groups on both sides of the issue have been battling over this issue for the past six years; a referendum will allow the majority of Duluthians to have their voice heard and each side has a different belief as to what the majority of Duluthians want.

Councilors who opposed the resolution felt that: the council has acted on this; that a referendum will not address any of the legal aspects of LAWCON; that councilors and mayoral candidates, on either side of the issue, will not change their votes; that this will not be an easy fix of the issue; that the court will resolve issues associated with this project, not an advisory referendum; the public's vote can be overridden and the council's role in this has not been understood.

Resolution 03-0341 failed upon the following vote (Public Document No. 03-0512-29):

Yeas: Councilors Bergson, Ness and Stover -- 3

Nays: Councilors Atkins, Gilbert, Hogg, Stauber, Stewart and President Stenberg -- 6

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BY COUNCILOR BERGSON:

WHEREAS, by Resolutions 86-0736 and 89-0652 adopted on February 17, 1987 and August 10, 1989, the city council designated portions of certain streets in the vicinity of Duluth East High School as resident permit parking zones pursuant to Section 33-125 of the City Code; and

WHEREAS, the residents of an adjoining street (Greysolon Place) have submitted a petition requesting to be included in this zone or requesting that a segment within the zone (Superior Street between 26th Avenue East and 34th Avenue East) be removed from the regulations of the resident permit parking ordinance; and

WHEREAS, after review of the matter, the city council has determined that removal of such street segment from the resident permit parking zone is appropriate.

NOW, THEREFORE, BE IT RESOLVED, that Resolution 89-0652 is hereby amended by deleting the parking areas on both sides of Superior Street between 26th Avenue East and 34th Avenue East for the resident permit parking zone established by such resolution.

Resolution 03-0272 was unanimously adopted.

Approved May 12, 2003

GARY L. DOTY, Mayor

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Resolution 03-0343, by Councilor Bergson, authorizing an agreement between the city of Duluth and Retailers Protection Association to provide and administer a bad check program, was introduced for discussion.

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

Patty Opine, representing the Duluth Financial Coalition, expressed support for the resolution, noting that in order to have the financial crimes network in Duluth, these small NSF checks need to be taken from the duties of the police department and that this company will be working with the existing check collection agencies.

Resolution 03-0343 was adopted as follows:

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 03-0512-30, between the city of Duluth and the Retailers Protection Association of Anoka, Minnesota, for the purpose of providing and administering a bad check program described in the agreement and materials (Public Document No. 03-0512-30) at no cost to the city.

Resolution 03-0343 was adopted upon the following vote:

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

Nays: Councilors Ness and Stauber -- 2

Approved May 12, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0512-10, with the Duluth state convention center administrative board to produce, promote and manage the Fourth of July festival celebration at Bayfront Festival Park for a consideration of \$25,000; payable from Special Projects and Events Account 0100-700-1428.

Resolution 03-0208 was unanimously adopted.

Approved May 12, 2003

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 STENBERG

03-005 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-37 TO PROVIDE FOR THE REGULATORY CONTROLS FOR PLANNED UNIT DEVELOPMENTS.

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

Vicki Sanville, Jerry Kimball, John Sandford, Andrew Slade, representing Duluth Public Policy Alliance, Mike LeDoux and Hal Moore expressed concerns that: a comprehensive plan has not been adopted yet; neighborhood plans, which are in various stages of development, have not been taken into consideration regarding this issue; there has not yet been enough citywide input; existing ordinances can be used for the time being;

sections of the proposed ordinance are in conflict with not having the comprehensive plan adopted; planned unit developments are needed for housing developments but not large scale commercial developments; by making some small changes to the existing planned unit development, low density regulations in the Code, desired housing needs can be accommodated; this is not an improvement from the prior regulations; this proposed language reduces the role of public input; the exemptions which are allowed in this ordinance will adversely affect the safeguards for neighbors with the housing and redevelopment authority development in Lester Park.

Michael Conlan, planning and development department director, explained at length that the proposed ordinance does allow for public involvement and commented that the involvement is built into the process from the beginning, instead of the end, and that there are more specific details/requirements than there used to be.

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The following entitled ordinance was read for the second time:

BY COUNCILOR BERGSON

03-021 (9600) - AN ORDINANCE PERTAINING TO THE SALE OF LAWFULLY PERMITTED FIREWORKS; REQUIRING A PERMIT TO SELL SUCH FIREWORKS; ADDING A NEW ARTICLE III TO CHAPTER 21 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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The meeting was adjourned at 8:57 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9600

BY COUNCILOR BERGSON:

AN ORDINANCE PERTAINING TO THE SALE OF LAWFULLY PERMITTED FIREWORKS; REQUIRING A PERMIT TO SELL SUCH FIREWORKS; ADDING A NEW ARTICLE III TO CHAPTER 21 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article III entitled "Fireworks" be added to Chapter 21 of the Duluth City Code, 1959, as amended, and shall read as follows:

Article III. Fireworks.

Sec. 21-40. Definitions.

For the purposes of this Article, the terms defined in this Section shall have the following meanings:

Lawfully permitted fireworks means wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices or trick noisemakers which include paper streamers, party poppers, string poppers, snappers and drop pops, each consisting of not more than 25/100 grains of explosive mixture.

Sec. 21-41. Permit for retail sale required.

No person shall store for retail sale, sell at retail or otherwise supply or furnish as part of a commercial retail transaction any legally permitted fireworks without first having obtained a permit to do so from the chief of the fire department.

Sec. 21-42. Application; fees; term of permit; premises.

(a) Application for a permit to sell lawfully permitted fireworks at retail shall be made to the fire chief on forms supplied by the fire chief. The application shall contain the location of where the fireworks are to be sold, where the fireworks are to be stored, and any other information the fire chief may require;

(b) The fee for a lawfully permitted fireworks retail sales permit shall be \$100, which shall be paid at the time of application. The permit fee shall not be prorated;

(c) Permits shall be valid from May 1 to April 30 of each year for which the permit is issued. Permits are nontransferable;

(d) Permits shall be issued only for locations approved by the fire chief on private property zoned in the C or M categories under Chapter 50. Permits shall not be issued for locations in public right-of-ways, parks or other public grounds. If the permit applicant is not the owner or lessee of the location where sales are to be made, the applicant shall submit written permission from the property owner to use the location at the time the permit is applied for.

Sec. 21-43. Denial, suspension and revocation of permits.

The fire chief may deny, suspend or revoke any permit to sell at retail lawfully permitted fireworks for good cause, after giving the permittee or applicant an opportunity to be heard at a hearing before the chief. Without limitations, the following shall be deemed to be good cause for denial, suspension, or revocation of a permit:

(a) Storage or sale of lawfully permitted fireworks in a manner that is contrary to this Article, the state fire code, Minnesota Statutes Chapter 624 or 299F or any other applicable law;

(b) Securing the permit through misrepresentation, fraud or misstatement of a material fact;

(c) Failure to cooperate with the fire chief or fire marshal in any investigation relating to the permittee's operations or sale or distribution of lawfully permitted fireworks.

Sec. 21-44. Sales to persons under 18 prohibited.

No person shall sell lawfully permitted fireworks to any person under 18 years of age. Proof of age for purchasing lawfully permitted fireworks may be established only by one of the following:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(a) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;

(b) A valid military identification card issued by the United States department of defense;

(c) A valid passport issued by the United States; or

(d) In the case of a foreign national, by a valid passport.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 22, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2003
Approved May 12, 2003
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 27, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: President Stenberg -- 1

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The minutes of the city council meetings held on March 24, 31 and April 14, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0527-01 Lakewalk Townhomes, by William M. Burns, attorney, submitting:

(a) Further petition (two signatures) to reclassify from M-1 and C-2 to R-3 portions of Blocks 1, 2, 3 and E, Endion Division of Duluth and Blocks 1 and 2, Langellier's Rearrangement of Block D, Endion Division of Duluth;

(b) Petition (five signatures) to vacate portions of Water Street, East 24th and 25th avenues and alleys in Endion Division of Duluth and Langellier's Rearrangement of Block D, Endion Division. -- Assessor

03-0527-02 Mediacom submitting concurrent use permit application to construct and maintain a fiber optic cable with the city limits of Duluth along the right-of-way of Airport Road. -- Planning commission

03-0527-10 SEH Engineering submitting petition to vacate roads and utilities in the Plat of Crystal Tree. -- Assessor

03-0527-03 William K. Stroozas submitting waiver agreement for the proposed construction of 300 lineal feet of sanitary sewer within Anoka Street beginning 500 feet west of Maxwell Avenue and extending easterly. -- Engineering

03-0527-11 The following submitting communications regarding amendment of the 2004 street improvement program (03-0241R): (a) Delores Grassinger; (b) Anssi and Anneli Rannikko; (c) Toni Snickers. -- Received

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REPORTS OF OFFICERS

03-0527-04 Assessor submitting:

(a) Letter of sufficiency of petition to reclassify from M-1 and C-2 to R-3 portions of Blocks 1, 2, 3 and E, Endion Division of Duluth and Blocks 1 and 2, Langellier's Rearrangement of Block D, Endion Division of Duluth;

(b) Letters of sufficiency of petitions to vacate:

(1) Portions of Water Street, East 24th and 25th avenues and alleys in Endion Division of Duluth and Langellier's Rearrangement of Block D, Endion Division;

(2) The most southern end of Bowser Street from 97th Avenue West to 96th Avenue West;

(c) Letter of insufficiency of petition to reclassify from R-1-c to R-2, Lots 11, 12, 13, 14, 15, 16 and 17; Block 6, Merritts Addition; Lots 7, 8 and 9, Block 1, Wheelers Addition and Lots 1, 2, 3 and 4, Block 1, Schleunes Addition. -- Received

03-0527-05 Engineering division submitting monthly project status report of May 1, 2003-- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0527-12 Alcohol, gambling and tobacco commission minutes of April 8, 2003, meeting. -- Received

03-0527-06 Commission on disabilities minutes of April 7, 2003, meeting. -- Received

03-0527-07 Parking commission minutes of April 8, 2003, meeting. -- Received

03-0527-08 Special assessment board minutes of April 8, 2003, meeting. -- Received

03-0527-09 Spirit Mountain recreation area authority board minutes of March 26, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

John Ramos reviewed that when the aquarium project was approved by the council, promises were made by community leaders that turned out to be false and that if we do not hold these people accountable, the same thing will happen on other projects.

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Timothy Bearheart stated that as a young person in Duluth who wants to be involved in government, he was disappointed that the council voted against giving Duluthians the opportunity to vote on the Spirit Mountain issue to find out what the real community sentiment is.

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Anne Krafthefer explained that illegal activity has been going on in the rental unit next to her house for a few years with tenants moving out and bad ones moving in. She voiced frustration that this is an ongoing problem with no resolution and that the police department has provided very little help. Ms. Krafthefer questioned what her next step could be to get help with this matter.

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RECONSIDERED RESOLUTIONS

Councilor Stover moved to reconsider Resolution 03-0312, terminating the inflow and infiltration grant program and requesting the administration to recommend a program closure plan, by Vice President Hogg, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Gilbert, Ness, Stauber, Stewart and Stover -- 6

Nays: Councilors Bergson and Vice President Hogg -- 2

Absent: President Stenberg -- 1

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

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Councilor Ness moved to reconsider Resolution 03-0327, awarding contract to Premier Companies for painting of 2,725 gas meter piping throughout the city of Duluth in the amount of \$27,870.41, by Councilor Stover, which motion was seconded and unanimously carried.

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

Craig Olson, president of the Duluth Building Trades Council, reviewed the City Code, the department of labor's policy statement on prevailing wage and state statute on the definition of a project and prevailing wage and stated that city officials have a problem with enforcing the contractors to use the prevailing wage and could be subject to a fine if they do not enforce the law. He continued by saying that painting is considered maintenance and should be covered in bid specifications under the prevailing wage rate.

To questioning from councilors, City Attorney Brown reviewed that the city council needs to decide if it is a good policy to require a prevailing wage on any type of work and the council has the authority to do so in this area. He continued by saying that the council can

reject all bids, but cannot go to the next lowest bidder who pays the prevailing wage because it is not on the list of factors in the Charter that the council can consider in determining who the lowest responsible bidder is. Mr. Brown also stated that the council can require a new bid with the prevailing wage in the specifications and can stipulate the wording that would solve this problem.

Councilor Ness stated that the council has an opportunity to define "repair" as a very narrow term, or as a term that includes maintenance in regards to painting on city projects and the right thing to do is to require that a contract of this magnitude pay a prevailing wage for people who are doing this for a living. He continued by saying that this resolution should be sent back to the administration and the project should be rebid with the provision that the prevailing wage be used for all aspects of this project.

Resolution 03-0327 failed upon a unanimous vote (Public Document No. 03-0527-13).

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RESOLUTIONS TABLED

Vice President Hogg moved to remove Resolution 03-0266, approving the budget for the fiscal year May 1, 2003, to April 30, 2004, in the amount of \$3,380,855 for the Spirit Mountain recreation area authority, from the table, which motion was seconded and unanimously carried.

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

Steve Townsend and K.L. Lewis urged the councilors not to vote on this budget until all their questions have been answered, including the paint ball operation and personnel and salary issues. They further stated that privatization of the Spirit Mountain facility should be looked at to get the city out from under that facility.

Eric Lehto, A.F.S.C.M.E., Local 66, reviewed that since the employee issue came to the attention of the council not much as changed at Spirit Mountain. He urged the council to request that the Spirit Mountain budget show city attorney expenses as a line item.

Ken Loeffler Kemp, business agent for A.F.S.C.M.E., Council 96, reviewed that the labor issues have not changed in the last two weeks and firmly believes the full cost of the city attorney services that are provided to Spirit Mountain need to be borne by the Spirit Mountain recreation area authority (SMRAA) and that the budget be adjusted to reflect the anticipated cost that will be incurred over the next year.

Councilor Ness stated that the council has not handled this issue well in the past weeks by neglecting to set any specific requests on what was needed to get movement on the issue so that the budget does not get further delayed.

Councilor Stauber stated that, per the administration, by not passing this budget the authority is spending money without authority to do so and urged the council to pass the budget so that they can continue operating and seek remedies to the issue where they have the authority to do so.

Councilors expressed frustration that the SMRAA board has not taken action on the employee issues and that there appears to be a poor line of communication and working relations between the employees, the SMRAA and the council.

Responding to councilor questions, Mr. Brown stated that if the budget is not approved by the council, no money can be spent by SMRAA, which will be noted in the review of their budget by the state auditor; and that the SMRAA pays the city \$50,000 a year for attorney fees and in 2002 the annual cost for the attorneys' staff time did not exceed \$38,000.

Councilor Ness proposed that the budget reflect two line items for city attorneys' services and that one line item be designated for the general services that the city provides

and the second item be designated for legal services for employee relations on a per hour basis and then the SMRAA can determine how much of that service they are willing to pay for.

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

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

Nays: Councilor Stauber -- 1

Absent: President Stenberg -- 1

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Councilor Ness moved to remove Resolution 03-0325, as amended, authorizing the city to be a sponsor of the 2003 North Shore Inline Marathon at a cost to the city of \$15,000, plus in-kind services; and Resolution 03-0326, authorizing execution of a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2003 Grandma's Marathon at a cost of not to exceed \$15,000, plus in-kind services, by Vice President Hogg, from table, which motion was seconded and unanimously carried.

Resolution 03-0325, as amended, was adopted as follows:

BY VICE PRESIDENT HOGG:

RESOLVED, that the city is authorized to enter into a sponsorship agreement with North Shore Inline Marathon under which the city will contribute \$15,000, plus in kind services, to assist with promotion of the year 2003 marathon, which agreement is on file in the office of the city clerk as Public Document No. 03-0527-14, and such contribution shall be paid from Fund 0258-030-1431-5490.

Resolution 03-0325, as amended, was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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Resolution 03-0326 was adopted as follows:

BY VICE PRESIDENT HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2003 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 03-527-15, at a cost to the city of not to exceed \$15,000, plus in-kind services, which shall be paid from Fund 0258-030-1431-5490.

Resolution 03-0326 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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Councilor Gilbert moved to remove Resolution 03-0338, pertaining to traffic management on Arrowhead Road from Kenwood Avenue to Rice Lake Road, from table, which motion was seconded and unanimously carried.

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

Peter Bruley urged the council to support this resolution because it will cause the traffic to slow down to provide greater safety for pedestrians using the sidewalks and the turning lane will make it safer for motorists who are attempting to turn off of Arrowhead Road.

Councilor Gilbert reviewed that several of the neighbors have expressed concern for their safety and that the safety of the neighborhood residents should be a priority for the council.

Councilor Bergson questioned the ability of the city to fulfill its commitment to plow the street and sidewalks as directed in the resolution and that there needs to be a review of the plowing issue in a year to see how this change has affected the number of traffic accidents that have occurred on the roadway.

Councilor Stauber expressed concern that the 16,000 motorists who use Arrowhead Road are not aware that the council is about to change the configuration of the road.

Councilor Atkins stated that enforcement of the speed limit on the road is difficult and this change is worth a try. He agreed that there needs to be a review in a year.

Councilor Ness stated that in the best interest of Duluthians, it is important to have that type of arterial street to move a large amount of people efficiently from one point to another. He continued by saying that although the residents are looking for a solution to solve a problem that is obviously there, this proposal has the potential to make the traffic situation on Arrowhead Road worse.

Resolution 03-0338 was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that the city council hereby converts Arrowhead Road from Kenwood Avenue to Rice Lake Road from a four lane road to a three lane road with a center turn lane on a trial basis.

RESOLVED FURTHER, that the city council hereby requests the state highway commissioner change the posted speed limit on Arrowhead Road from Kenwood Avenue to Rice Lake Road from 40 mph to 30 mph.

RESOLVED FURTHER, that the city of Duluth reaffirms its agreement with the residents on Arrowhead Road to promptly plow the snow from the sidewalk on the west side of Arrowhead Road from Kenwood Avenue to Rice Lake Road.

Resolution 03-0338 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Stauber, Stewart, Stover and Vice President Hogg -- 6

Nays: Councilors Bergson and Ness -- 2

Absent: President Stenberg -- 1

Approved May 27, 2003

GARY L. DOTY, Mayor

[Editor's Note: Resolution 03-0338 was reconsidered at the June 9, 2003, city council meeting.]

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

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Player's Softball Team (Early Bird Tournament), Wheeler Field, for May 31 and June 1, 2003, with Darrell Eckenberg, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Player's Softball Team (Mick/Golden Draft Co-Ed Softball Tournament), Wheeler Field, For July 12 and 13, 2003, with Darrell Eckenberg, manager.

Resolution 03-0361 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2003, subject to departmental approvals:

WKK Mgt. Company (Ground Round Restaurant), 2101 Maple Grove Road.

Resolution 03-0362 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Grandma's Angie's, Inc. (Little Angie's), 11 East Buchanan Street, for June 21, 2003, with the serving ceasing at 12:30 a.m.

Lemon's Reef, Inc. (Reef Bar), 2002 London Road, for June 21, 2003, with the music and serving ceasing at 11:00 p.m.

Resolution 03-0363 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, with an application fee of \$200, subject to departmental approvals, and further subject to approval of the liquor control commissioner:

Northland Vietnam Veterans Association, Bayfront Park, for August 8, 9 and 10, 2003, with Sandra Fjeld, manager.

Resolution 03-0364 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license for the period ending August 31, 2003, subject to departmental approvals and approval of the liquor control commissioner:

RWM Baseball, Inc. (Duluth Huskies Baseball Club), Wade Stadium, with Robert W. McCarthy, president.

Resolution 03-0365 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2003, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

DAC, LLC (Good Times Liquor & Tobacco Shop), 11 North Fourth Avenue West, transferred from DAC, LLC (Good Times Liquor & Tobacco Shop), 32 West First Street, with Dean A. Cox, sole owner.

Resolution 03-0366 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the Duluth-Superior Area Educational Television Corporation and St. George's Serbian Orthodox Church have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Duluth-Superior Area Educational Television Corporation and St. George's Serbian Orthodox Church and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 03-0367 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling site	Date application filed
Irving Community Club	Stadium Lanes	April 25, 2003

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Licensee	Gambling site	Date application filed
Lake Superior Steelhead Association	Club Saratoga	May 7, 2003
Lake Superior Steelhead Association	Mr. D's	May 7, 2003

Resolution 03-0368 was unanimously adopted.
Approved May 27, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the Duluth City Council hereby approves of the abolishing of the three obsolete and inactive job classifications set forth in Exhibit A (filed in the office of the city clerk as Public Document No. 03-0527-16), said action abolishing said classifications having been approved by the civil service board on May 6, 2003.

Resolution 03-0344 was unanimously adopted.
Approved May 27, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the civil service classification of junior chemist be amended to become chemist, which was approved by the civil service board on May 6, 2003, and which is filed with the city clerk as Public Document No. 03-0527-17, is approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31, \$3,288 to \$3,909 per month. The proper 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 03-0345 was unanimously adopted.
Approved May 27, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the civil service classification of water and gas pipeline welder be amended to become pipeline welder, which was approved by the civil service board on May 6, 2003, and which is filed with the city clerk as Public Document No. 03-0527-18, is approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 29, \$3,022 to \$3,585 per month. The proper 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 03-0346 was unanimously adopted.
Approved May 27, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the civil service classification of senior water and gas pipeline welder be amended to become senior pipeline welder, which was approved by the civil service board on May 6, 2003, and which is filed with the city clerk as Public Document No. 03-0527-19, is approved. This classification shall remain subject to the city's collective bargaining agreement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

with its basic unit employees and compensated at Pay Range 30, \$3,149 to \$3,762 per month. The proper 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 03-0347 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the civil service classification of water and gas training and safety coordinator be amended to become safety and training coordinator, which was approved by the civil service board on May 6, 2003, and which is filed with the city clerk as Public Document No. 03-0527-20, is approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 137, \$3,924 to \$4,677 per month. The proper 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 03-0348 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the civil service classification of gas dispatch operator I be amended to become gas control operator I, which was approved by the civil service board on May 6, 2003, and which is filed with the city clerk as Public Document No. 03-0527-21, is approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 26, \$2,666 to \$3,149 per month. The proper 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 03-0349 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the civil service classification of gas dispatch operator II be amended to become gas control operator II, which was approved by the civil service board on May 6, 2003, and which is filed with the city clerk as Public Document No. 03-0527-22, is approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 28, \$2,902 to \$3,435 per month. The proper 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 03-0350 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of chief gas dispatcher, including a title change to chief gas controller, which were approved by the civil service board on May 6, 2003, and which are filed with the city clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

as Public Document No. 03-0527-23, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1075, \$3,954 to \$4,803 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 03-0351 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments of John Morrin, Robert E. Powless and Madeleine Tjaden to the American Indian commission by Mayor Doty for terms expiring on May 12, 2006, are confirmed.

Resolution 03-0353 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment of Susan Isernhagen to the commission on disabilities by Mayor Doty for a term expiring on November 1, 2004, replacing Kim Ochocki, who resigned, is confirmed.

RESOLVED FURTHER, that the appointments of Walter Kramer and Kimberly McKay to the commission on disabilities by Mayor Doty for terms expiring on November 1, 2005, replacing Richard Anderson and Jason Scurlock, who resigned, are confirmed.

Resolution 03-0355 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments of Leslie Gibbs, Kamal S. Gindy, Maria Krynicki, Cruz Mendoza and John Staine to the Duluth human rights commission by Mayor Doty for terms expiring on April 20, 2006, are confirmed.

Resolution 03-0356 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointments of Robert Appleton, Jeremy Downs and Penny Perry to the Duluth public arts commission by Mayor Doty for terms expiring on September 30, 2005, replacing Marilyn Bowes, Catherine Koemptgen and Donald Tubesing, who resigned, are confirmed.

Resolution 03-0357 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointments of Elliott J. Bayly, Diane Kettelhut and Hugh Reitan

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

to the heritage preservation commission by Mayor Doty for terms expiring on May 31, 2006, replacing Dale W. Lucas, Marguerite A. Mason and William Scalzo, are confirmed.

Resolution 03-0358 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointment of Elizabeth Benson Johnson to the library board by Mayor Doty for a term expiring on June 1, 2008, replacing Maureen Q. Strange, is confirmed.

Resolution 03-0359 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment of Yasemin Under (at large) to the community development committee by Mayor Doty for a term expiring on March 1, 2004, replacing Denice Johnson, who resigned, is confirmed.

Resolution 03-0385 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that the director of the department of administrative services is hereby authorized to enter into licensing agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0527-24(a) with various potential users for the use of aerial photographic data produced for the city by Markhurd, Inc., pursuant to its Proposal No. 01-040401 and work product developed from that data, and to charge for the use thereof those fees as set forth in the fee schedule on file in the office of the city clerk as Public Document No. 03-0527-24(b), provided that any sums received for use of said facility shall be deposited in General Fund 015-1513-4332.

Resolution 03-0369 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) development agreement with LHB Riverside Development, LLC, relating to the Riverside residential development approved by the DEDA board at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-21, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-25, is hereby approved.

Resolution 03-0388 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) agreement with Duluth state convention center

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

administrative board and the city of Duluth relating to the fourth of July festival at Bayfront Festival Park approved by the DEDA board at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-27, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-26, is hereby approved.

Resolution 03-0389 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) authorization to reimburse the city for the cost of legal and title-related services of Richard A. Nelson, attorney, related to title registration of certain property in the Plat of Spirit Valley in an amount not to exceed \$9,500, said sum payable from Fund 865, TIF District 3, approved by the DEDA board at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-28, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-27, is hereby approved.

Resolution 03-0390 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to Resolution No. 99-0239, the Duluth economic development authority's (DEDA) 2003 Canal Park parking lot management agreement with Oneida Realty Company for DEDA-owned and DEDA-controlled lots in Canal Park and in the Downtown in an amount not to exceed \$27,000, payable from Fund 0865, Agency 860, Organization 4008, Activity DE41, Object 5405 as approved by the DEDA board of commissioners at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-30, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-28, is hereby approved.

Resolution 03-0391 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) second amendment to at home property acquisition/demolition program agreement with the HRA extending the term of the agreement approved by the DEDA board at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-31, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-29, is hereby approved.

Resolution 03-0392 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) amendment to Agreement No. 03 8650 360 with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

the GDC extending the time for performance, increasing services and increasing the amount payable by \$9,000, payable from Fund 0860, approved by the DEDA board at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-38, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-30, is hereby approved.

Resolution 03-0393 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) extension of the term of officers until June 31, 2003, approved by the DEDA board at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-37, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-31, is hereby approved.

Resolution 03-0394 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to Resolution No. 99-0239, the Duluth economic development authority's (DEDA) acquisition of Lot 8, Block 26, Portland Division from Jeffrey R. and Rebecca C. Johnson at a cost of \$130,000, payable from Fund 0865-860-8604-5510, as approved by the DEDA board of commissioners at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-32, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-32, is hereby approved.

Resolution 03-0395 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to Resolution No. 99-0239, the Duluth economic development authority's (DEDA) acquisition of various properties in Oneota III from the estate of Rogus Ternes at a cost of \$150,000, payable from Fund 0860, as approved by the DEDA board of commissioners at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-33, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-33 is hereby approved.

Resolution 03-0396 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$2,803 in Workforce Development Investment Act capacity building funds from the Minnesota department of economic security in accordance with Grant 2043400 and the capacity building plan as approved. Funds are available for the period from April 1, 2003, through June 30, 2004. Funds received will be deposited in Fund 0268, Budget Item 6204.

Resolution 03-0339 was unanimously adopted.

Approved May 27, 2003

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement between the city of Duluth and the Duluth/North Shore Sanitary District for the use of customer billing services by the sanitary district for its public sewer utility for a consideration of \$4,450 plus \$704.81 per month, said agreement filed as Public Document No. 03-0527-34.

RESOLVED FURTHER, that monies received by the city under this agreement shall be deposited in General Fund 0100-015-1513-4332 or Gas Fund 0520-500-4840, as applicable.

Resolution 03-0354 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a lease agreement with St. Louis and Lake counties regional railroad authority (Public Document No. 03-0527-35) for the exclusive use of Municipal Lot D located under the Interstate 35 freeway between Fourth and Fifth avenues West for parking for the patrons and customers of its excursion trains operating from the St. Louis County heritage and arts center for the period June 1, 2003, through September 30, 2003, at no cost to the authority.

Resolution 03-0360 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a agreement with the village of Oliver (Public Document No. 03-0527-36) to acquire a gas pipeline easement hereinafter described from the village of Oliver, Wisconsin, for a consideration of \$7,000; payable from Fund 0521, Agency 500, Org. 5510:

An easement area 30 feet in width, being 15 feet on both sides of the axis of the city of Duluth's ten inch pipeline on, over, under and across the following described parcels of land:

Wisconsin. Lake Avenue in the Plat of Carnegie Central Division, Douglas County,

Wisconsin. Carnegie Street in the Plat of Carnegie Central Division, Douglas County,

Wisconsin. Kingston Avenue in the Plat of Carnegie Central Division, Douglas County,

County, Wisconsin. First Avenue in the Plat of Riverside Addition to St. Louis, Douglas

County, Wisconsin. Columbia Avenue in the Plat of Riverside Addition to St. Louis, Douglas

Douglas County, Wisconsin. Lot Fourteen (14), Block Sixteen (16), Riverside Addition to St. Louis,

County, Wisconsin. Logan Avenue in the Plat of Riverside Addition to St. Louis, Douglas

County, Wisconsin. Madison Street in the Plat of Riverside Addition to St. Louis, Douglas

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Lots One (1) through Twenty-six (26), inclusive, Block Twenty (20), Riverside Addition to St. Louis, Douglas County, Wisconsin.

Fourth Avenue in the Plat of Riverside Addition to St. Louis, Douglas County, Wisconsin.

Lots One (1) through Thirty-two (32), Block Nineteen (19), inclusive, Riverside Addition to St. Louis, Douglas County, Wisconsin.

Hamilton Street in the Plat of Riverside Addition to St. Louis, Douglas County, Wisconsin.

Superior Street in the Plat of Riverside Addition to St. Louis, Douglas County, Wisconsin.

Sumner Street in the Plat of Riverside Addition to St. Louis, Douglas County, Wisconsin.

Lots Eleven (11) through Fourteen (14), inclusive, Block Forty-three (43), Riverside Addition to St. Louis, Douglas County, Wisconsin.

Lee Street in the Plat of Riverside Addition to St. Louis, Douglas County, Wisconsin.

Together with un-vacated dedicated alleys within the plats of Carnegie Central Division and Riverside Addition to St. Louis.

The centerline of said easement area being more particularly described as:

Commencing at the southwest corner of Section 12, Township 48 North, Range 15 West, Douglas County, Wisconsin, thence northerly along the west line of said Section 12 a distance of 28 feet, more or less, to a point five feet southerly of the northerly right-of-way line of Carnegie Street, as dedicated in the Plat of Carnegie Central Division, extended; said point being also the point of beginning; thence easterly parallel to and distant five feet southerly of the northerly right-of-way line of said Carnegie Street to a point of intersection with the centerline of First Avenue as dedicated in the Plat of Riverside Addition to St. Louis, extended; thence deflect southerly along the centerline of said First Avenue to a point lying 15 feet northerly of the southerly right-of-way line of Columbia Street, as dedicated in the Plat of Riverside Addition to St. Louis; thence deflect easterly parallel to and distant 15 feet northerly of the southerly right-of-way line of said Columbia Street to a point lying 53 feet westerly of the centerline of County Road W, as presently laid out and constructed; thence deflect southeasterly and southerly parallel to and distant 53 feet southwesterly and westerly of the centerline of said County Road W to a point on the east-west centerline of Section 13, Township 48 North, Range 15 West, Douglas County, Wisconsin, and said point being also the point of termination.

The sidelines of the easement area shall be lengthened or shortened to terminate on the property lines.

Together with a 20-foot wide temporary easement area lying parallel to and adjoining the above described easement area.

Also together with a temporary easement area 100 feet in width and 400 feet in length located adjoining the above described easement area and temporary easement area, and centered on the unnamed creek which bisects Blocks 19 and 20 of Riverside Addition to St. Louis, and the temporary use of the village of Oliver's streets, avenues, roads and alleys as reasonably needed during the construction process. Said temporary easement area(s) shall expire on the later of December 31, 2003, or 30 days after completion of the pipeline construction and restoration activities.

Resolution 03-0377 was unanimously adopted.

Approved May 27, 2003

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute an agreement, substantially in the form of that agreement on file with the city clerk as Public Document No. 03-0527-37, with the Western Lake Superior Sanitary District concerning NPDES and State Disposal System Permit MN0066206 for the city's sanitary sewer system.

Resolution 03-0379 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 03-0212, the council did request the administration to prepare plans and specifications for the construction of sanitary sewer main along Decker Road beginning at the intersection of Anderson and Decker roads to a point 800 feet northerly along Decker Road (City Job No. 0336SN) at an estimated assessable cost of \$116,263; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$116,263, payable from Special Assessment Fund 0410, Agency 038, Organization 5374, Object 5530 and that all of the cost of said improvement be defrayed by special assessment against the land and premises specifically benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0370 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0615 to Morton Salt Division, c/o Hallett Dock Company, for furnishing road salt for year 2002/2003 winter season, be amended to increase the amount by \$85,000 for a new total of \$377,000, payable out of General Fund 0100, Department/Agency 500, Organization 2000, Object 5233.

Resolution 03-0372 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that Duluth Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering 5,000 cubic yards of washed sand for the maintenance operation division in accordance with specifications on its low specification bid of \$50,268, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 500, Organization 2000, Object 5233.

Resolution 03-0373 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

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

WHEREAS, the city desires to hire a consultant engineer to provide the consulting services required for the East Hillside corridor study; and

WHEREAS, U.R.S. Corporation has submitted a proposal for consulting services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said consulting services, not to exceed \$49,400, having the same form and containing substantially the terms and conditions as that contract on file with the clerk as Public Document No. 03-0527-38, payable from the Permanent Improvement Fund 0411, Department/Agency 035, Organization 2118, Object 5303; 50 percent to be reimbursed from CDBG and 50 percent to be reimbursed from municipal state aid (MSA) funds.

Resolution 03-0374 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northland Materials, LLC, dba Northland Bituminous, be and hereby is awarded a contract for the year 2003 fine mix paving program for the engineering division in accordance with specifications on its low specification bid of \$68,555, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2190, Object 5403.

Resolution 03-0375 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for water distribution system improvements at Morgan Park - Phase I for the engineering division in accordance with specifications on its low specification bid of \$762,234.27, terms net 30, FOB job site, \$686,010.84 payable out of Water Construction Bond Fund 0511, Department/Agency 500, Object 5532 and \$76,223.43 payable out of Sewer Construction Bond Fund 0531, Department/Agency 500, Object 5532.

Resolution 03-0376 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Approved May 27, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction year 2003 street improvement of Lakeside Lower Central for the engineering division in accordance with specifications on its low specification bid of \$937,497.05, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0304, Object 5530.

Resolution 03-0380 was unanimously adopted.

Approved May 27, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

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

front of 115 South 59th Avenue West;
front of 325 North 47th Avenue West;
front of 4220 West Fifth Street.

Resolution 03-0352 was unanimously adopted.

Approved May 27, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers and Architects for the sum of \$8,600, from Capital Fund 0450, Agency 015, Organization C215, Object 5530, for providing certain design services to the city of Duluth in connection with Duluth Skate Park/Phase I, 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. 03-0527-39.

Resolution 03-0381 was unanimously adopted.

Approved May 27, 2003
GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0378, by Councilor Atkins, authorizing the execution of an agreement with TOOT, Incorporated, leasing the diaphone fog horn for one year for \$5,000, was introduced for discussion.

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

Betty Gordon urged the council not to pass the resolution, as the foghorn interrupts her sleep during the day.

Ken Steil questioned if the noise level adjustment has been addressed by the city in the operation of the fog horn and also asked why the city does not take total control of the foghorn.

Councilor Atkins stated that the city is pursuing ways to mute the volume of the fog horn.

K.L. Lewis suggested an alternative to mute the fog horn if TOOT will not turn down the volume.

Resolution 03-0378 was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with TOOT, Incorporated, leasing for one year for \$5,000 a diaphone fog signal to be used as a private aid to navigation in the Duluth Harbor; said agreement to be substantially in the form of that document on file in the office of the city clerk as Public Document No. 03-0527-40; the \$5,000 payable initially thereunder to be paid from the General Fund 0100-500-1925-5419.

Resolution 03-0378 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Ness, Stauber, Stewart and Stover -- 7

Nays: Vice President Hogg -- 1

Absent: President Stenberg -- 1

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT HOGG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, the Duluth economic development authority's (DEDA) authorization to HRA to commence the platting process and giving DEDA cooperation therefor related to the Amity Residential Housing Development in Lakeside/Lester Park, approved by the DEDA board at its meeting of May 20, 2003, pursuant to DEDA Resolution No. 03D-40, a copy of which is on file in the office of the city clerk as Public Document No. 03-0527-41, is hereby approved.

Resolution 03-0399 was unanimously adopted.

Approved May 27, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0387, by Councilor Stauber, accepting a gift of approximately \$225,000 from the estate of Mary Fulton to be used for public library purposes and expressing public gratitude for the generous gift, was introduced for discussion.

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

K.L. Lewis expressed her thanks to the family for the donation.

Resolution 03-0387 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby accepts a gift of approximately \$225,000 from the estate of Mary Fulton to be used for the benefit of the Duluth public library; said gift to be made in two installments, the first in the amount of \$225,000 received May 20, 2003, and the second, in a lesser amount, to be received after audit of the estate and trust; the gift to be deposited in Fund 0245-300-4690.

RESOLVED FURTHER, that the city administration and city council hereby express their gratitude to Mary Fulton, who passed away June 24, 2002, for her generous gift and her concern for the Duluth public library.

Resolution 03-0387 was unanimously adopted.

Approved May 27, 2003

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

03-022 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A PARCEL OF PROPERTY LOCATED IN LOTS 355 AND 357, DULUTH PROPER SECOND DIVISION, TO CARL M. SWANSON AND DONNA M. SWANSON FOR CONSIDERATION OF \$2,200.

- - -

The following entitled ordinance was read for the second time:
BY VICE PRESIDENT HOGG (INTRODUCED BY PRESIDENT STENBERG)
03-005 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-37 TO PROVIDE FOR THE REGULATORY CONTROLS FOR PLANNED UNIT DEVELOPMENTS.

VICE PRESIDENT Hogg moved to table the ordinance, which motion was seconded and unanimously carried.

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The meeting was adjourned at 9:30 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 9, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the city council meeting held on April 28, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0609-02 J & S Partnership, et al. (17 signatures), submitting petition to reclassify from R-1-b, R-2 and R-3, to C-5 Lots 1-5, 36-41, 44, 45 and a portion of Lot 42, Home Acres, Second Division. -- Assessor

03-0609-01 Lakewalk Townhomes, by William M. Burns, attorney, submitting further petition (one signature) to vacate portions of Water Street, East 24th and 25th avenues and alleys in Endion Division of Duluth and Langellier's Rearrangement of Block D, Endion Division. -- Assessor

03-0609-03 Tom Romundstad, et al. (two signatures), submitting petition to construct a sanitary sewer within Gilead Street. -- Assessor

03-0609-04 St. Mark AME Church submitting application for concurrent use permit for reconstruction of steps on the northerly 50 feet of Lots 82 and 84, Duluth Proper First Division, East Sixth Street (530 North Fifth Avenue East). -- Planning commission

03-0609-05 Seaway Port authority of Duluth, et al. (ten signatures), submitting petition to reclassify from S to IP, Outlot A and Outlot B, Airpark Division. -- Assessor

03-0609-06 Kent Truscott, et al. (seven signatures), submitting petition to reclassify from R-4 to C-5 parcel codes 10-2710-05169 and 10-4428-00040 and the northern 1/2 of APN 10-2710-05170. -- Assessor

03-0609-07 Steven J. Walsh submitting petition to construct a permanent residential street and sanitary sewer, water and gas mains in Basswood Avenue from Walnut Street northerly 676 feet to cul-de-sac. -- Assessor

03-0609-08 Minnesota state auditor submitting Duluth Entertainment Convention Center authority (Duluth state convention center administrative board) audit report for the years ended December 31, 2002, and 2001. -- Received

03-0609-25 Alison J. Clarke submitting communication regarding Lakewalk Townhomes LLC (03-0405R and 03-026-O). -- Received

03-0609-26 John and Delores Grassinger submitting communication regarding the proposed improvement known as the 2004 East Hillside/Upper West 2 street improvement program project (03-0423R). -- Received

03-0609-28 Heather Odden submitting communication regarding the proposed regulatory controls for planned unit developments (03-005-O). -- Received

03-0609-09 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Barb Soderberg on June 28, 2003. -- Received

03-0609-27 The following submitting communications pertaining to traffic management on Arrowhead Road from Kenwood Avenue to Rice Lake Road (03-0338R): (a) Kevan Boman; (b) Peg Currier; (c) Richard Mold. -- Received

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REPORTS OF OFFICERS

03-0609-10 Assessor submitting:

(a) Affidavit of mailing of notice of a public hearing of the city special assessment board to be held on June 10, 2003, at 3:30 p.m. in Room 106A, City Hall, regarding the reassessment of costs for various projects. -- Clerk

(b) Letters of sufficiency to:

(1) Construct a permanent residential street and sanitary sewer, water and gas mains in Basswood Avenue from Walnut Street northerly 676 feet to cul-de-sac;

(2) Construct 130 lineal feet of low pressure sanitary sewer within Gilead Street beginning 100 feet east of the intersection of Como Avenue and extending easterly entirely against Lot 8, Block 5, Central Acres of Duluth;

(3) Vacate roads and utilities in Lots 5-12, Block 2, and all of Blocks 3-7, Plat of Crystal Tree. -- Received

03-0609-11 Parks and recreation department director submitting Lake Superior zoological society minutes of March 26, 2003, meeting. -- Received

03-0609-12 Purchasing agent submitting emergency order awarded to Utility Systems of America in the amount of \$28,850 to repair a sanitary sewer at Wade Stadium. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0609-13 Duluth airport authority:

(a) Minutes of April 23, 2003, meeting;

(b) Unaudited balance sheets of:

(1) February 28;

(2) March 31, 2003. -- Received

03-0609-14 Duluth/North Shore Sanitary District board minutes of:

(a) May 6;

(b) May 16, 2003, meetings. -- Received

03-0609-15 Duluth state convention center administrative board minutes of April 28, 2003, meeting. --Received

03-0609-16 Duluth transit authority:

(a) Income statement for March 2003;

(b) Minutes of April 23, 2003, meeting. -- Received

03-0609-29 Environmental advisory council submitting communication regarding granting conditional approval for a special use permit to Miller Hill 47 Limited Partnership for a low-density planned development on property located at 1516 Sundby Road (03-0426R). -- Received

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RESOLUTION RECONSIDERED

Councilor Atkins moved to reconsider Resolution 03-0338, pertaining to traffic management on Arrowhead Road from Kenwood Avenue to Rice Lake Road, which motion was seconded for discussion.

Councilors expressed their concerns relative to safety, the volume of traffic, the amount of time that has been put into discussing this previously and that a large majority of citizens' voices have not been heard on this matter.

Councilor Atkins' motion for reconsideration of the resolution carried upon the following vote:

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

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

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

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Steve Townsend expressed his concern that the city budget has grown considerably over the years and that the original tourism tax excluded businesses with sales less than \$100,000. He felt that the amount of sales qualifying for exclusion of sales tax should be raised to \$600,000 or \$750,000. In addition, he noted that the original tax of one percent has increased to 2-½ percent.

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Tim Bearheart commented that there seems to be an increase in the amount of vehicular traffic and a decrease in the amount of car pooling, walking and use of public transportation.

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K.L. Lewis commented on: the beautiful conditions of the parks; the poor condition of sections of Skyline Parkway and the possibility that granitoid could be used to make it last longer; that solar power be looked at in design and construction of a proposed new parking ramp in the 300 block of West First Street,.

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Todd Pfeffer, president of the Fond du Lac Community Club, expressed concern that the sanitary sewer project in Fond du Lac appears to have stalled.

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Peggy Marrin expressed concern over the issue of the public not having all the facts relative to a possible eminent domain action.

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

BY COUNCILOR STEWART:

RESOLVED, that the appointment of Susan K. Anderson to the Duluth public arts commission by Mayor Doty for a term expiring on September 30, 2005, replacing Larry Turbes, who resigned, is confirmed.

Resolution 03-0383 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that A.J. Spanjers Company be and hereby is awarded a contract for the masonry restoration at Damiano Center for the architect division in accordance with specifications on its low specification bid of \$221,975, terms net 30, FOB job site, \$98,000 payable out of Community Development Fund 0262, Department/Agency 626, Object 6608, and \$123,975 to be paid by private funds of Damiano of Duluth, Inc.

Resolution 03-0408 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Polyphase Electric Company be and hereby is awarded a contract for furnishing ornamental street lighting on 88th Avenue West between Hilton Street and Concord Street for the community development and housing division in accordance with specifications on its low specification bid of \$165,990, terms net 30, FOB job site, payable out of Community Development Fund 0262, Department/Agency 626, Object 6610.

Resolution 03-0409 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the Commercial Roofing, Inc., be and hereby is awarded a contract for roof replacement at the Goodwill Industries Building, located on Garfield Avenue, in accordance with plans and specifications, as prepared by DSGW Architects, on its low bid of \$437,000 (base bid of \$338,000 plus add Alternate #2 of \$99,000), terms net 30, FOB job site, payable as follows:

CDBG Fund 262, Agency 626, Object 6609	\$ 74,000
Goodwill Fund 262, Balance Sheet #2020	<u>\$363,000</u>
Total	\$437,000

Resolution 03-0429 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

WHEREAS, Jill Douville-Schulze has submitted to the city council a request for a special use permit for a home beauty salon on property located at 3917 West Eighth Street and described as Lots 9 and 10, Block 3, Hazelwood Annex Division (Ref. FN 03040) 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 Jill Douville-Schulze to allow for the operation of a home beauty salon at 3917 West Eighth 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. 03-0609-17;

(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 03-0382 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$226,177 in Workforce Investment Act youth funds from the Minnesota department of economic security in accordance with Grant No. 3043600. Said monies will be used to provide workforce development services to at risk youth as defined in the program year 2003-2004 local plan for youth services from July 1, 2003, through June 30, 2004. Funds received will be deposited in Fund No. 0268, Budget Items 6206 and 6207.

Resolution 03-0371 was unanimously adopted.

Approved June 9, 2003

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 Basswood Avenue from Walnut Street northerly approximately 676 feet to cul-de-sac including permanent residential design street with concrete curb and gutter, bituminous surface and storm sewer; and for sanitary sewer, watermain and gas main to serve Lots 1, 2, 3, 4, Block 1, Walsh Addition.

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

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

Resolution 03-0401 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to State Farm Insurance, as subrogee of Gerald and Beverly Hendrickson, the amount of \$27,674.02 in full settlement of all claims for damage to their insured's property at 616 Glenwood Street resulting from a broken water meter which occurred on August 18, 2002; payment to be made from the Self Insurance Fund 0610.

Resolution 03-0402 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into an agreement in substantially the form of that on file in the office of the city clerk as Public Document No. 03-0609-18 with Terry T. Miller for the lease of approximately 1,800 square feet of warehouse space in a building located at 1617 South Street for a term of six months at a cost of not to exceed \$2,400, payable from General Fund 0100-500-2010-5419.

Resolution 03-0404 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 130 feet of low pressure sanitary sewer in Gilead Street beginning 100 feet east of the intersection of Como Avenue and extending easterly.

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

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

Resolution 03-0407 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors be and hereby is awarded a contract for replacement of Bridge No. 91144 over Merritt Creek at 37th Avenue West and Grand Avenue for the engineering division in accordance with specifications on its low specification bid of \$431,190.20, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2177, Object 5530; to be reimbursed from state transportation fund and municipal turnback fund.

Resolution 03-0411 was unanimously adopted.

Approved June 9, 2003

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 19th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$672,605.56, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Organization 5371, Object 5530.

Resolution 03-0412 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of year 2003 citywide street and sidewalk repairs program for the engineering division in accordance with specifications on its low specification bid of \$302,170, terms net 30, FOB job sites, payable out of Special Assessment Fund 0410, Department/Agency 038, Organization 5373, Object 5530.

Resolution 03-0413 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for the construction of year 2003 street improvement program of UMD/Lower Chester 4 for the engineering division in accordance with specifications on its low specification bid of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

\$601,850.15, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0306, Object 5530.

Resolution 03-0414 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering two dump bodies for the fleet services division in accordance with specifications on its low specification bid of \$39,569.01, terms net 30, FOB destination, \$15,827.60 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580 and \$23,741.41 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0415 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

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

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for a detailed rehabilitation and alignment study of Bridge No. L8477 over Miller Creek at Tenth Street; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$22,269, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Organization 2191, Object 5530.

Resolution 03-0416 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 03-0331 to Northland Bituminous, Inc., for the bituminous materials as needed for year 2003, be amended to increase the amount by \$25,000 for a new total of \$70,000, payable out of various funds, various departments/agencies, various organizations, various objects.

Resolution 03-0417 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Goodin Company be and hereby is awarded a contract for furnishing and delivering watermain parts and materials for the utility operations division in accordance with specifications on its low specification bid for a total of \$34,594.77, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1905,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Object 5533.

Resolution 03-0420 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Premier Companies be and hereby is awarded a contract for furnishing painting of 2,725 gas meter piping throughout the city of Duluth for the utility operations division in accordance with specifications on its low specification bid of \$27,870.41, terms net 30, FOB job site, payable out of Gas Fund 0520, Department/Agency 500, Organization 1945, Object 5310.

Resolution 03-0427 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 03-0609-19, between the city of Duluth and the Members Cooperative Credit Union for the relocation of two watermains and the extension of a storm sewer in conjunction with the construction of the Spirit Valley Branch MCCU Credit Union, with the maximum consideration to be paid by the city under this agreement to be \$5,507; payable as follows: \$4,707 coming from Fund 0535, Agency 500, Organization 1905, Object 5533, and \$800 from Fund 0510, Agency 500, Organization 1905, Object 5533.

RESOLVED FURTHER, that the city of Duluth hereby accepts the utility easement tendered by the Members Cooperative Credit Union pursuant to the above agreement.

Resolution 03-0428 was unanimously adopted.

Approved June 9, 2003

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 year 2003 street improvement of Upper Woodland Far West for the engineering division in accordance with specifications on its low specification bid of \$759,866.71, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0307, Object 5530.

FURTHER RESOLVED, that Resolution 03-0322 is hereby rescinded.

Resolution 03-0430 was unanimously adopted.

Approved June 9, 2003

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 year 2003 street improvement of Hunters Park East for the engineering division in accordance with specifications on its low specification bid of \$299,496.10, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0303, Object 5530.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FURTHER RESOLVED, that Resolution 03-0323 is hereby rescinded.

Resolution 03-0431 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized and directed to enter into a grant agreement with the state of Minnesota, department of public safety, filed as Public Document No. 03-0609-20, to provide up to \$36,787 for police and fire department training for terrorist response situations. Monies from this grant shall be deposited in Special Grants Fund 0210.

Resolution 03-0397 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized and directed to enter into a grant agreement with the state of Minnesota, department of public safety, filed as Public Document No. 03-0609-21, to purchase \$26,458 of equipment to be used by the fire department in response to terrorist incident situations. Monies from this grant shall be deposited in Special Grants Fund 0210.

Resolution 03-0400 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that Jefferson Fire and Safety, Inc., be and hereby is awarded a contract for furnishing and upgrading the SCBA equipment for the fire department in accordance with specifications on its low specification bid for a total of \$37,176.11, terms net 30, FOB destination, \$12,158.11 payable out of General Fund 0100, Department/Agency 100, Organization 1505, Object 5241; \$10,080 payable out of Special Projects Fund 0210, Department/Agency 030, Organization 2169, Object 5241 and \$14,938 payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization NR01, Object E109.

Resolution 03-0410 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0609-22, with the Duluth 1200 Fund, Inc. (the 1200 Fund), pending its approval by the 1200 Fund, providing for payment to the city in the amount of \$24,000 to be deposited into Fund 0100; and transferring \$1,000 from City Fund 0735 to a newly created 1200 Fund account.

Resolution 03-0313 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to Contract 19224 between the city and Conservation Technologies which was approved by Resolution 03-0167, said amendment filed as Public Document No. 03-0609-23, for professional services needed in conjunction with the development of the Duluth public library energy resource center; increasing the compensation under this agreement by \$13,000, which shall be paid from the Energy Management Fund 0210-030-2107, resulting in the total contract amount being \$36,874.28.

Resolution 03-0384 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to accept an \$8,000 research and development grant from Minnesota Power in conjunction with renewable energy projects completed by the city at the Duluth public library and to deposit said funds into the Energy Management Fund 0210-030-2107.

Resolution 03-0398 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to accept the donation of the below-described property in St. Louis County, Minnesota, from Martha Young and to execute all documents necessary with regard thereto:

Lot 17, Block 1, Pittsburgh Addition (010-3800-00170).

FURTHER RESOLVED, that the city hereby expresses its appreciation for said donation from Martha Young.

Resolution 03-0403 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0405, by President Stenberg, requesting the board of county commissioners of St. Louis County to reclassify tax forfeited land from conservation to nonconservation and offer for sale certain tax forfeited parcels now withheld from sale in conservation, was introduced for discussion.

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

Tom Hollenhorst expressed concern about selling the lots on Water Street, given the unique nature of their close location to the Lakewalk, to a private developer knowing the intended use of the property.

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

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Resolution 03-0426, by President Stenberg, granting conditional approval for a special use permit to Miller Hill 47 Limited Partnership for a low-density planned development on property located at 1516 Sundby Road, 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 2003

Randy Budisalovich and Heather Odden expressed their concerns of: not being aware of the committee meeting that was held this evening prior to the council meeting; that the projects be closely compared to previously approved plans to insure that they are following the plan and that there is currently water runoff on to adjoining property and this project is likely to increase it, which will cause the city to be financially responsible for damages.

Michael Saxton, developer, commented on: the number of published meetings where he presented information; that the changes that have been made make this a better project; that all of the stormwater will be funneled away from adjacent property and that there will be a 50 foot buffer from the property line.

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

Yeas: Councilors Atkins, Bergson, Hogg, Ness, Stover and President Stenberg -- 6

Nays: Councilors Gilbert, Stauber and Stewart -- 3

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BY COUNCILOR STOVER:

RESOLVED, effective with the water meter readings after August 1, 2003, all customers of the water utility of the city of Duluth, whose water supply is measured by meter, shall be charged for such water in accordance with the schedule of rates established by this resolution as follows:

MONTHLY METERED VOLUME		
	effective August 1, 2003 rate \$/CCF	effective January 1, 2002 rate \$/CCF
first 4,000 cubic feet, per 100 cubic feet	\$1.82	\$1.73
next 96,000 cubic feet, per 100 cubic feet	\$1.19	\$1.13
next 900,000 cubic feet, per 100 cubic feet	\$0.99	\$0.94
over 1,000,000 cubic feet, per 100 cubic feet	\$0.82	\$0.78

For consumers requiring water at an elevation in excess of 290 feet above Lake Superior, the rate for all water in excess of 100,000 cubic feet per month shall be effective August 1, 2003, \$1.19 per cubic feet.

FIXED CHARGES ARE AS FOLLOWS		
meter size	effective August 1, 2003	
1 inch & under	\$ 3.50	(no change)
1 1/2 inch	\$ 6.13	(no change)
2 inch	\$ 10.50	(no change)
3 inch	\$ 38.50	(no change)
4 inch	\$ 49.00	(no change)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FIXED CHARGES ARE AS FOLLOWS		
meter size	effective August 1, 2003	
6 inch	\$ 73.50	(no change)
8 inch	\$101.50	(no change)
10 inch	\$133.00	(no change)

Water metered at or beyond the city limits, for use by individual customers located outside the corporate limits of the city of Duluth:

All water, per 100 cubic feet - \$2.75, effective August 1, 2003.

Rates charged for water furnished to political subdivisions or state or federal government installments located outside the corporate limits of the city will be by individual contract, using the following schedule:

effective August 1, 2003	Hermantown		Proctor		Rice Lake	
first 100,000 cubic feet, per 100 cubic feet	\$2.30	\$2.19	\$2.56	\$2.44	\$2.04	\$1.94
next 200,000 cubic feet, per 100 cubic feet	\$2.05	\$1.95	\$2.27	\$2.16	\$1.81	\$1.72
over 300,000 cubic feet, per 100 cubic feet	\$1.84	\$1.75	\$2.05	\$1.95	\$1.63	\$1.55
(Proctor 300,001-500,000 cubic feet) over 500,000 cubic feet, per 100 cubic feet	n/a		\$2.05	\$1.95	n/a	

RESOLVED FURTHER, that the revenues derived from the rate increase increment be expended exclusively for the replacement and rehabilitation of water system infrastructure.

RESOLVED FURTHER, any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 03-0419 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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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 August 1, 2003, 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:

	effective August 1, 2003	effective January 1, 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Customer Charge	\$ 5.89 per month	\$ 5.89 per month
User Charge - Class I	\$ 3.35/ccf	\$ 3.25/ccf
User Charge - Class II	\$ 4.67/ccf	\$ 4.53/ccf
User Charge - Class III	\$ 5.82/ccf	\$ 5.65/ccf
Miles, Inc.	\$10.62/ccf	\$10.45/ccf
Chroma	\$ 6.40/ccf	\$ 6.23/ccf
Kemp	\$ 7.19/ccf	\$ 7.02/ccf

RESOLVED FURTHER, that the revenues derived from the rate increase increment be expended exclusively for the replacement and rehabilitation of sanitary sewer infrastructure.

BE IT FURTHER RESOLVED, that any prior rate regulations inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 03-0421 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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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. 03-0609-24 on file with the office of the city clerk; that the costs of said improvement estimated at \$521,300 shall be paid from the Street Improvement Fund 0440 and that one-fourth or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 03-0422 was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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Resolution 03-0423, by Councilor Stover, ordering the improvement known as the 2004 East Hillside/Upper West 2 street improvement program project pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$907,800, was introduced for discussion.

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

Nancy Nelson, spoke against the Tenth Street portion of the resolution for the reasons of: major work on East Tenth Street should be postponed for as long as possible and for now, just localized repairs should be made because there are 26 mature silver maple trees which will be lost if major construction takes place now; the East Hillside planning district designated the trees as one of the defining attractions of the neighborhood and residents of the East Hillside and Tenth Street support keeping them as long as possible.

Toni Snickers and Sarah Brandt urged support of the resolution, including Tenth Street, noting that: the water build up has adversely affected basements and the condition of the

street; due to the poor condition of the sidewalk, which is a direct route to the neighborhood, many have stumbled and fallen and that Tenth Street will eventually have to be done and should be done now.

Louise Yount, member of the tree commission, stated that: the commission reviewed and discussed this project with no consensus of what the commission supported; that better communication is needed for residents to understand the street improvement program, assessment costs and the extent to which trees would have to be removed with regard to sewer reconstruction and this should not be a divisive issue for the neighborhood.

Councilor Ness moved to split the resolution to divide the two projects, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Stauber and President Stenberg -- 2

Resolution 03-0423(a), Ninth Avenue East and 11th Street, 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. 03-0609-30 on file with the office of the city clerk; that the costs of said improvement estimated at \$516,320 shall be paid from the Street Improvement Fund 0440 and that one-fourth or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 03-0423(a) was unanimously adopted.

Approved June 9, 2003

GARY L. DOTY, Mayor

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Councilor Hogg moved to table Resolution 03-0423(b), Tenth Street, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Stauber and President Stenberg -- 2

- - -

Resolution 03-0424, by Councilor Stover, ordering the improvement known as the 2004 Duluth Heights/Southeast 2 street improvement program project pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$1,251,600, was introduced for discussion.

Councilor Stover moved to table the resolution for a public hearing, which motion was seconded and unanimously carried.

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BY COUNCILOR STOVER:

RESOLVED, that Krech Ojard and Associates, P.A., be and hereby is awarded a contract for engineering services for Phase II of the Lincoln Park Miller Creek wall and bed restoration project in accordance with specifications in its proposal for a total \$12,050, terms net 30, payable out of Stormwater Fund 0535, Department/Agency 500, Organization 1905, Object 5535.

Resolution 03-0425 was unanimously adopted.

Approved June 9, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

WHEREAS, communities across the United States have designated August 5, 2003, 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 participate in local anti-crime efforts, to strengthen neighborhood spirit and police community partnerships, to heighten crime and drug prevention awareness and to send a message to criminals that neighborhoods are fighting back; and

WHEREAS, the Duluth City Council wishes to express its support for the National Night Out and the goals and purposes behind it;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for a National Night Out on August 5, 2003, 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 03-0386 was unanimously adopted.

Approved June 9, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city treasurer is hereby authorized to accept donations from the public to the 600 for Kids Fund to be maintained in the city treasury.

RESOLVED FURTHER, that all donations to the 600 for Kids Fund shall be deposited in Fund 0210-030-2111-4690 and shall be used only for after school programming at community recreation centers in Duluth.

Resolution 03-0406 was unanimously adopted.

Approved June 9, 2003
GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT STENBERG

03-005 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-37 TO PROVIDE FOR THE REGULATORY CONTROLS FOR PLANNED UNIT DEVELOPMENTS.

President Stenberg 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.

Marshall Stenerson, representing Progressive Action, K.L. Lewis and Peggy Marrin questioned the mechanism, as stated in the ordinance, as to how a development would die if there was not broad support by the community and city council and that if this ordinance is modeled after the "Lake Elmo plan," which of the two Lake Elmo plans is this being modeled after. They also commented that: in the comprehensive planning district meetings the public presented good ideas on this ordinance; that the elimination of the community unit plan was needed and that until a final comprehensive plan is adopted, no action on this should be taken.

President Stenberg moved to retable the ordinance, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

03-027 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$970,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY PRESIDENT STENBERG

03-023 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE EAST SIDE OF HAINES ROAD, 1,400 FEET SOUTH OF MAPLE GROVE ROAD AND 475 FEET SOUTH OF MATTERHORN DRIVE (STROM).

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BY PRESIDENT STENBERG

03-024 - AN ORDINANCE AMENDING SECTION 50-30 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO THE LOCATION OF REQUIRED PARKING SPACES IN FRONT YARDS; FRONT YARD PERMITS.

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BY PRESIDENT STENBERG

03-025 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE EAST SIDE OF WOODLAND AVENUE BETWEEN ELIZABETH STREET AND NORTON STREET (MORSE).

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BY PRESIDENT STENBERG

03-026 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-2, HIGHWAY COMMERCIAL, AND M-1, MANUFACTURING, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED BETWEEN I-35 AND THE LAKE SUPERIOR SHORELINE BETWEEN 23RD AND 25TH AVENUES EAST (LAKEWALK TOWNHOMES, LLC).

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

03-022 (9601) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A PARCEL OF PROPERTY LOCATED IN LOTS 355 AND 357, DULUTH PROPER SECOND DIVISION, TO CARL M. SWANSON AND DONNA M. SWANSON FOR CONSIDERATION OF \$2,200.

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

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The meeting was adjourned at 9:30 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9601

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A PARCEL OF PROPERTY LOCATED IN LOTS 355 AND 357, DULUTH PROPER SECOND DIVISION, TO CARL M. SWANSON AND DONNA M. SWANSON FOR CONSIDERATION OF \$2,200.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim its right, title, and interest to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Carl M. Swanson and Donna M. Swanson, husband and wife, as joint tenants, for a consideration of \$2,200, to be deposited in General Fund 0100, Balance Sheet 2021.

That part of Tract A described below:

Tract A: The westerly 25 feet of Lot 355, and the east one-half of Lot 357, Block 174, Duluth Proper Second Division, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota; the title thereto being registered property;

which lies southerly of Line 1 described below:

Line 1. Beginning at a point on the northwesterly line of Tract A hereinbefore described, distant 35 feet southeasterly of the most westerly corner thereof; thence run easterly to a point on the northeasterly line of said Tract A, distant 70 feet southeasterly of the most northerly corner of said Tract A and there terminating.

Subject to the following restriction:

no access shall be permitted to Trunk Highway No. 53 from the lands herein conveyed.

Subject to the following reservation:

the state of Minnesota reserves the right to use that part of Tract A herein conveyed for the purpose of removing or demolishing building thereon, said reservation shall cease upon removal or demolition of said building, or in any event no later than December 1, 2003.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: July 13, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2003
Approved June 9, 2003
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 23, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Bergson -- 1

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The minutes of the city council meeting held on May 12, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0623-01 Chad and Amy Bodin submitting petition to construct 70 lineal feet of sanitary sewer across Getchell Road approximately 1,160 feet north of the St. Louis River Road. -- Assessor

03-0623-02 Northline Group, Inc., et al. (eight signatures), submitting petitions to:

(a) Reclassify from M-1 to R-3 and C-1 Lots 4, 5, 6, 7 and 9, Block A and Lots 1, 2, 3, 4, 5, 6, 7 and part of Lot 8, of Block B, including 21st Avenue East below Water Street to Lake Superior, Endion Division;

(b) Vacate 21st Avenue East below Water Street to Lake Superior. -- Assessor

03-0623-03 Northwood Oaks, LLC, submitting petition to construct a permanent design residential street and sanitary sewer, watermain and gas main in Crystal Drive between Swan Lake Road and the cul-de-sac. -- Assessor

03-0623-04 Francine and Charles Spears submitting petition to construct 625 feet of sanitary sewer in Roslyn Avenue from Oxford Street intersection southeasterly. -- Assessor

03-0623-05 Scott Vesterstein, et al. (ten signatures), by William M. Burns, attorney, submitting:

(a) Petition for design and construction of street and utilities (street, sanitary sewer, storm sewer, water and gas) to serve property described as: Lots 6 and 7, Block 1, Village Mall First Addition and portions of Section 19, Township 50, Range 14. -- Assessor

(b) Waiver agreement regarding assessments for design and construction of street and utilities (street, sanitary sewer, storm sewer, water and gas) to serve property described as: Lots 6 and 7, Block 1, Village Mall First Addition and portions of Section 19, Township 50, Range 14. -- Engineer

03-0623-06 Minnesota state auditor submitting Duluth airport authority audit report for the years ended December 31, 2001 and 2002. -- Received

03-0623-19 John and Delores Grassinger submitting communication regarding the inclusion of Tenth Street in the 2004 street improvement program (03-0423R(b)). -- Received

03-0623-21 The following submitting communications regarding city funding of Soft Center in the amount of \$150,000 (03-0492R): (a) Eric Dings; (b) Bob Jader. -- Received

03-0623-20 The following submitting communications regarding smoking in bars and restaurants that serve food (03-0494R): (a) Katie Hamann; (b) Amanda Nelson. -- Received

03-0623-22 The following submitting communications regarding the proposed issuance of special use permits for developments on Sundby Road (03-0426R, 03-0462R, 03-0463R): (a) Randy Budisalobich; (b) Steve and Annette McDonald; (c) Heather Odden; (d) Kenneth Zwak. -- Received

03-0623-07 The following submitting a communications regarding the proposed traffic management plan for Arrowhead Road from Kenwood Avenue to Rice Lake Road (03-0338R): (a) Steven Boberg; (b) John Jereczek; (c) Michele Shirley; (d) David Taylor; (e) Kent Worley. -- Received

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REPORTS OF OFFICERS

03-0623-08 Assessor submitting:

(a) Affidavit of mailing of notice of public hearings on June 23, 2003, at 7:30 p.m., Council Chamber, third floor, City Hall, regarding the ordering and levying of assessments against property specially benefitted by the improvements of:

- (1) Arrowhead Road between Dodge Avenue and Woodland Avenue;
- (2) 2004 street improvement program - Duluth Heights/Southeast 2

(Baylis Street);

(b) Letters of sufficiency of petitions to:

(1) Construct 70 lineal feet of sanitary sewer across Getchell Road approximately 1,160 feet north of St. Louis River Road;

(2) Reclassify from M-1 to R-3 and C-1 Lots 4, 5, 6, 7 and 9, Block A and Lots 1, 2, 3, 4, 5, 6, 7 and part of Lot 8, of Block B, including 21st Avenue East below Water Street to Lake Superior, Endion Division;

(3) Reclassify from R-1-B and R-2 residential and R-3 apartment residential to C-5 planned commercial property described as Lots 1-5, 36-41, 44, 45 and a portion of Lot 42, Home Acres, Second Division;

(4) Reclassify from R-4 to C-5 parcel codes 10-2710-05169 and 10-4428-00040 and the northern 1/2 of APN 10-2710-05170;

(5) Reclassify from S to IP, Outlots A and B, Airpark Division;

(6) Vacate 21st Avenue East below Water Street to Lake Superior. --

Received

03-0623-23 Auditor submitting comprehensive annual financial report for the city of Duluth for the fiscal year ended December 31, 2002. -- Received

03-0623-09 Building official submitting appeals to reverse the board of zoning appeals denials to grant variances to reduce the minimum:

(a) Front yard setback from 25 feet to 16 feet and the minimum side yard setback on a corner lot from 20 feet to three feet for the construction of a 26 feet by 30 feet detached garage on property located at 1 Mesaba Place (Finn);

(b) Side yard setback on a corner lot from 15 feet to 11 feet for the construction of a new single family dwelling on property located at 2826 Parkwood Lane (Johnson). -- Committee 2 (physical development)

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REPORTS OF BOARDS AND COMMISSIONS

03-0623-24 Alcohol, gambling and tobacco commission minutes of May 13, 2003, meeting. -- Received

03-0623-10 Board of zoning appeals minutes of May 27, 2003, meeting. -- Received

03-0623-11 Commission on disabilities minutes of May 7, 2003, meeting. -- Received

03-0623-12 Duluth human rights commission minutes of May 14, 2003, meeting. -- Received

03-0623-13 Duluth transit authority income statement for April 2003. -- Received

03-0623-14 Housing and redevelopment authority of Duluth minutes of: (a) March 25; (b) April 29, 2003, meetings. -- Received

03-0623-15 Parking commission minutes of May 13, 2003, meeting. -- Received

03-0623-16 Parks and recreation commission minutes of April 9, 2003, meeting. --
Received

03-0623-17 Special assessment board minutes of May 13, 2003, meeting. -- Received

03-0623-18 Special board of review minutes of May 20, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Peggy Marrin expressed support for citizens to listen to the mayor forums and of her specific concern relative to accountability on the issue of McQuade safe harbor.

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Grey Doffin spoke on the background for the recent administrative policy requesting no smoking at parks that have youth activities.

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K.L. Lewis spoke of: the need for increased publicity for Duluth, that relative to the lane changes on Arrowhead, concrete barriers should be used temporarily before making formal changes in the amount of lanes and that the city take measures to prevent Asian carp from infiltrating local water sources.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 03-0266, approving the operating budget and repair and replacement budget for the fiscal year May 1, 2003, to April 30, 2004, in the amount of \$3,380,855 and \$210,442, respectively, for the Spirit Mountain recreation area authority and approving a Spirit Mountain recreation area authority lease-purchase agreement for groomers in the amount of \$347,541, from the table, which motion was seconded and unanimously carried.

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

Steve Townsend expressed his concern about the amount of funding requested by the authority and the ability of the authority to allow a paint ball operation at Spirit Mountain.

Resolution 03-0266 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the budget for the fiscal year May 1, 2003, to April 30, 2004, in the amount of \$3,380,855 as set out in the budget on file with the city clerk as Public Document No. 03-0623-25 for the Spirit Mountain recreation area authority is hereby approved.

BE IT FURTHER RESOLVED, that Spirit Mountain recreation area repair and replacement budget for fiscal year May 1, 2003, to April 30, 2004, in the amount of \$210,442 as set out in the budget on file with the city clerk as Public Document No. 03-0623-25 is hereby approved.

BE IT FURTHER RESOLVED, that the council hereby approves Spirit Mountain recreation area authority entering into a lease-purchase agreement with Western National Bank in the amount of \$347,541 for the purpose of replacing an existing groomer tractor and refinancing an existing groomer tractor, all as described in Public Document No. 03-0623-25.

Resolution 03-0266 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

- - -

Councilor Atkins moved to remove Resolution 03-0338, pertaining to traffic management on Arrowhead Road from Kenwood Avenue to Rice Lake Road, from the table, which motion was seconded and unanimously carried.

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

Janet Nelson, Terri Love, Barbara Brooks, Craig Carlson, K.L. Lewis, Patricia Mahai and Peter Bruley expressed support for the resolution for reasons of: the same traffic layout on 21st Avenue East has worked; the traffic has far exceeded the posted limits; there are more stop lights and service roads on similar roads in the Twin Cities metro area; the safety of residents must be taken into consideration; city engineering staff is willing to try this; there is an intolerable noise level associated with the fast traffic on Arrowhead Road; this is a residential neighborhood where the homeowners have no other means of access; it is impossible to cross the road to get to the sidewalk or bus stop; the police are concerned that pedestrians will be hit with the high speeds; school buses do not want to stop along Arrowhead Road; there have been many rear end collisions when vehicles are exiting and it is hazardous when entering Arrowhead Road from a drive-way; mail boxes on Arrowhead Road are being knocked down; pets and deer are being killed; reducing the speed limit, enforcing the speed limit and providing other turning options are needed; roadway changes have more effect in changing driver awareness and perception; there have been 255 accidents on this section of Arrowhead Road in the last five years; the area from Rice Lake Road to Haines Road also has a high volume of speeders and meetings on this issue were started over a year ago; this area has grown substantially in the number of residents living in the neighborhood and support for the use of cameras to ticket speeders was expressed.

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

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At this time, 7:38 p.m., President Stenberg recessed the regular order of business and announced that the public hearing regarding Arrowhead Road assessments would begin.

Dean Beeman, city project engineer, reviewed the scope of the project.

Brian Fuxa felt that this project will not benefit him and will only increase traffic, speed, noise, littering and other problems for those living on this major road.

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At this time, 7:45 p.m. President Stenberg closed the public hearing and announced that the public hearing regarding the 2004 street improvement program - Duluth Heights/Southeast 2 project would begin.

Mike Metso, city engineer, reviewed the scope of the project.

There were no speakers who wished to be heard.

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At this time, 7:48 p.m., President Stenberg closed the public hearing and the regular order of business was resumed.

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President Stenberg moved to remove Resolution 03-0405, requesting the board of county commissioners of St. Louis County to reclassify the tax forfeited land from conservation to nonconservation and offer for sale certain tax forfeited parcels now withheld from sale in conservation, from the table, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to consider Ordinance 03-026 at this time.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY PRESIDENT STENBERG

03-026 (9602) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-2, HIGHWAY COMMERCIAL, AND M-1, MANUFACTURING ,TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED BETWEEN I-35 AND THE LAKE SUPERIOR SHORELINE, BETWEEN 23RD AND 25TH AVENUES EAST (LAKEWALK TOWNHOMES LLC).

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

Allison Clarke, Amanda Alexander, Vicki Sanville and Myrna Matheson expressed concerns for the project, noting: that the Endion neighborhood plan be incorporated; that the issues in the communication from Neighborhood Planning District Seven citing aspects of the preservation of public areas and that no tax forfeited or public lands including Endion ledges be used, be considered (Public Document No. 03-0623-51).

William Burns, attorney for the developer, reviewed that: the issues raised have been addressed; the project has been reviewed by the planning commission; this project is a very substantial, private investment; it is not the intention of the developer to use any public funds and that there is a need for this type of housing.

Resolution 03-0405 was adopted as follows:

BY PRESIDENT STENBERG:

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

File No.	Applicant	Parcel #'s Legal Description	Location
3052	Lakewalk Townhomes LLC, et al., c/o William M. Burns, Hanft Fride Ref. File No. 03052	1430-00250 Lots 1, 2, and 3, Block 2, Langelliers Rearrangement of Block D, Endion Division of Duluth, together with east 1/2 of vacated 23-1/2 of avenue thereto	south of Water Street, between 23-1/2 and 24th avenues East
Same	Same	1440-00050 Lots 1-4 1440-00070 Lot 7 Lots 1, 2, 3, 4 and 7, Block E, Endion Division of Duluth	southeast corner of Water Street and 24th Avenue East south of Water Street near 25th Avenue East

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

File No.	Applicant	Parcel #'s Legal Description	Location
Same	Same	1440-00170 Lot 9, Block 1 1440-00220 Endion Division of Duluth Lot 14, Block 1, Endion Division of Duluth	north of Water Street near 26th Avenue East north of Water Street near 25th Avenue East
Same	Same	1440-00360 Lot 13, except the northwesterly 25 feet thereof, Block 2, Endion Division of Duluth	north of Water Street, midway between 24th and 25th avenues East

Resolution 03-0405 was unanimously adopted.
Approved June 23, 2003
GARY L. DOTY, Mayor

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

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President Stenberg moved to remove Resolution 03-0426, granting conditional approval for a special use permit to Miller Hill 47 Limited Partnership for a low-density planned development on property located at 1516 Sundby Road, from the table, which motion was seconded and unanimously carried.

President Stenberg moved to also consider Resolution 03-0462, granting conditional approval to a special use permit request by Cottage Homesteads of Duluth II for a low-density, planned development on property located at 1605 Sundby Road; and Resolution 03-0463, granting conditional approval to a special use permit request by Cottage Homesteads of Duluth III for a low-density, planned development on property located on the east side of Sundby Road and 200 to 400 feet north of Page Street, at this time, which motion was seconded and unanimously carried.

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

Randy Budisalovich, Ron DeGrio, Heather Odden, Robert Olson and Dennis Bard expressed concerns that: the impervious surfaces created by this project exceeds present limitations; conditions of the original development agreement have not been met; the density of this project is inconsistent with the character of the neighborhood; this project does not comply with Chapter 50 of the Duluth City Code; it is feasible for a R-1-b residential development to be constructed on this site; the Western Lake Superior Sanitary District needs to determine if it will be able to accommodate the huge amount of water runoff that will result from this project to be discharged into their system; if this development is constructed, issues relative to fire hydrants, bus transit, traffic congestion, sidewalks and widening of streets need to be addressed; some residents already water standing water in their yards and this project will make it worse.

Councilors Atkins and Gilbert expressed concerns relative to sewage, drainage and traffic issues for the neighbors in the immediate area resulting from these projects and that not

much has changed since these projects were previously turned down to warrant approval at this time.

Resolution 03-0426 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Miller Hill 47 Limited Partnership has submitted to the city council a request for a special use permit for a low density planned development on property described as that part of NE¼, NE¼, SW¼, Section 18, T50, R14, lying east of the county road, except one acre on the south side, located at 1516 Sundby 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 recommendation for conditional 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 Miller Hill 47 Limited Partnership to allow for the construction of a low-density planned development, consisting of 47 rental units with one community room in eight buildings, on a 6.26 acre parcel, on property located at 1516 Sundby Road, on the condition that the project be developed consistent with the plans submitted by Short, Elliott, Hendrickson, Inc., entitled "Miller Hill 47 Limited Partnership, Duluth, MN, Site 3, Proposed Site Plan"; "Miller Hill 47 Limited Partnership, Site III-Duluth, MN, Overall Landscape Plan"; "Miller Hill 47 Limited Partnership, Site III-Duluth, MN, Foundation Planting Plan"; "Miller Hill 47 Limited Partnership, Site III-Duluth, MN, Lighting Plan"; "Miller Hill 47 Limited Partnership, Site 3, Proposed utility Plan" and as identified as Public Document No. 03-0623-26 and subject to the following terms and conditions:

(a) That prior to the issuance of any construction permits, the following must be approved in writing by the secretary of the planning commission:

(1) Wetland permits under the Minnesota Wetland Conservation Act;

(b) That prior to the issuance of any construction permits, the following must be approved in writing by the city engineer:

(1) Stormwater management plan;

(2) Improvement plans for Sundby Road, including a sidewalk on one side of the roadway;

(c) That prior to the issuance of any construction permits, the following must be approved in writing by the city fire marshal:

(1) Placement of fire hydrants;

(2) Fire lane access to all structures;

(d) That prior to the issuance of any construction permits, the following must be approved in writing by the Minnesota pollution control agency:

(1) Sedimentation and erosion control plans;

(2) Stormwater management plan;

(e) That the rights-of-way for both Sundby Road and Osage Avenue be dedicated. (By this action the planning commission is recommending acceptance of the rights-of-way);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(f) That any management contract provide for the perpetual maintenance of the trail system and other open space improvements. The owner shall file a copy of any current management agreement with the planning department.

Resolution 03-0426 was adopted upon the following vote:

Yeas: Councilors Hogg, Ness, Stauber, Stewart and President Stenberg -- 5

Nays: Councilors Atkins, Gilbert and Stover -- 3

Absent: Councilor Bergson -- 1

Approved June 23, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0462 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Cottage Homesteads of Duluth II has submitted to the city council a request for a special use permit for a planned development on property described as; Lot 1, Block 2, Miller Creek Division; that part of the E½ of SE¼ of NW¼, Section 18, T50, R14, beginning at southwest corner; thence north 208 feet; thence east 86 feet to Sundby Road; thence southeasterly along said road to south line of said 40; thence west 172 feet to point of beginning (PID# 2710-4555); northerly 200 feet of the easterly 453.98 feet of NE¼ of SW¼ lying west of Sundby Road (PID #2710-4605); and (PID# 2710-4603), and located at 1605 Sundby 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 recommendation of denial to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Cottage Homesteads of Duluth II to allow for the construction of a low-density planned development, consisting of 32 town home units of moderate income housing for senior citizens on 12.75 acres of land, on the condition that the project be developed consistent with the plans entitled Cottage Homesteads of America Duluth II; proposed site plan (amended 6/3/03); overall landscape plan, foundation planting plan; lighting plan; proposed utility plan; and elevations (FN03048); as submitted by Cottage Homesteads of Duluth II and Short Elliott Hendrickson, Inc., and as identified as Public Document No. 03-0623-27 and subject to the following terms and conditions:

(a) That prior to the issuance of any construction permits, the following must be approved in writing by the secretary of the planning commission:

(1) Vacation of the pedestrian easement platted on Lot 1, Block 2, Miller Creek Division. (With the expectation that a replacement 20-foot wide pedestrian easement will be dedicated in the common interest community plat for this development.);

(b) That prior to the issuance of any construction permits, the following must be approved in writing by the city engineer:

(1) Stormwater management plan;

(2) Improvement plans for Sundby Road, including a sidewalk on one side of the roadway;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(c) That prior to the issuance of any construction permits, the following must be approved in writing by the city fire marshal:

- (1) Placement of fire hydrants;
- (2) Fire lane access to all structures;

(d) That prior to the issuance of any construction permits, the following must be approved in writing by the Minnesota pollution control agency:

- (1) Sedimentation and erosion control plans;
- (2) Stormwater management plan;

(e) That the home owners association documents provide for perpetual maintenance of the trail and other open space improvements. Said documents and any amendments thereto will be filed with the planning department.

Resolution 03-0462 was adopted upon the following vote:

Yeas: Councilors Hogg, Ness, Stauber, Stewart, Stover and President Stenberg -- 6

Nays: Councilors Atkins and Gilbert -- 2

Absent: Councilor Bergson -- 1

Approved June 23, 2003

GARY L. DOTY, Mayor

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Resolution 03-0463 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Cottage Homesteads of Duluth III has submitted to the city council a request for a special use permit for a planned development on property described as: SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 18, T50, R14, lying easterly of Sundby Road except southerly 210 feet lying within 100 feet of easterly 100 feet and except that part lying north of southerly 210 feet (PID 2710-4594), and located on the east side of Sundby Road, and 200 to 400 feet north of Page Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its recommendation of denial to the city council; and

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

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Cottage Homesteads of Duluth III to allow for the construction of a low-density planned development consisting of 20 to 27 units in four unit to six unit (depending on floor plan configuration) cooperative housing on 4.25 acres, for Section 42 low and moderate income housing for senior citizens, on the condition that the project be developed consistent with the plans entitled Cottage Homesteads of America Duluth III; proposed site plan (Opt. B 6/4/03); overall landscape plan, foundation planting plan; lighting plan; proposed utility plan; and building elevations - the New Essex (FN03049); as submitted by Cottage Homesteads of Duluth III and Short Elliott Hendrickson, Inc., and as identified as Public Document No. 03-0623-28 and subject to the following terms and conditions:

(a) That Option B be further amended to provide pathway connections extended to Osage Avenue;

(b) That prior to the issuance of any construction permits, the following must be approved in writing by the secretary of the planning commission:

- (1) Shoreland special use permits under Chapter 51 of the City Code;

(c) That prior to the issuance of any construction permits, the following must be approved in writing by the city engineer:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

- (1) Stormwater management plan;
- (2) Sedimentation and erosion control plans;
- (3) Improvement plans for Sundby Road, including a sidewalk on one side of the roadway;

(d) That prior to the issuance of any construction permits, the following must be approved in writing by the city fire marshal:

- (1) Placement of fire hydrants;
- (2) Fire lane access to all structures;

(e) That the rights-of-way for both Sundby Road and Osage Avenue be dedicated. (By this action the planning commission is recommending acceptance of the rights-of-way.);

(f) That the home owners association document provide for perpetual maintenance of the trail and other open space improvements. Said documents and any amendments thereto will be filed with the planning department.

Resolution 03-0463 was adopted upon the following vote:

Yeas: Councilors Hogg, Ness, Stauber, Stewart, Stover and President Stenberg -- 6

Nays: Councilors Atkins and Gilbert -- 2

Absent: Councilor Bergson -- 1

Approved June 23, 2003

GARY L. DOTY, Mayor

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Councilor Stover moved to remove Resolution 03-0423(b), ordering the improvement known as the 2004 East Hillside/Upper West 2 street improvement program project pursuant to Section 61(b) of the Home Rule Charter of the City of Duluth at an estimated cost of \$391,480, from the table, which motion was seconded and unanimously carried.

Councilors Stauber and President Stenberg expressed support for the resolution for reasons of: residents have water in their basements, sewage problems, sidewalk safety issues and trees falling on their cars and that the street has a projected life of less than five years.

Resolution 03-0423(b) failed upon the following vote (Public Document No. 03-0623-29):

Yeas: Councilor Stauber and President Stenberg -- 2

Nays: Councilors Atkins, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Absent: Councilor Bergson -- 1

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Councilor Stover moved to remove Resolution 03-0424, ordering the improvement known as the 2004 Duluth Heights/Southeast 2 street improvement program project pursuant to Section 61(b) of the Home Rule Charter of the City of Duluth at an estimated cost of \$1,251,600, from the table, which motion was seconded and unanimously carried.

Resolution 03-0424 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. 03-0623-30 on file with the office of the city clerk; that the costs of said improvement estimated at \$1,251,600 shall be paid from the Street Improvement Fund 0440 and that one-fourth or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street

width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 03-0424 was unanimously adopted.

Approved June 23, 2003

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.)

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

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Woodland Fast Pitch Association (Jimmy Herald Memorial Tournament), for July 26 and 27, 2003, with Brett Klosowski, manager.

Duluth Lions Club (Duluth Airshow), 4701 Grinden Drive, for September 20 and 21, 2003, with Ryan Kernz, manager.

Commemorative Air Force, 4931 Airport Road, for September 20, 2003, with DeWayne Tomasek, manager.

Duluth Police Softball Team (Police Softball Tournament), Wheeler Field, for July 19 and 20, 2003, with Barry Midthun, manager.

Resolution 03-0443 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, for July 25, 2003, from 7:00 p.m. to 11:00 p.m.

Coughlin Tarvas, Inc. (Bedrock Bar), 2023 West Superior Street, for June 28, 2003, from 6:00 p.m. to 11:00 p.m.

Resolution 03-0444 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, with an application fee of \$400, subject to departmental approvals with any further restrictions, and further subject to approval of the liquor control commissioner:

Ridgeview Country Club, 700 West Redwing Street, for July 31, August 1, 2 and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

3, 2003, with Phil Gaudino, manager.
Resolution 03-0445 was unanimously adopted.
Approved June 23, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1. East End Hockey Association	Midway Bar	May 30, 2003
2. Hillside Business Association	Twins Bar	June 6, 2003

Resolution 03-0446 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, Merrit Youth Hockey 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 Merrit Youth Hockey 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 03-0447 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Johnson Insurance Consultants for professional consulting services relating to city's group health insurance program during the years 2003 and 2004, which agreement shall be substantially in the form of Public Document No. 03-0623-31 on file in the office of the city clerk, at a cost to the city of not to exceed \$13,200 per year, which shall be payable from the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

group health fund administration account.

Resolution 03-0448 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that GovDocs be and hereby is awarded a contract for furnishing online subscription management and document delivery system for the MIS division in accordance with specifications on its low specification bid of \$14,845.34, terms net, FOB destination, payable out of General Fund 0100, Department/Agency 015, Organization 1513, Object 5201.

Resolution 03-0466 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that American LaFrance, Inc., be and hereby is awarded a contract for furnishing and repairing Fire Truck No. 7340 for the fire department in accordance with specifications on its bid of \$12,506.50, terms net 30, FOB destination, payable out of Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1651, Object 5842.

Resolution 03-0467 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of senior gas control operator, which were approved by the civil service board on May 6, 2003, and which are filed with the city clerk as Public Document No. 03-0623-32, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 30, \$3,149 to \$3,762 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 03-0432 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointments of Todd Fedora and Dennis Ramberg and the appointment of Michael E. Orman, replacing Gary Gange, to the Duluth airport authority, by Mayor Doty, for terms expiring on July 1, 2006, are confirmed.

Resolution 03-0433 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointments of Walter Kramer (at large) and Isobel Rapaich (at

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

large) to the Duluth transit authority, by Mayor Doty, for terms expiring on June 30, 2006, are confirmed.

Resolution 03-0436 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Thomas Bennett (District 2) to the parking commission, by Mayor Doty, for a term expiring on July 1, 2006, is confirmed.

Resolution 03-0437 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Mark Dylla to the sanitary sewer board of the WLSSD, by Mayor Doty, for a term expiring on July 1, 2006, is confirmed.

Resolution 03-0438 was unanimously adopted.

Approved June 23, 2003

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 heavy equipment operator, which were approved by the civil service board on June 3, 2003, and which are filed with the city clerk as Public Document No. 03-0623-33, are approved. This classification shall remain subject to city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 27, \$2,779 to \$3,288 per month.

Resolution 03-0439 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointments of Robert Cormier (at large), Nancy Costa (environmental) and Stanley D. McPeek (at large) to the environmental advisory council, by Mayor Doty, for terms expiring on January 5, 2006, replacing Linda R. Sellner, Robert A. Seitz and Kinnan Stauber, are confirmed.

Resolution 03-0441 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0623-34(a), to the 1999 CDBG agreement (Contract No. 18992) with YWCA extending the term of the agreement to August 31, 2003, and extending the time within which to create six new, permanent, full-time equivalent jobs to November 1, 2003, with no change in contract amount.

FURTHER 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Document No. 03-0623-34(b), to the 2001 CDBG agreement (Contract No. 18990) with YWCA extending the term to August 31, 2003, with no change in contract amount.

FURTHER 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. 03-0623-34(c), to the 2001 CDBG HOME program agreement (Contract No. 18993) with YWCA and WTHC extending the term to August 31, 2003, with no change in contract amount.

Resolution 03-0464 was unanimously adopted.
Approved June 23, 2003
GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of part of an unimproved alley located southwest of 40th Avenue West along former railroad right-of-way, legally described as that portion of unnamed (alley) thoroughfare lying southwesterly of 40th Avenue West, bounded on the northwest by Lots 5, 6, and 9, Block 12, Hazelwood Addition to Oneota, and bounded on the southeast by the former right-of-way of the Northern Pacific Railway (now Burlington Northern), said parcel more fully described as follows:

a parcel of land situated in the S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 49 North, Range 14 West of the Fourth Principal Meridian, St. Louis County, Minnesota described as follows:

beginning at the point of intersection of a line drawn parallel with and distant 100.0 feet northwesterly of, as measured at right angles and radially to Burlington Northern Railroad Company's main track centerline, as previously located and constructed, and the southwesterly right-of-way line of 80.0 foot wide 40th Avenue West of the city of Duluth, Minnesota, according to the recorded plat thereof; thence southwesterly parallel to said main track centerline a distance of 210.0 feet; thence northwesterly to the southerly corner common to Lots 4 and 5, Block 12, Hazelwood Addition to Oneota; thence northeasterly along the southeasterly sides of Lots 5, 6, and 9, Block 12, Hazelwood Addition to Oneota to a point on the southwesterly right-of-way line of said 40th Avenue West; thence southeasterly along said right-of-way line to the point of beginning (Ref. F.N. 03028); and

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

WHEREAS, the city planning commission unanimously approved the alley vacation petition at its April 8, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of alley described above and as more particularly described on Public Document No. 03-0623-35.

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

Resolution 03-0315 was unanimously adopted.
Approved June 23, 2003
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of unimproved alley located north of Dickson Street between 106th and 107th avenues West, legally described as the alley in Block 59, Gary Central Division (Ref. File No. 03045); and

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

WHEREAS, the city planning commission unanimously approved the alley vacation petition at its June 10, 2003, 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. 03-0623-36.

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

Resolution 03-0450 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Bowser Street between 97th and 96th avenues West, legally described as that portion of Bowser Street adjoining Blocks 30 and 37, New Duluth First Division; and

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

WHEREAS, the city planning commission unanimously approved the street vacation petition at its June 10, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Bowser Street described above and as more particularly described on Public Document No. 03-0623-37.

RESOLVED FURTHER, that the southerly 1/2 of the vacated street easement be retained as a utility easement.

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

Resolution 03-0451 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of streets and utility easements in the undeveloped portions of the Plat of Crystal Tree legally described as all street and utility easements located within and adjoining Lots 5, 6, 7, 8, 9, 10, 11 and 12, in Block 2, and all of Blocks 3, 4, 5, 6 and 7 of the plat of Crystal Tree Division; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

WHEREAS, the city planning commission unanimously approved the street and utility easement vacation petition at its June 10, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of streets and utility easements described above, and as more particularly described on Public Document No. 03-0623-38.

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

Resolution 03-0452 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute a continuation of an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0623-39, with the Greater Downtown Council (GDC) under which the GDC will conduct certain activities in the Downtown area, in an amount not to exceed \$43,597 for a total contract cost of \$87,194, payable from general fund 0100-015-2030-SP05.

Resolution 03-0453 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, on June 22, 1987, the city council approved Resolution 87-0502, granting a special use permit to Northwestern Bell Telephone, for the construction and operation of telephone switching station in a residential zone located at 610 West College Street; and

WHEREAS, Leo A. Daly, on behalf of Qwest Communications, has submitted to the city council a request to amend the special use permit to permit a 20 foot by 37 foot addition to the existing 40 foot by 37 foot telecommunications equipment building on property described as part of the N½, NE¼, SE¼, Section 15, T50, R14, located on the south side of College Street and located at 610 West College Street (Reference File No. 03060); 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 provisions of special use permit Resolution 87-0502 are hereby amended to allow for the expansion of the telephone switching building at 610 West College Street on the condition that said expansion be constructed as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

identified as Public Document No. 03-0623-40.

Resolution 03-0459 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that sub-subparagraph 5 of Paragraph 2(a) of the skywalk system use policy regulations, on file in the office of the city clerk as Public Document No. 79-0507-32(a), amended by Resolution No. 91-0891, is hereby amended to read as follows:

Off-premises, commercial advertising on skywalk easements is permitted by contract between the city and the owner of the underlying fee title to the property upon which said easements are located or between the city and a third party having the consent of such owner or owners, said contracts to be approved by the city council by resolution approving the numbers and types of advertising facilities and structures to be placed in the skywalk system, provided that the profits accruing to the city or to such third party are used solely for the benefit of the skywalk system.

Resolution 03-0477 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0623-41 with the Greater Downtown Council authorizing the erection of off-premises advertising signage in the downtown skywalk system and providing for the use of the profits therefrom.

Resolution 03-0478 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Blacktop be and hereby is awarded a contract for furnishing and delivering bituminous materials as needed for year 2003 for the maintenance and utility operations division in accordance with specifications on its low specification bid for a total of \$88,000, terms net 30, FOB picked up, payable out of various funds, various departments/agencies, various organizations, various objects.

Resolution 03-0418 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 70 feet of sanitary sewer across Getchell Road approximately 1,160 feet north of St. Louis River Road.

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

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 03-0440 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that Arrowhead Road from Dodge Avenue to Woodland Avenue (City Project No. 9101MA00) be improved; and

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$4,520,000; \$1,500,000 federal funds, \$1,425,000 from municipal state aid funds, \$890,000 from Water Fund 0510, \$270,000 from Storm Water Utility Fund 0535, \$155,000 from Sanitary Sewer fund 0530 and \$230,000 is assessable to abutting property.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter, and that said improvement is hereby ordered.

Resolution 03-0442 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 03-0407 the council did request the administration to prepare plans and specifications for the construction of 130 feet of low pressure sanitary sewer in Gilead Street beginning 100 feet east of the intersection of Como Avenue and extending easterly (City Job No. 0338SN) at an estimated cost of \$15,560; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$15,560 payable from Special Assessment Fund 0410, Agency 038, Organization 5378, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0454 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(a) of the Home Rule Charter of the city of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Duluth, the city council hereby orders the construction of sanitary sewers in Arrowhead Road as part of the Arrowhead Road reconstruction to connect to sewers in Waverly and Woodland avenues and that the costs of said improvement estimated at \$60,000 shall be paid from the Sanitary Sewer Fund 0530 and that said costs be levied against the property specifically benefitted by this sanitary sewer.

FURTHER RESOLVED, that this work is being done with the Arrowhead Road reconstruction project which should lower the cost of this improvement.

Resolution 03-0456 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by the Resolution of Intent numbered 03-0401, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Basswood Avenue from Walnut Street northerly 767 feet, including permanent residential design street with concrete curb and gutter, bituminous surface and storm sewer, and for sanitary sewer, watermain and gas main to Serve Lots 1 through 4, Block 1, Walsh Addition (City Job No. 0251TR); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; the benefitting property owner has waived his right to a public hearing; 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 \$125,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5376, Object 5530, and that 100 percent of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0457 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 03-0440 the council did request the administration to prepare plans and specifications for the construction of 70 feet of sanitary sewer across Getchell Road approximately 1,160 feet north of St. Louis River Road (City Job No. 0327SN) at an estimated cost of \$15,080; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 \$15,080, payable from Special Assessment Fund 0410, Agency 038, Organization 5377, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0458 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for the construction of East Superior Street between 26th Avenue East and 45th Avenue East; 28th Avenue East between Branch Street and Superior Street; and 34th Avenue East between Superior Street and First Street for the engineering division in accordance with specifications on its low specification bid of \$2,371,898.28, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2186, Object 5530; to be reimbursed by municipal state aid turnback.

Resolution 03-0468 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Daffinson, Inc., be and hereby is awarded a contract for year 2003 street crack sealing program for the maintenance operation division in accordance with specifications on its low specification bid of \$57,717, terms net 30, FOB job site, payable out of General Fund 0100, Department/Agency 500, Organization 2000, Object 5403.

Resolution 03-0469 was unanimously adopted.

Approved June 23, 2003

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 demolition, abatement and removal of water and gas Garfield Avenue site and disposal of contaminated stockpiled soil for the city architect division in accordance with specifications on its low specification bid of \$80,000, terms net 30, FOB job site, payable out of Public Utility Bond Construction Fund 0522, Department/Agency 500, Object 5532.

Resolution 03-0470 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the city of Duluth desires to provide preliminary survey on Arrowhead Road from Dodge Avenue to Woodland Avenue; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for construction staking 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 \$162,700, will be payable from the Special Assessment Fund 0410, Department/Agency 038, Organization 5375, Object 5530; to be reimbursed by municipal state aid.

Resolution 03-0471 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0324 to Short Elliot Hendrickson, Inc., for the professional engineering services for traffic study and signal design and drainage study and hydraulic design for Arrowhead Road between Dodge Avenue and Woodland Avenue, be amended to increase the amount by \$39,000 for a new total of \$129,000, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2112, Object 5530; to be reimbursed by municipal state aid (MSA).

Resolution 03-0472 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0227 to Short Elliot Hendrickson, Inc., for professional engineering services required for the rehabilitation of Bridge No. 69J43 (replaces Bridge No. 91144) over Merritt Creek at 37th Avenue West and Grand Avenue and rehabilitation of Bridge No. 88552 over Miller Creek at West Third Street, be amended to increase the amount by \$52,250 for a new total of \$104,269.20, \$77,984.40 payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2177, Object 5530 and \$26,284.80 payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2178, Object 5530; to be reimbursed by municipal state aid fund.

Resolution 03-0473 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for the sanitary and storm manhole adjustment program for the engineering division in accordance with specifications on its low specification bid of \$76,600, terms net 30, FOB job site, \$42,130 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5535 and \$34,470 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5535.

Resolution 03-0474 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Approved June 23, 2003
 GARY L. DOTY, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Stout Mechanical, Inc., be and hereby is awarded a contract for rehabilitation of Bridge No. 88552 over Miller Creek at West Third Street between 25th Avenue West and 26th Avenue West for the engineering division in accordance with specifications on its low specification bid of \$158,506, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2178, Object 5530; to be reimbursed from state transportation fund and municipal turnback fund.

Resolution 03-0475 was unanimously adopted.

Approved June 23, 2003
 GARY L. DOTY, Mayor

BY COUNCILOR STOVER:

RESOLVED, effective with the natural gas readings after August 1, 2003, all customers of the natural gas utility of the public works and utilities department of the city of Duluth, whose natural gas supply is measured by meter, shall be charged for such natural gas in accordance with the schedule of rates established by this resolution as follows:

CUSTOMER RATE SCHEDULE BASED UPON MONTHLY METERED VOLUME				
		Fixed monthly charge (no change)	Per 100 cubic feet	
		Effective August 1, 2003 rate	Effective August 1, 2003, rate	Effective January 1, 1997 rate
Firm sales service	Residential	\$6.00	\$0.538	\$0.513
	Residential heating	N/A	N/A	N/A
	Commercial/industrial heating	N/A	N/A	N/A
	Commercial/industrial small volume	\$25.00	\$0.443	\$0.418
	Commercial/industrial large volume	\$250.00	\$0.385	\$0.360
Interruptible sales service	Commercial/industrial small volume	\$100.00	\$0.320	\$0.295
	Commercial/industrial large volume	\$275.00	\$0.294	\$0.269

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CUSTOMER RATE SCHEDULE BASED UPON MONTHLY METERED VOLUME				
		Fixed monthly charge (no change)	Per 100 cubic feet	
		Effective August 1, 2003 rate	Effective August 1, 2003, rate	Effective January 1, 1997 rate
Firm transport service	Commercial/industrial small volume	\$50.00	\$0.095	\$0.095
	Commercial/industrial large volume	\$275.00	\$0.057	\$0.057
Interruptible transport service	Commercial/industrial small volume	\$125.00	\$0.060	\$0.060
	Commercial/industrial large volume	\$300.00	\$0.046	\$0.046
Purchased gas adjustment (PGA)	If the wholesale price of gas purchased by the city of Duluth is increased or decreased as compared to 1995 base gas costs, and any such change results in an average unit cost of gas in excess, or less than the 1995 base gas costs, the unit commodity charge (\$ per CCF) for gas sold under the applicable rate schedule shall be increased or decreased on the customer's monthly bill in the same amount as the unit cost of gas has been increased or decreased.			

RESOLVED FURTHER, that any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 03-0476 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute a two-year agreement with the Duluth Entertainment Convention Center (DECC), relating to the operation of the pedestrian draw bridge over Minnesota slip; payments thereunder, in the estimated amount of \$22,505 per year 2003 at \$10.60 per hour, to be paid from General Fund 0100, Department/Agency 500, Organization 1925, Object 5455.

Resolution 03-0480 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized and directed to enter into a grant agreement with the state of Minnesota, department of public safety, filed as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Document No. 03-0623-42, to purchase \$15,921 of equipment to be used by the fire department in response to terrorist incident situations. Monies from this grant shall be deposited in Special Grants Fund 0210.

Resolution 03-0449 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that Reeves Company be and hereby is awarded a contract for furnishing and delivering decontamination equipment for the fire department in accordance with specifications on its low specification bid of \$37,178.04, terms net 30, FOB Frederick, MD, payable out of General Fund 0100, Department/Agency 100, Organization 1505, Object 5580.

Resolution 03-0465 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

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. 03-0623-43, 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 \$90,000, to be deposited in General Fund 0100, Agency 100, Organization 1505.

Resolution 03-0482 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0460, by Councilor Hogg, approving Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 11, authorizing the proceeds of the additional one-half percent food and beverage sales tax to be used to retire Great Lakes Aquarium bonds as well as Duluth Entertainment Convention Center bonds, and Resolution 03-0461, approving Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 12, authorizing the proceeds of the additional one-half percent hotel/motel tax to be used to retire Great Lakes Aquarium bonds as well as Duluth Entertainment Convention Center bonds, were introduced for discussion.

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

Steve Townsend felt that this tax should be extended to all businesses to retire the bonds sooner. He expressed concern that restaurant owners are being targeted with the smoking ban, tourism tax and now possibly a sewage increase and that there is a need to have market forces drive the market, instead of taxing businesses out of existence.

Councilor Gilbert expressed concern that this is a subsidy for the aquarium that could be used for other purposes.

Resolution 03-0460 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes Sections 645.02 and 645.021, the Duluth City Council hereby approves Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 11, and directs the city clerk to file a certificate of approval of such

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

special law with the secretary of state.

Resolution 03-0460 was adopted upon the following vote:

Yeas: Councilors Atkins, Hogg, Ness, Stauber, Stewart and President Stenberg -- 6

Nays: Councilors Gilbert and Stover -- 2

Absent: Councilor Bergson -- 1

Approved June 23, 2003

GARY L. DOTY, Mayor

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Resolution 03-0461 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes Sections 645.02 and 645.021, the Duluth City Council hereby approves Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 12, and directs the city clerk to file a certificate of approval of such special law with the secretary of state.

Resolution 03-0461 was adopted upon the following vote:

Yeas: Councilors Atkins, Hogg, Ness, Stauber, Stewart and President Stenberg -- 6

Nays: Councilors Gilbert and Stover -- 2

Absent: Councilor Bergson -- 1

Approved June 23, 2003

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 substantially the form and containing substantially the terms of that contract on file with the city clerk as Public Document No. 03-0623-44, between the city and Historic Union Depot, Inc., in an amount not to exceed \$100,000, for a term of the year 2003; payment from Fund 0258.

Resolution 03-0479 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Stephen Bianchi and the appointment of Robert C. Beaudin, replacing M. George Downs, to the Duluth state convention center administrative board, by Mayor Doty, for terms expiring on June 30, 2006, are confirmed.

Resolution 03-0434 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0494, by Councilor Gilbert, relating to the public smoking ordinance, expressing that the city council had no intent to prohibit the consumption on the premises of bar/restaurants food that originated or was produced elsewhere, was introduced for discussion.

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

Restaurant owners and managers, Dawn Fitzgerald, Mark Mitchell, Mike Mohr, Dan Landgren, Mike Ronning and Steve Townsend spoke on the issues of: a full food menu should be available in a bar area; liquor patrons would like to be able to have all the services available and provided; this is not a small businesses friendly climate; recent legal interpretations have

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hurt businesses; local establishments would like to compete equally with the surrounding communities; having a smoke free area is one thing, but having the smokers area "food free" is not fair; businesses were misled with information that food could be served through a window if a new negative air flow system was installed; serving only food that can be cooked in a microwave oven in the bar area has irritated customers; kitchen hours and the number of employees have had to be cut; from a safety standpoint, people who drink should be allowed to eat; establishments are also being affected by changes to charitable gambling lease payments and the rules should be the same for all establishments.

Pat McKone spoke in opposition, citing reasons of: the council decided this in 2001 by ordinance; the voters decided how they wanted the ordinance to read also; the economic impact has been positive; other cities are adopting smoking ordinances; if some establishment owners feel there was misinformation from the city attorney, then they should seek restitution and continued dialogue to change the ordinance which gives mixed messages to the residents and establishment owners.

Dale Swapinski supported the resolution, noting that these small businesses should be allowed to continue to operate as had been the original intent.

Councilor Ness felt that the intention of the ordinance was to level the playing field between the bar and restaurant owners and that if there is going to be a change, it needs to go back to the voters.

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

Resolution 03-0494 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the Duluth City Council hereby expresses that it was not its intent in passing Ordinance 9490 to prohibit the consumption in bar/restaurants food that did not originate or was not produced on the premises of the bar/restaurant.

Resolution 03-0494 was adopted upon the following vote:

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

Nays: Councilor Ness -- 1

Absent: Councilor Bergson -- 1

Approved June 23, 2003, pursuant to Section 12 of the Duluth City Charter.

- - -

BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are authorized to enter into an amendment on file in the office of the city clerk as Public Document No. 03-0623-45 to City Contract No. 19151 with Jader Enterprises, Inc., extending the term of their contract through August 30, 2003, and increasing the amount payable thereunder by \$28,500 from Fund 0255.

Resolution 03-0484 was adopted upon the following vote:

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

Nays: Councilor Gilbert -- 1

Absent: Councilor Bergson -- 1

Approved June 23, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are authorized to enter into an amendment on

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

file in the office of the city clerk as Public Document No. 03-0623-46 to City Contract No. 19152 with Brian Fitzgerald extending the term of their contract through August 30, 2003, and increasing the amount payable thereunder by \$23,500 from Fund 0255.

Resolution 03-0485 was adopted upon the following vote:

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

Nays: Councilor Gilbert -- 1

Absent: Councilor Bergson -- 1

Approved June 23, 2003

GARY L. DOTY, Mayor

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At this time, 10:56 p.m., Councilor Stover moved to suspend the rules to extend the council meeting to 11:30 p.m., which motion was seconded and unanimously carried.

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Resolutions 03-0487 and 03-0488, by President Stenberg, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a variance to reduce the minimum side yard setback on a corner lot from 15 feet to 11 feet for the construction of a single family dwelling with overall dimensions of 76 feet by 51 feet on property located at (proposed) 2826 Parkwood Lane (Jeffrey Johnson), were introduced for discussion.

Councilor Hogg moved to amend Resolution 03-0488 as follows:

(a) Add the words "because the lot involved is a corner lot with increased setback requirements" at the end of the fourth paragraph; and

(b) Add the words "the lot narrows toward the rear, and in the absence of a variance, building on the lot would change natural drainage and be an imposition on adjoining property, all of which circumstances constitute a hardship," in the fifth paragraph between the words "topography of" and "the property,"

which motion was seconded and unanimously carried.

Resolution 03-0487 failed upon a unanimous vote (Public Document No. 03-0623-47).

- - -

Resolution 03-0488, as amended, was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Jeffrey Johnson applied to the board of zoning appeals for a variance to reduce the minimum side yard setback on a corner lot from 15 feet to 11 feet for the construction of a single family dwelling with overall dimensions of 76'x51' on property located at (proposed) 2826 Parkwood Lane, and legally described as Lot 1, Block 3, Second Addition to Parkwood; and WHEREAS, the board of zoning appeals denied the variance to reduce the corner side yard setback because they found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and that did not apply generally to other land or buildings in the vicinity and because it was not necessary for the preservation and enjoyment of a substantial property right and was merely a convenience of the applicant; and

WHEREAS, Jeffrey Johnson has appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and disagrees with the decision of the board of zoning appeals and finds that the granting of a variance to reduce the corner side yard setback requirement is appropriate in this case because the lot involved is a corner lot with increased setback requirements.

NOW, THEREFORE, BE IT RESOLVED, the council finds that the topography of the lot

narrows toward the rear, and in the absence of a variance, building on the lot would change natural drainage and be an imposition on adjoining property, all of which circumstances constitute a hardship, the property and the need of the applicant to locate the proposed structure oriented towards Parkwood Lane constitute factors and circumstances that are unique to the subject property and which prevent the applicant, through no fault of his own from making a reasonable use of the property in conformance with the requirements of the zoning code.

FURTHER RESOLVED, by the city of Duluth that the board of zoning appeals' decision of May 27, 2003, is hereby reversed by the city council and the appeal is granted.

Resolution 03-0488, as amended, was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution Nos. 99-0239 and 02-0606, Duluth economic development authority (DEDA) resolution 03D-35 approved by the DEDA board at its meeting of June 17, 2003, authorizing an agreement for the purchase of certain property from the state of Minnesota through St. Louis County for appraised value of \$71,300 and certain fees not to exceed \$2,420 subject to agreement with Easy Housing of Duluth, Inc., a copy of which is on file in the office of the city clerk as Public Document No. 03-0623-48, is hereby approved.

Resolution 03-0489 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 02-0606, Duluth economic development authority (DEDA) Resolution 03D-36 approved by the DEDA board at its meeting of June 17, 2003, authorizing an agreement for the purchase of certain property from the state of Minnesota through St. Louis County for appraised value of \$12,500 and certain fees not to exceed \$7,120.50 subject to agreement with Habitat for Humanity, a copy of which is on file in the office of the city clerk as Public Document No. 03-0623-49, is hereby approved.

Resolution 03-0490 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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Resolution 03-0492, by President Stenberg, approving DEDA Resolution 03D-34 authorizing an agreement with Soft Center Duluth in the amount of \$150,000, was introduced for discussion.

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

Peggy Marrin and K.L. Lewis questioned if the council received the information that was previously requested; who is currently overseeing the operations; with the building being 90 percent full, why is this executive director needed and if a new person is hired, then Soft Center should do without those that were not producing.

Michael Conlan, director of planning and business development, commented that this contact will: reconstitute the Soft Center board and give it the tools necessary to foster the growth of emerging technology companies here in Duluth, irregardless of where they locate; to

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hire a professional beyond the current short term consultants that have been in place and to support the new technology cluster incubator with the University of Minnesota-Duluth.

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

Yeas: Councilors Atkins, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilors Stauber and President Stenberg -- 2

Absent: Councilor Bergson -- 1

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, Duluth economic development authority (DEDA) Resolution 03D-45 approved by the DEDA board of commissioners at its meeting of June 17, 2003, authorizing an agreement for a second amendment to Agreement No. 03 860 360 with the Greater Downtown Council increasing the amount payable by \$40,763, a copy of which is on file in the office of the city clerk as Public Document No. 03-0623-50, is hereby approved.

Resolution 03-0493 was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

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Resolution 03-0486, by Councilor Ness, of the Duluth City Council affirming the civil rights of all residents, was introduced for discussion.

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

Mari Trine, representing Women Speak for a Sane World; Brian Fuxa; Bob Boone; K.L. Lewis; Amanda Alexander, representing Pioneers For Positive Change, spoke in support of the resolution, citing reasons of: the provisions of the USA PATRIOT Act threaten civil rights, in the areas of FBI spying without evidence of wrongdoing; citizens are being held without being charged and are not being allowed access to legal counsel; monitoring of communications between detainees and their counsels is taking place; this is the city council's business; the law was passed hastily after the 9-11 attacks; 400 citizens have signed a petition supporting the resolution and that the act is unconstitutional.

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

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Resolution 03-0495, by Councilor Ness, encouraging resolution of construction issues related to the Maple Ridge townhomes project, was introduced for discussion.

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

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At this time, 11:28 p.m., Councilor Hogg moved to suspend the rules to extend the council meeting to 11:45 p.m., which motion was seconded and unanimously carried.

- - -

Al Coffin, Roy Hamlin, Grace Miller and Lori DeWald supported the resolution for reasons of: the structural integrity of the buildings is in question; a certificate of occupancy has not been issued to some of the residents; this has been going on for over four years; drainage in yards was not properly done; the homes are technically not sellable or can not be re-financed.

- - -

At this time, 11:42 p.m., Councilor Hogg moved to suspend the rules to extend the council meeting to midnight, which motion was seconded and unanimously carried.

- - -

Resolution 03-0495 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the residents of Maple Ridge Townhomes have experienced significant issues and problems associated with their newly constructed and recently purchased townhomes; and

WHEREAS, the Duluth building inspector has not issued certificates of occupancy for a significant number of these townhomes due to significant issues related to drainage and slope issues in the garages; and

WHEREAS, the lack of a certificate of occupancy means that the residents and owners of these townhomes are technically residing in violation of the law; and

WHEREAS, the development company, Arrowhead Development Corporation, has agreed by court order to "take or cause to be taken all actions necessary to obtain the issuance of certificates of occupancy"; and

WHEREAS, the residents are concerned that these certificates may be issued without adequately addressing the concerns of the neighbors.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council encourages the development company, Arrowhead Development Corporation, to treat the residents of Maple Ridge Townhomes with the respect that they deserve, to address their legitimate and significant issues, and to do so in a timely manner.

RESOLVED FURTHER, that the Duluth City Council requests that the building safety office of the city of Duluth ensure that all requirements of the Minnesota State Building Code and codes appended thereto are addressed prior to issuance of a certificate of occupancy.

Resolution 03-0495, as amended, was unanimously adopted.

Approved June 23, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0481, by Councilor Stover, awarding contract to Minnesota Limited, Inc., for construction of a ten inch gas transmission pipeline in Douglas County, Wisconsin, in regards to the Great Lakes Gas transmission in the amount of \$3,580,012.65, was introduced for discussion.

Councilor Stover moved to refer the resolution 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 COUNCILOR HOGG

03-030 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$2,250,000 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 STENBERG

03-029 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MEDIACOM LLC TO CONSTRUCT AND MAINTAIN A FIBER OPTIC CABLE IN THE RIGHT-OF-WAY OF AIRPORT ROAD BETWEEN HAINES ROAD AND RICE LAKE ROAD.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER

03-028 - AN ORDINANCE GRANTING A DRIVEWAY AND PARKING EASEMENT ACROSS LOTS 5, 6, 11, 12, 20 AND 21, TRIGG'S REARRANGEMENT OF BLOCK 76, THIRD DIVISION, DULUTH PROPER.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

03-027 (9603) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$970,000 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 PRESIDENT STENBERG

03-023 (9604) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE EAST SIDE OF HAINES ROAD, 1,400 FEET SOUTH OF MAPLE GROVE ROAD AND 475 FEET SOUTH OF MATTERHORN DRIVE (STROM).

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

- - -

BY PRESIDENT STENBERG

03-024 (9605) - AN ORDINANCE AMENDING SECTION 50-30 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE LOCATION OF REQUIRED PARKING SPACES IN FRON YARDS; FRONT YARD PERMIT.

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

Myrna Matheson spoke in support of the ordinance, citing: the number of college residents with many cars in the front yards, the requirement for impervious surfaces and the need for landlords to provide parking for renters.

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

- - -

BY PRESIDENT STENBERG

03-025 (9606) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE EAST SIDE OF WOODLAND AVENUE BETWEEN ELIZABETH STREET AND NORTON STREET (MORSE).

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

- - -

The meeting was adjourned at 11:57 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9602

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-2, HIGHWAY COMMERCIAL, AND M-1, MANUFACTURING ,TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED BETWEEN I-35 AND THE LAKE SUPERIOR SHORELINE, BETWEEN 23RD AND 25TH AVENUES EAST (LAKEWALK TOWNHOMES LLC).

The city of Duluth does ordain:

Section 1. That Plate No. 38 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(See page at end of meeting)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 2, 2003)

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

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

Nays: None -- 0

Absent: Councilor Bergson -- 1

Passed June 23, 2003

Approved June 23, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9603

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$970,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment. The city has applied for and received a commitment from the Minnesota public facilities authority (the "authority") for a loan

to install watermains in portions of the Morgan Park neighborhood (the "project") as identified in the city's application to the authority.

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 for the project, and determines that it is necessary to issue general obligation water utility revenue bonds or a note in the amount of \$970,000 for the purpose of paying costs of the project.

1.03 The city has heretofore issued and sold the following: general obligation water utility refunding bonds dated September 1, 1997, now outstanding in the amount of \$1,345,000; general obligation water and sewer refunding bonds dated May 1, 1998, the water utility portion of such bonds now outstanding in the amount of \$1,345,000; general obligation water and sewer utilities revenue bonds dated December 1, 2000, the water utility portion of such bonds now outstanding in the amount of \$1,395,000; general obligation utilities facility bonds dated September 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,690,000; general obligation utilities revenue bonds dated December 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,385,000; and general obligation water and sewer utilities revenue bonds dated March 1, 2003, the water utility portion of such bonds now outstanding in the amount of \$625,000. 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 September 1, 1997, May 1, 1998, December 1, 2000, September 1, 2002, December 1, 2002, and March 1, 2003.

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 or a note of the city of Duluth in the amount of \$970,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility operating account within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be

deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal water utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. CERTIFICATE OF PROCEEDINGS.

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

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

Section 5. EFFECTIVE DATE.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 2, 2003)

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

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

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 23, 2003
Approved June 23, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9604

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

PROPERTY LOCATED ON THE EAST SIDE OF HAINES ROAD,
1,400 FEET SOUTH OF MAPLE GROVE ROAD AND 475 FEET
SOUTH OF MATTERHORN DRIVE (STROM).

The city of Duluth does ordain:

Section 1. That Plate No. 22 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(See page at end of meeting)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 2, 2003)

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

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

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 23, 2003
Approved June 23, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9605

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING SECTION 50-30 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE LOCATION OF REQUIRED PARKING SPACES IN FRONT YARDS; FRONT YARD PERMITS.

The city of Duluth does ordain:

Section 1. That Section 50-30 be amended to read as follows:

Sec. 50-30. Location of required parking spaces in front yards; front yard permits.

Off street parking space may be located within the required front yard of any C or M district, but no parking lot shall be located nearer than 50 feet to any S or R district and no off street parking shall be permitted in the required front yard of any R district, unless a front yard parking permit is applied for and approved by the planning commission. This Section does not prohibit parking in a driveway designed primarily for access to the dwelling or the garage. The following minimum standards shall be met prior to issuance of a front yard parking permit:

(a) Where parking available to the existing use of the property is inadequate, no feasible alternatives to front yard parking exists on the site to mitigate the parking inadequacy, and the proposal will not have detrimental impacts on other properties;

(b) The proposed individual parking spaces shall exceed the minimum requirements of this ordinance, but in no case be greater in size than ten feet by 20 feet;

(c) The proposed parking spaces shall be located in their entirety upon the property and shall not encroach into any public right-of-way or across any property line;

(d) No more than two front yard parking spaces per dwelling unit shall be permitted upon a lot with the additional restriction that no more than 50 percent of the required front yard may be used for front yard parking irrespective of the number of spaces allowed by the preceding provision;

(e) A parking space shall be located no closer than four feet to a side lot line, unless the adjoining property owner has signed an affidavit agreeing to a lesser spacing;

(f) No parking space shall be located nearer than 25 feet to the side street right-of-way line of a corner lot;

(g) All parking shall be designed such that it is perpendicular to the street paralleling the front yard. No right angle, diagonal or similar parking configurations shall be allowed;

(h) The entire parking space and all drive areas leading to it shall be surfaced in a dust free, hard surface type material such as concrete or bituminous, or pervious surface materials. Aggregate materials, compressed aggregates or other similar type surfaces shall not be permitted.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 2, 2003)

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

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

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 23, 2003
Approved June 23, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9606

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE EAST SIDE OF WOODLAND AVENUE BETWEEN ELIZABETH STREET AND NORTON STREET (MORSE).

The city of Duluth does ordain:

Section 1. That Plate No. 38 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(See page at end of meeting)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 2, 2003)

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

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

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 23, 2003
Approved June 23, 2003
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 10, 2003, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilors Bergson and Gilbert -- 2

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILORS ATKINS AND NESS

03-040-O - AN ORDINANCE PROVIDING FOR BREWERY MALT LIQUOR OFF SALE AND TEMPORARY ON SALE LIQUOR LICENSES; AMENDING SECTIONS 8-41, 8-44 AND 8-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The meeting was adjourned at 5:07 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 14, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 2

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0714-01 Phillip M. Carter, et al. (six signatures), submitting petition to vacate alley between Block 55 of Kimberly and Stryker's Addition and North 63rd Avenue West between Blocks 2 and 3 of Dodge's Addition and Blocks 54 and 55 of Kimberley and Stryker's Addition.

-- Assessor

03-0714-02 Easy Housing of Duluth, Inc., submitting petition to reclassify from suburban to R-1-b Blocks 102 and 103, Home Park Division New Duluth together with Outlot C. -- Assessor

03-0714-03 Easy Housing of Duluth, Inc., submitting petition to vacate 105th, 106th and 107th Avenues West between Peary and Heard Streets, alleys in Blocks 102 and 103, Home Park Division New Duluth and Heard Street from 105th Avenue West in a westerly direction to the end at approximately 107th Avenue West. -- Assessor

03-0714-04 Ralph M. Raschick, et al. (four signatures), submitting petition to vacate Fifth Avenue between Skyline Parkway and 13th Street. -- Assessor

03-0714-05 Joe Thorne, et al. (19 signatures), submitting petition to construct a permanent alley in Ninth Avenue East between 13th and 14th Avenues East. -- Assessor

03-0714-31 Louise Curnow submitting communication regarding eminent domain (03-0188R) and the USA PATRIOT Act (03-0486R). -- Received

03-0714-32 Dale Kempton submitting communication (supported by 28 signatures) regarding 2004 street improvement program (03-0241R). -- Received

03-0714-33 Frederick A. Olsen submitting communication regarding the proposed traffic management plan for Arrowhead Road (03-0338R), eminent domain (03-0188R) and the USA PATRIOT Act (03-0486R). -- Received

03-0714-39 Terri Roeber submitting communication (supported by 2,323 signatures) regarding eminent domain (03-0188R). -- Received

03-0714-34 Toni Snickers submitting communication regarding the 2004 East Hillside/Upper West 2 street improvement program project (03-0423(b)). -- Received

03-0714-35 The following submitting communications pertaining to traffic management on Arrowhead Road (03-0338R): (a) Rod Lubiani; (b) Liz Pearson; (c) Candace Rendulich; (d) Barbara Teske. -- Received

03-0714-36 The following submitting communications regarding unlawful front yard parking (03-033-O): (a) Glenn Kreag; (b) Myrna I. Matheson. -- Received

03-0714-37 The following submitting communications regarding smoking in bars and restaurants that serve food (03-0494R): (a) Edward Leonard; (b) Jane Worley. -- Received

03-0714-38 The following submitting communications regarding USA PATRIOT Act (03-0486R): (a) Jeff Anderson; (b) Luke Auge; (c) Doug Bowen-Bailey; (d) Robert Boone (supported by 402 signatures); (e) Center City Housing Corporation; (f) Bill Cheslak, Jr.; (g) Sue Dailey; (h) Melody Daugherty; (i) East Hillside Planning District (NPD #6); (j) Esther Gieschen; (k) Mona Johnson-Cheslak; (l) Edward Kale; (m) Diane Lings; (n) Myrna I. Matheson; (o) Dan Mettner; (p) Ronald A. Miller; (q) Mark Pilon; (r) Van Presley; (s) Jack Price;

(t) Sandy Robinson; (u) Scott Wolff. -- Received

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REPORTS OF OFFICERS

03-0714-06 Assessor submitting:

(a) Assessment roll to be levied to defray in full the expense of solid waste collection during the period March 1, 2002, to June 1, 2003, for which the collector has not been reimbursed;

(b) Letters of sufficiency of petitions to:

(1) Construct a permanent design residential street and sanitary sewer, watermain and gas main in Crystal Drive between Swan Lake Road and the cul-de-sac;

(2) Design and construct street and utilities (street, sanitary sewer, storm sewer, water and gas) to serve parcels 4423-70, 4423-80, 2710-512 and 2710-5122;

(3) Vacate Fifth Avenue East between Skyline Parkway and 13th Street. -- Received

03-0714-07 Building official submitting appeal of the building appeal board decision to deny the appeal of the extension of demolition order #2154 at 1510 East Second Street. -- Committee 3 (public safety)

03-0714-08 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from St. George's Serbian Orthodox Church on October 26, 2003 (raffle). -- Received

03-0714-09 Engineering division submitting monthly project status report of June 1, 2003. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-0714-10 Building appeal board minutes of April 9, 2003, meeting. -- Received

03-0714-11 Civil service board minutes of May 6, 2003, meeting. -- Received

03-0714-12 Duluth airport authority:

(a) Minutes of May 20, 2003, meeting;

(b) Unaudited balance sheet of April 30, 2003. -- Received

03-0714-13 Duluth/North Shore Sanitary District board minutes of June 3, 2003, meeting. -- Received

03-0714-14 Duluth state convention center administrative board minutes of May 27, 2003, meeting. -- Received

03-0714-15 Housing and redevelopment authority minutes of June 3, 2003, meeting. -- Received

03-0714-16 Parks and recreation commission minutes of May 14, 2003, meeting. -- Received

03-0714-40 Special assessment board minutes of June 10, 2003, meeting.-- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

K.L. Lewis urged the city to do inspections on buildings Downtown that have bad fire escapes before someone gets hurt.

- - -

RESOLUTIONS TABLED

Councilor Atkins moved to remove Resolution 03-0338, pertaining to traffic management on Arrowhead Road from Kenwood Avenue to Rice Lake Road, from the table, which motion was seconded and unanimously carried.

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

Barbara Brooks and Janet Nelson urged the councilors to put politics aside and support the resolution as it addresses safety issues for the neighborhood.

Councilor Hogg moved to amend the resolution as follows:

(a) In the first paragraph, delete the words "on a trial basis" and replace them with "for a period not to exceed two years";

(b) Insert a new third paragraph to read: "RESOLVED FURTHER, that the city council requests the administration to undertake engineering and financial planning to insure that at least one traffic signal, and possibly two, can be installed on Arrowhead Road between Kenwood Avenue and Rice Lake Road within a two year period from this date," which motion was seconded and discussed.

Councilors Hogg and Gilbert reviewed that this is a public safety issue that needs to be addressed immediately.

Councilors Ness, Atkins, Bergson and Stauber urged enforcement of the four lanes, lowering the speed limit to 30 mph and commitment by the city to promptly remove snow from the boulevards during the winter.

Councilor Hogg's amendment vote failed upon the following vote:

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

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

President Stenberg moved to amend the resolution to read as follows:

~~"RESOLVED, that the city council hereby converts Arrowhead Road from Kenwood Avenue to Rice Lake Road from a four-lane road to a three-lane road with a center turn lane on a trial basis; and~~

RESOLVED FURTHER, that the city council hereby requests the state highway commissioner to change the posted speed limit on Arrowhead Road from Kenwood Avenue to Rice Lake Road from 40 mph to 30 mph.

RESOLVED FURTHER, that the city council requests the administration to undertake engineering and financial planning to insure that at least one traffic signal, and possibly two, can be installed on Arrowhead Road between Kenwood Avenue and Rice Lake Road within a two year period from this date.

RESOLVED FURTHER, that the city of Duluth reaffirms its agreement with the residents on Arrowhead Road to promptly plow the snow from the sidewalk on the west side of Arrowhead Road from Kenwood Avenue to Rice Lake Road.

RESOLVED FURTHER, that the city council encourages increased enforcement of the speed limit in the area between Kenwood Avenue and Rice Lake Road,"

which motion was seconded for discussion.

Responding to Councilor Hogg, Administrative Assistant Winson replied that after checking with Mn/DOT, it would be in the city's best interest to request a 30 mph limit instead of 35 mph, which will eliminate the need for a traffic study to be done by Mn/DOT.

President Stenberg's amendment passed upon the following vote:

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

Nays: Councilors Gilbert and Stover -- 2

Resolution 03-0338, as amended, was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that the city council hereby requests the state highway commissioner change the posted speed limit on Arrowhead Road from Kenwood Avenue to Rice Lake Road from 40 mph to 30 mph.

RESOLVED FURTHER, that the city council requests the administration to undertake

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

engineering and financial planning to insure that at least one traffic signal, and possibly two, can be installed on Arrowhead Road between Kenwood Avenue and Rice Lake Road within a two year period from this date.

RESOLVED FURTHER, that the city of Duluth reaffirms its agreement with the residents on Arrowhead Road to promptly plow the snow from the sidewalk on the west side of Arrowhead Road from Kenwood Avenue to Rice Lake Road.

RESOLVED FURTHER, that the city council encourages increased enforcement of the speed limit in the area between Kenwood Avenue and Rice Lake Road.

Resolution 03-0338, as amended, was unanimously adopted

Approved July 14, 2003

GARY L. DOTY, Mayor

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At this time, 7:35 p.m., President Stenberg recessed the regular order of business and announced that the public hearing regarding the proposed approval of DEDA's condemnation for the Fourth Street mixed-use development (03-0188R) would begin.

Mike Conlan, planning and development department director, reviewed that the council needs to deliberate on the use of eminent domain for the Village Place project by answering the question of whether the value of the Village Place project to the public justifies the use of eminent domain. He continued that the owners of the property in question do not want to sell their property, which is their right. Mr. Conlan went on to say that eminent domain is used when there is a compelling public purpose, such as housing, which there is a well documented need for in this community, but this is also, importantly, an effort to revitalize a neighborhood.

Councilor Hogg suggested that this project could proceed without the commercial part and that there are other options the city can pursue in having to work within the confines of the financing package that is available.

Robert Pearson, Phil Nast, Jim Valentine, David Packlock, Dennis Zimmerman, Peggy Marrin, Timothy Bearheart, Mona Johnson-Cheslak, Joel Sipress, Jerry Agnew, Lorelei Louks, Peggy Hiestand, Katie Katoski, Philip Dodge, Rick Nelson, Penny Schramm, K. L. Lewis, Bruce Wyman, Sam Haddad, George Haddad, Nancy Katoski, Irene Katoski, Scott Wolff, Patti Katoski and Darrell Godbout spoke against eminent domain and the taking of the Katoski and Auto Lube properties.

The following reasons were stated in opposition of the project: the area is not good for this project; nothing in the area serves families; DEDA spent money on a project that was not approved yet; there was neighborhood support for the project when it was smaller; there is no support for the project now that it includes eminent domain; the neighborhood was not asked for their input or included in the planning process; the city should not take property from a private property owner to give to another private property owner; this action does not encourage small family businesses to start up in Duluth and there is a petition reportedly signed by thousands of citizens urging the council not to vote for the use of eminent domain.

Terri Roeber, chairperson of Duluth Affordable Housing Coalition, Vicki Sanville, Steve Bianchi, Rick Ball and Stan Kaiffors urged support for low income housing in Duluth and the Village Place project.

At this time, 9:25 p.m., President Stenberg closed the public hearing and announced that regular order of business would resume.

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Councilor Atkins moved to consider Resolution 03-0188, approving DEDA Resolution 03D-06 authorizing DEDA to condemn Lots 1-8, Block 43, Portland Division, and Lot 97 East Fourth Street, Duluth Proper First Division, for Fourth Street mixed-use development, at this

time, which motion was seconded and unanimously carried.

Councilor Gilbert stated that he will abstain from voting on this resolution.

Councilor Stewart stated that this project is in jeopardy and there needs to be some quick work done to keep this \$11 million project in the Central Hillside, as this is an area that has not seen this kind of investment for decades.

Councilor Ness urged the community to work cooperatively on this project and move past hard feelings to get this housing project built, which is much needed in Duluth.

Councilor Ness moved to send the resolution back to the administration to accomplish the following objectives: explore any and all possibilities for the development of multi-unit housing in the East Hillside neighborhood that will take advantage of the housing tax credits available to the city; work cooperatively with the Katoski family and the neighborhood planning district to find agreement for the future use and vision of the Sixth Avenue East and Fourth Street block; that eminent domain should not be used in the formation of any plan related to this project; that the council challenges all parties to come together in good faith for the benefit of all Duluthians and the East Hillside community in particular.

President Stenberg expressed concern that the attitude in Duluth is that good developments do not happen in Duluth, but that this development will revitalize the hillside and spur families to move back into the area and that retail environments will follow the people.

Councilor Ness's motion to return the resolution back to the administration passed upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

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President Stenberg moved to remove Resolution 03-0492, approving DEDA Resolution 03D-34 authorizing an agreement with Soft Center Duluth in the amount of \$150,000, from the table, which motion was seconded and passed upon a unanimous vote.

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

Peggy Marrin voiced concern that the city has several projects that have huge debt problems that are continuously funded with no results. She urged councilors not to pass this resolution.

Councilor Stewart stated that the council needs to realize that the Soft Center is not working and it has received approximately \$1.8 million dollars over the last several years from the taxpayers, for which there is nothing to show for it. He continued that the council should work directly with DEDA for development and use of that space.

Councilor Gilbert stated that the city should turn over the building to a private party that has experience in the business world and has resources to utilize the space rather than continuing this failed policy of spending endless amounts of money to bring in consultants who have no practical business experience to promote it.

Councilor Ness stated that this is a long term commitment to create a technology industry, not just to fill up buildings, and the council needs to look past the failures, be strong and move forward with a plan that can work to make this industry happen in Duluth.

Councilor Atkins stated that accountability is important and he sees some positive results from where this money is being spent.

Resolution 03-0492 was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, Duluth economic development

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

authority's (DEDA) Resolution 03D-34, approved by the DEDA board of commissioners at its meeting of June 17, 2003, authorizing an agreement with Soft Center Duluth in the amount of \$150,000, payable from Fund 0860, a copy of which is on file in the office of the city clerk as Public Document No. 03-0714-17, is hereby approved.

Resolution 03-0492 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Ness, Stauber and President Stenberg -- 6

Nays: Councilors Gilbert, Stewart and Stover -- 3

Approved July 14, 2003

GARY L. DOTY, Mayor

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Councilor Ness moved to remove Resolution 03-0486, opposing and calling for the repeal of any unconstitutional provisions of the USA PATRIOT Act and requesting that any reauthorization and/or additions to this law be given a full hearing process in the Congress of the United States in full view of the American public, from the table, which motion was seconded and unanimously carried.

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

Ronald Miller, David Hopkins, Rick Nelson, Brian Fuxa, K L Lewis, Jane Brenny, Jim Fetzer, Robert Boone, Iver Bogan, Ed Kale and Peggy Marrin urged the councilors to pass the resolution for the following reasons: the act signals the rise of a destructive federal government and a morally bankrupt super power; it is a large threat to individual freedom; the checks and balances provided in the constitution will be gone; we will now be spying on our neighbors and become diligent about reporting irregularities to the government; provisions of the act were originally set to expire in 2005, but now the administration wants to make them permanent without evaluating their effectiveness and extend police power; the act contains unconstitutional provisions and important changes to public policy start at grassroots organizations.

Councilor Ness explained that the dissent to the act is being done through city councils and counties, so this council should go on record opposing the unconstitutional portions of it and ask Congress to have a full and open public hearing of any reauthorization or additions to the act. He voiced concern that people of color and new immigrants are being targeted by the act and do not have the resources to oppose it before the Supreme Court.

Councilor Stauber stated he does not think that working on federal issues is the city council's job and reviewed that since the first act was passed there has not been any court cases challenging the constitutionality of this law.

Resolution 03-0486 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the city of Duluth recognizes the Constitution of the United States of America to be the supreme law of the land, which all public servants are sworn to uphold, superceding all administrative rules, local ordinances, state statutes, and federal laws; and

WHEREAS, the Bill of Rights of the Constitution of the United States and the Constitution of the state of Minnesota guarantee those living in the United States the following rights: freedom of speech, assembly and privacy; equality before the law and the presumption of innocence; access to counsel and due process in judicial proceedings; protection from unreasonable searches and seizures; and protections of the Fourth Amendment to the United States Constitution; and

WHEREAS, the Fourth Amendment to the United States Constitution states "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized;” and

WHEREAS, the United States Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) on October 26, 2001; and

WHEREAS, several acts and orders recently enacted at the federal level, including sections of the USA PATRIOT Act and several executive orders, now threaten these fundamental rights and liberties:

Freedom of speech, religion, assembly and privacy;

The rights to counsel and due process in judicial proceedings; and

Protection from unreasonable searches and seizures; and

WHEREAS, we believe these civil liberties are precious, and may be threatened by these acts and orders, which:

Reduce judicial supervision of telephone and Internet surveillance;

Expand the government’s ability to conduct secret searches without warrants;

Grant power to the secretary of state to designate domestic groups as terrorist organizations;

Grant power to the attorney general to subject non-citizens to indefinite detention or deportation even if they have not committed a crime;

Grant the federal bureau of investigation (FBI) access to sensitive medical, mental health, financial and educational records about individuals without having to show evidence of a crime; and

Grant the FBI the power to compel libraries and bookstores to produce circulation or purchase records of their patrons and forbids disclosure that such records have been requested and produced; and

WHEREAS, the city of Duluth has been, and remains, committed to the protection of civil rights and liberties for all citizens of Duluth, and that the city council believes that a threat to any one person’s constitutional rights is a threat to the rights of all;

NOW, THEREFORE, BE IT RESOLVED, we the city council of Duluth, Minnesota, acting in the spirit and history of our community, do hereby resolve:

That the Duluth City Council affirms the rights of all people, including United States citizens and citizens of other nations, within the city, in accordance with the Bill of Rights and the Fourteenth Amendment of the United States Constitution; and

That the Duluth City Council calls upon our United States congressional representatives and senators to monitor the implementation of the USA PATRIOT Act and executive orders issued pursuant to the act and to call upon our congressional representatives to actively work to repeal the parts of that act and those orders that violate fundamental rights and liberties as stated in the Constitution of the United States; and

That the Duluth City Council opposes any attempt to eliminate the sunset provision of the USA PATRIOT Act which would provide a necessary congressional review of the law before making it permanent; and, that any enhancement to the USA PATRIOT Act, such as USA PATRIOT II (a/k/a Domestic Security Act of 2003) be forestalled until such time as enhancements or changes are done in full view of American citizens;

That the city clerk is directed to provide copies of this resolution to the city's United States congressional representatives, the United States attorney general, and the president of the United States.

Resolution 03-0486 was adopted upon the following vote:

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

Nays: Councilor Stauber and President Stenberg -- 2

Approved July 14, 2003, pursuant to Section 12 of the Duluth City Charter.

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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:

WHEREAS, the Duluth City Council has confirmed assessments for the properties and amounts and dates listed on a Public Document No. 03-0714-18; and

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

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

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

RESOLVED, that pursuant to the authorization of Laws of Minnesota, 1997, Chapter 231, Article 2, Section 53, the following previously-canceled assessments are hereby reassessed in the amounts set forth in the table below:

- (a) Street & Sewer, Contract No. 5245, assessable amount - \$4,827.15;
- (b) Waer Main, Contract No. 1192161, assessable amount - \$1,503.67;
- (c) Gas Main, Contract No. 1192162, assessable amount - \$598.49;
- (d) Permanent street, Contract No. 5263, assessable amount - \$9,722.75,

and that this reassessment role is hereby confirmed.

Resolution 03-0505 was unanimously adopted.

Approved July 14, 2003

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. Note 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 or notes to provide funds for the payment of costs of improvements to the municipal water utility, which

bonds or notes 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. The city has applied for and received a commitment from the Minnesota public facilities authority (the PFA) for a loan for the project, as hereinafter defined.

1.02 The city council has, by Ordinance No. 9603 adopted June 23, 2003, ordered the issuance, sale and delivery of a general obligation water utility revenue note in the amount of \$970,000 of the city, for the payment of the costs of improvements to the municipal water utility through the installation of water mains in portions of the Morgan Park neighborhood (the project) as identified in the city's application to the PFA, and for the payment of part of the interest cost of the bond or note (the note).

1.03 The city hereby authorizes the issuance and sale of the note, in substantially the form on file in the office of the clerk as Public Document No. 03-0714-19, for the project to the PFA pursuant to a Minnesota public facilities authority project loan and bond purchase agreement dated May 30, 2003, between the PFA and the city, in substantially the form presented to the council and on file in the office of the clerk (the loan agreement), as Public Document No. 03-0714-19 which is hereby authorized and approved.

Section 2. Execution and delivery of note and loan agreement.

2.01 The note to be issued hereunder shall be dated as of the date of issuance, shall be issued in the principal amount of \$970,000, in fully registered form and lettered and numbered R-1. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A to the note.

2.02 The note and the loan agreement shall be prepared for execution in accordance with the approved forms and shall be signed by the manual signature of the mayor and attested by the manual signature of the clerk. In case any officer whose signature shall appear on the note shall cease to be an officer before delivery of the note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

2.03 The city will cause to be kept at the office of the city clerk a register in which, subject to such reasonable regulations as the city clerk may prescribe, the city shall provide for the registration of transfers of ownership of the note. The note shall be initially registered in the name of the PFA and shall be transferable upon the register by the PFA in person or by its agent duly authorized in writing, upon surrender of the note, together with a written instrument of transfer satisfactory to the clerk, duly executed by the PFA or its duly authorized agent.

2.04 Delivery of the note shall be made at a place mutually satisfactory to the city and the PFA. The note shall be furnished by the city without cost to the PFA. The note, when prepared in accordance with this resolution and executed, shall be delivered to the PFA by and under the direction of the treasurer. Disbursement of the proceeds of the note shall be made pursuant to the loan agreement.

2.05 In the event of an inconsistency between a provision of this resolution and a provision of the loan agreement, the provision of the loan agreement shall govern.

Section 3. Revenues, accounts and covenants.

3.01 The city council covenants and agrees with the PFA 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 Note 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 or notes when due.

3.02 The city hereby creates a separate construction account within the public utility water fund to which there shall be credited the proceeds of the note as received, together with any additional funds which may be available and are appropriated for improvements to the project. 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 the Project and costs of the issuance of the note.

3.03 Until the note issued hereunder is 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 note and on any other bonds or notes which have been or may be issued and made payable from said net revenues of the water utility. 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 note. 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.

3.04 Surplus utility revenues from time to time received in the water utility operating account, in excess of payments due from and reserves required to be maintained in the water utility operating account and in the water debt service fund, may be used for necessary capital expenditures for the improvement of the municipal water utility, for the prepayment and redemption of bonds constituting a lien on the municipal water utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.05 A. In the event the monies and payments appropriated to the water debt service fund are insufficient to pay principal of and interest on the note and the bonds and notes payable from such fund as the same become due, the city is required by law and by contract with the holders of the note and such bonds 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.

B. 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. However, the net revenues of the water utility appropriated to the water debt service fund are estimated to be not less than five percent in excess of the principal of and interest on the note and the other bonds and notes payable from such fund, and accordingly, no tax is levied at this time.

Section 4. Tax covenants; miscellaneous.

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

4.02 A. No portion of the proceeds of the note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the note were issued. To this effect, any proceeds of the note and any sums from time to time held in such debt service account (or any other city account which will be used to pay principal and interest to become due on the note) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the note and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the united states or any agency or instrumentality thereof if and to the extent that such investment would cause the note to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the code).

C. The city hereby covenants not to use the proceeds of the note, or to cause or permit them to be used, in such a manner as to cause the note to be a Private activity bond within the meaning of Sections 103 and 141 through 150 of the code.

4.03 A. Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the note, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the note will be allocated to expenditures for the governmental purpose of the note within six months of the date of issue of the note; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of five percent of the available proceeds of the note, and that 100 percent of the available proceeds of the note will be allocated within 30 months from the date of issue of the note.

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

Section 5. Certificate of proceedings.

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

5.02 The officers of the city are authorized and directed to prepare and furnish to the purchaser and to bond counsel certified copies of all proceedings and records of the city

relating to the authorization and issuance of the note and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the note as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of facts recited therein and the actions stated therein to have been taken.

5.03 The officers of the city are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the note and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 03-0511 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the 2003 Minnesota Legislature enacted legislation that would enable bars to stay open until 2:00 a.m. if they purchased a special permit from the state costing from \$200 to \$600; and

WHEREAS, the present Duluth City Code requires that liquor sales in bars cease at 1:00 a.m.; and

WHEREAS, Minnesota Statutes Section 340A.504, subd. 6, provides that cities can be more restrictive than the state with regard to hours of alcoholic beverage sales; and

WHEREAS, input is needed from the hospitality industry, the police department and the general public before a policy on bar closings is formulated; and

WHEREAS, Section 8-8 of the City Code provides that questions related to alcoholic beverage regulation and enforcement shall be submitted to the alcohol, gambling and tobacco commission for study, consideration and a report to the city council of its findings and recommendations;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the Duluth alcohol, gambling and tobacco commission to study, consider and make a report and recommendation to the Duluth City Council concerning 2:00 a.m. bar closings as authorized by the 2003 legislature.

Resolution 03-0501 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Beerhunters Softball Team, Wheeler Field, for August 2 and 3, 2003, with Ron Herung, manager.

Copasetic Softball Team, Wheeler Field, for July 26 and 27, 2003, with Paul King, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Duluth Softball Players Association, Inc., Wheeler Field, for August 16-27, 2003, with John Vaydich, manager.

Resolution 03-0523 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, for July 18, 2003, with the music and the serving ceasing at 12:00 a.m. (rain date: July 19, 2003).

Wizner Company, 113 West First Street, for July 18, 2003, with the music and the serving ceasing at 12:00 a.m. (rain date: July 19, 2003).

Legacy Restaurant, Inc. (Duluth Athletic Club Bar and Grill), 21 North Fourth Avenue West, for July 18, 2003, with the music and serving ceasing at 12:00 a.m. (rain date: July 19, 2003).

Theatre in the State, Inc. (NorShor Theatre), 211 East Superior Street, for July 16, 2003, from 5:00 p.m. to 8:00 p.m.

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar and Grill), 5622 Grand Avenue, for August 1, 2003, with the music ceasing at midnight and serving ceasing at 12:30 a.m. (rain date: August 2, 2003).

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 1, 2003, with the music ceasing at midnight and serving ceasing at 12:30 a.m. (rain date: August 2, 2003).

Dwayne and Kimberly, Inc. (Kom on Inn), 332 North 57th Avenue West, for August 1, 2003, with the music ceasing at midnight and serving ceasing at 12:30 a.m. (rain date: August 2, 2003).

Midway Bar, Inc. (Midway Bar), 1909 West Superior Street, for August 2, 2003, with the music and serving ceasing at 11:00 p.m.

Resolution 03-0524 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 03-0525 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on Superior Street between Second and Third Avenue East on July 16, 2003, and on First Street between Third and Fourth Avenues West and First and Second Avenues West, on July 18, 2003, 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 03-0526 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointment of B. Kevin Daw (land management) to the parks and recreation commission, by Mayor Doty, for a term expiring on February 13, 2006, replacing Daniel Roth who resigned, is confirmed.

Resolution 03-0507 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointment of Peder M. Yurista to the Miller Creek joint powers board, by Mayor Doty, for a term expiring on January 31, 2005, replacing Robert Eaton, is confirmed.

Resolution 03-0508 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public document No. 03-0714-20 with, and accept funds from, the Minnesota department of trade and economic development to provide services under Title I of the Workforce Investment Act and Minnesota Statute 268 to dislocated workers. The duration of the contract is July 1, 2003, through June 30, 2006. Program funds will be accepted upon receipt of notices of funds available and shall be deposited to Fund 0268.

Resolution 03-0483 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a Senior Service America, Inc. (or SSAI), grant in the amount of \$242,899 for the period of July 1, 2003, through June 30, 2004. A copy of this agreement and electronic form budget shall be on file in the city clerk's office as Public Document No. 03-0714-21.

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6336.

Resolution 03-0506 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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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 of approximately 640 feet of sanitary sewer in Roslyn Avenue to alleviate a public health concern due to sewer backups in basements and eliminate a septic system; that the costs of said improvement estimated at \$81,250 shall be paid from the Special Assessment Fund 0410, Agency 038, Organization 5379, Object 5530, and that said costs be levied against the property specifically benefitted by said improvements.

Resolution 03-0455 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Minnesota Limited, Inc., be and hereby is awarded a contract for construction of ten inch steel high pressure gas transmission pipeline and related work in Douglas County, Wisconsin, from connection at Great Lakes Gas Transmission to new town border station at McCuen Street and 95th Avenue West in New Duluth, Minnesota, for the engineering division in accordance with specifications on its low specification bid of \$3,580,012.65, terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Department/Agency 500, Object 5532.

Resolution 03-0481 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept from the Rice Lake Township the dedication of a 35 foot by 40 foot natural gas pipeline easement in the following described parcel of land located within the city of Duluth, county of St. Louis, state of Minnesota:

a tract of land in Outlot C commencing at north most corner of said Outlot C, Cottage Grove Addition; thence southeasterly along southwesterly line of Calvary Road 115 feet; thence deflecting right 90°00'00" and proceeding southwesterly 65-4/100 feet; thence right 58°59'00" in westerly direction 65-4/100 feet to easterly line of Arnold Road thence right 90°00'00" northerly along east line of Arnold Road 115 feet to point of beginning;

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

the southerly 35 feet of the westerly 40 feet of the parcel described above.
Resolution 03-0496 was unanimously adopted.
Approved July 14, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept from St. Louis County, Minnesota, the dedication of a 20 foot utility easement located within the city of Duluth and described as follows:

A 20 foot utility easement over, under and across that part of the Northwest Quarter, Section Sixteen, Township Fifty North, Range Fourteen west of the Fourth Principal Meridian. The centerline of said easement is described as follows:

Commencing at the northwest corner of said Section Sixteen, thence south 02°-17'-37" east (assumed bearing), along the west line of said Section Sixteen, a distance of 1361.60 feet; thence north 84°-30'-44" east a distance of 68 feet to the point of beginning of said centerline to be described; thence south 00°-14'-03" west a distance of 23 feet; thence south 58°-3'-34" east a distance of 325 feet; thence south 66°-40'-30" east a distance of 215 feet; thence south 46°-06'-47" east a distance of 160 feet to point hereinafter referred to as Point A; thence south 16°-15'-50" east a distance of 330 feet; thence north 75°-45'-02" east a distance of 140 feet; thence south 20°-02'-07" east a distance of 165 feet, and said line there terminating.

Together with a 20 foot easement over, under and across that part of the Northwest Quarter, Section Sixteen, Township Fifty North, Range Fourteen West of the Fourth Principal Meridian. The centerline of said easement is described as follows:

Beginning at the above-described Point A, thence north 51°-35'-14" east a distance of 190 feet and said line there terminating.

Resolution 03-0500 was unanimously adopted.
Approved July 14, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a permanent design street in Matterhorn Circle from Matterhorn Drive southerly 650 feet to cul-de-sac including concrete curb and gutter, bituminous surface and storm sewer; and for sanitary sewer, watermain and gas main to serve the abutting property.

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

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

Resolution 03-0512 was unanimously adopted.
Approved July 14, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the rehabilitation of Bridge No. 69J43

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(Old Bridge No. 91144) over Merritt Creek on Grand Avenue, S.A.P. 118-126-13; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$308,022.70.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any rehabilitation costs qualify for Minnesota state transportation funds in access of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the rehabilitation costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

RESOLVED FURTHER, that grant monies received hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Organization 2177.

Resolution 03-0513 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a permanent design street in Crystal Drive from Swan Lake Road easterly 1,645 feet to cul-de-sac including concrete curb and gutter, bituminous surface and storm sewer; and for sanitary sewer, watermain and gas main to serve Lots 1 through 13, Block 2; Lots 1 through 9, Block 3, Crystal Village.

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

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

Resolution 03-0514 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to North Shore Bank of Commerce, as conservator of the estate of Roy W. Harnish, the amount of \$13,684.34 in full settlement of all claims for damage to property at 2227 Vermilion Road resulting from a sewer backup which occurred on November 12, 2001; payment to be made from the Self Insurance Fund 0610.

Resolution 03-0515 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northern States Basement System (approximately \$270,000 for 150 homes) and Humes Plumbing and Heating (approximately \$270,000 for 150 homes) be and hereby are awarded contracts for I&I separation/discharge to disconnect and install a total of approximately 300 sump pumps at various locations within Sanitary Sewer Basins 1 through 5 for the utility operations division in accordance with specifications on their low specification

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

bids for an approximate total amount of \$540,000, terms net 30, FOB job site, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1970, Object 5482.

Resolution 03-0517 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Midwest Region Gas Task Force Association be and hereby is awarded a contract for membership for year 2003 for the utility operation division in accordance with the fee of \$18,000, payable out of Gas Fund 0520, Department/Agency 500, Organization 1960, Object 5319.

Resolution 03-0518 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 40 CK electronic parking meter mechanisms and housing for the maintenance operations division in accordance with specifications on its low specification bid of \$11,999.41, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 700, Organization 1428, Object MS07.

Resolution 03-0519 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for the construction of Arrowhead Road between Dodge Avenue and Woodland Avenue for the engineering division in accordance with specifications on its low specification bid of \$3,634,511.59, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Organization 5375, Object 5530.

Resolution 03-0520 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the county has applied to the commissioner of natural resources for a grant from the Minnesota state park fund for a bituminous overlay and other improvements to Clyde Avenue, S.A.P.69-600-23; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$64,000.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an agreement between the city of Duluth and St. Louis County for a bituminous overlay and other improvements on Clyde Avenue between T.H. 23 (Grand Avenue

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

and the St. Louis River at the Willard Munger Landing), said agreement filed as Public Document No. 03-0714-22. The city's cost in this project is estimated to be zero dollars.

Resolution 03-0521 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Nelson Dodge - G.M.C. be and hereby is awarded a contract for furnishing and delivering two Chevrolet pickup trucks for the utility operations division in accordance with specifications on its low specification bid of \$68,678.69, terms net 30, FOB destination, \$51,509.02 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5580 and \$17,169.67 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0527 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2004 street improvement program Lakeside Lower Southwest-2; 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.

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2004 street improvement program for Woodland South-1; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$218,026, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0406, Object 5530.

Resolution 03-0529 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the reconstruction of Lake Avenue; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Krech, Ojard and Associates to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$138,106, will be payable from the Special Assessment Fund 0410, Department/Agency 038, Organization 5381, Object 5530.

Resolution 03-0530 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hinckley Chevrolet be and hereby is awarded a contract for furnishing and delivering two cargo vans for the utility operation division in accordance with specifications on its low specification bid of \$36,276.93, terms net 30, FOB destination, \$7,255.39 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580 and \$29,021.54 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0531 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2004 street improvement program for Duluth Heights Southeast-2; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, R.L.K.-Kuusisto, Ltd., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with R.L.K.-Kuusisto, Ltd., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$185,578, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0402, Object 5530.

Resolution 03-0532 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2004 street improvement program for Lakeside Lower Southwest-1; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, M.S.A. Professional Services has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with M.S.A. Professional Services to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$196,293, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0404, Object 5530.

Resolution 03-0533 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2004 street improvement program East Hillside Upper West-2; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, Ayres Associates has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Ayres Associates to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$86,254, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0403, Object 5530.

Resolution 03-0534 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to develop a conceptual plan to store sanitary sewer overflows; and

WHEREAS, the city desires to hire a consultant engineer to provide the engineering services required for the conceptual design for wastewater storage facilities; and

WHEREAS, Brown and Caldwell, 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 Brown and Caldwell, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$58,000, payable from the Sewer Fund 0530, Department/Agency 500, Organization 1930, Object 5303.

Resolution 03-0535 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to acquire 16 gas

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

pipeline easements from various parties described in Public Document Nos. 03-0714-23(c) through 03-0714-23(r) in Douglas County, Wisconsin, and Duluth, Minnesota, for a total consideration of \$145,091.50; payable from Fund 0500, Agency 500, Organization 5533. A table showing the landowners, the purchase price and tract number (Exhibit A) is filed as Public Document No. 03-0714-23(a). A map (Exhibit B) filed as Public Document No. 03-0714-23(b), shows the pipeline route from Gary-New Duluth to its connection point with the Great Lakes Gas Transmission Company pipeline south of Oliver, Wisconsin, near the Irondale Road.

Resolution 03-0536 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized to execute amendments to agreements with the state of Minnesota, department of public safety, numbered A25823 (City Contract 19012) and A25843 (City Contract 19011) which provided gang related grants to the city; said amendments being for the purpose of allowing the city an additional year (until June 30, 2004) to utilize the grant proceeds; said agreement amendments are filed as Public Document No. 03-0714-24.

Resolution 03-0502 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that Resolution 03-0410 to Jefferson Fire and Safety, Inc., for the upgrading the SCBA equipment for the fire department, be amended to increase the amount by \$10,080, for a new total of \$47,256.11, \$22,238.11 payable out of General Fund 0100, Department/Agency 100, Organization 1505, Object 5241; \$10,080 payable out of Special Projects Fund 0210, Department/Agency 030, Organization 2169, Object 5241 and \$14,938 payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization NR01, Object E109.

Resolution 03-0516 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth airport authority which allows the authority to participate during 2003 in the city's self insurance fund in the amount of \$34,400 for purposes of workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 03-0714-25, on file in the office of the city clerk. Payments received will be deposited in Self Insurance Fund 0605-036-1659.

Resolution 03-0503 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute an agree-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

ment with the Spirit Mountain recreation area authority which allows the authority to participate during 2003 in the city's self insurance fund in the amount of \$69,169 for purposes of general liability, workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 03-0714-26, on file in the office of the city clerk. Payments received will be deposited in Self-Insurance Fund 0605-036-1658.

Resolution 03-0504 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech-Ojard and Associates, for the sum of \$14,900, from General Fund 0100, Capital Improvement, as follows: \$8,435, Agency 700, Organization 2725, Object 1314, and \$6,465, Agency 700, Organization 2725, Object 1307, for providing certain architectural and engineering services to the city of Duluth in connection with restoration of the main library stairs and City Hall/Fourth Avenue West retaining wall, 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. 03-0714-27.

Resolution 03-0509 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 03-0714-29, between the city of Duluth and the state of Minnesota, department of natural resources, for the construction of improvements to the Munger public water access facility on the St. Louis River and the maintenance of those improvements.

Resolution 03-0510 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0491, by Councilor Hogg, authorizing various license, permit and fee charges, pursuant to Section 31-6(a) of the Duluth City Code, was introduced for discussion.

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

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Resolution 03-0522, by Councilor Stewart, confirming the appointment of Fred T. Friedman to the Duluth Economic Development Authority, replacing Dale S. Lewis, was introduced for discussion.

Councilor Stewart moved to table the resolution for an interview of the appointee, which motion was seconded and carried upon a unanimous vote.

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Resolution 03-0497, by President Stenberg, affirming the decision of the board of zoning appeals to deny a variance to reduce the minimum front yard setback from 25 feet to 16 feet and the minimum side yard setback on a corner lot from 20 feet to three feet for the

construction of a 26 feet by 30 feet detached garage on property located at 1 Mesaba Place (David and Paula Finn), was introduced for discussion.

Resolution 03-0497 failed upon a unanimous vote (Public Document No. 03-0714-28).

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BY PRESIDENT STENBERG:

WHEREAS, David and Paula Finn have applied to the board of zoning appeals for a variance to reduce the minimum front yard setback from 25 feet to 16 feet and the side yard setback on a corner lot from 20 feet to three feet for the construction of a 26 feet by 30 feet detached garage on property located at 1 Mesaba Place, and legally described as east 1/2 of Lot 82, except southerly 15 feet for alley, all of Lots 84 and 86, Block 33, Duluth Proper Third Division; and

WHEREAS, the board of zoning appeals denied the variance to reduce the front yard and corner side yard setbacks because they found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and that did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and was merely a convenience of the applicant; and

WHEREAS, David and Paula Finn have appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and disagrees with the decision of the board of zoning appeals and finds that the granting of a variance to reduce the minimum front yard and corner side yard setback requirements is appropriate in this case.

NOW, THEREFORE, BE IT RESOLVED, the council finds that the topography of the property, the triangular shape of the lot and the need of the applicant to locate the proposed structure oriented towards Mesaba Avenue and West Fourth Street so that they can see the garage doors for security purposes constitute factors and circumstances that are unique to the subject property and which prevent the applicant, through no fault of his own from making a reasonable use of the property in conformance with the requirements of the Zoning Code.

FURTHER RESOLVED, by the city of Duluth that the board of zoning appeals' decision of May 27, 2003, is hereby reversed by the city council and the appeal is granted.

Resolution 03-0498 was unanimously adopted.

Approved July 14, 2003

GARY L. DOTY, Mayor

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At this time, 10:55 p.m., President Stenberg moved to extend the meeting until 11:00 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 HOGG

03-031 - AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FEES TO BE SET BY RESOLUTION, AMENDING SECTIONS 1-7, 5-5, 5-13, 5-15, 5-20, 5-25, 5-35, 5-37, 8-6, 8-40, 8-43, 8-46, 8-50, 8-54, 8-56, 8-67, 10-2, 10A-13, 11-2, 15-6, 21-6, 21-34, 21-42, 24-12, 25-3, 25-4, 27-8, 28-70, 29-4, 29B-2, 31-6, 33-186.1, 33-217, 33-237, 33-248, 36-3, 36-18, 37-2, 44A-14, 45-4.5, 45-14, 45-17, 45-18.1, 45-29, 45-39, 45-50, 45-96, 45-103, 46-10, 47-3, 47-14, 47-15, 47-17.6, 47-41, 50-19, 50-33, 50-40, 50-50, 50-120, 50-190 AND 51-4, AND REPEALING SECTIONS 4-81 AND 33-238 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR HOGG

03-041- AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-37 TO PROVIDE FOR REGULATORY CONTROLS FOR DESIGNATED AREA DEVELOPMENTS.

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BY PRESIDENT STENBERG

03-035 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26, 32 AND 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO I-P, INDUSTRIAL PARK, PROPERTY LOCATED WEST OF RICE LAKE ROAD BETWEEN AIRPORT ROAD AND KRUGER ROAD (SEAWAY PORT AUTHORITY OF DULUTH).

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BY PRESIDENT STENBERG

03-036 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 22 AND 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, R-2, TWO FAMILY RESIDENTIAL, AND R-3, APARTMENT RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTIES LOCATED ALONG BOTH SIDES OF MAPLE GROVE ROAD BETWEEN COTTONWOOD AVENUE AND MILLER TRUNK HIGHWAY (RICHARDS, ET AL.).

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BY PRESIDENT STENBERG

03-037 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-4, APARTMENT RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTIES LOCATED SOUTH OF VILLAGE MALL WEST OF DECKER ROAD (WILLIAM ANDERSON).

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BY PRESIDENT STENBERG

03-038 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ST. MARK AME CHURCH TO CONSTRUCT AND MAINTAIN AN ENTRY STAIR IN THE RIGHT-OF-WAY OF FIFTH AVENUE EAST AND EAST SIXTH STREET.

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BY COUNCILOR NESS

03-034 - AN ORDINANCE ADDING PAINTING TO DEFINITION OF PROJECT COVERED BY CITY WAGES AND HOURS REQUIREMENTS; AMENDING SECTION 2-25 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR STAUBER

03-033 - AN ORDINANCE PERTAINING TO UNLAWFUL FRONT YARD PARKING; INCORPORATING THE FRONT YARD PARKING PROHIBITION IN THE CITY'S TRAFFIC CODE; AMENDING SECTION 33-82 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Vicki Sanville, representing Neighborhood Planning District No. 7, reviewed that there are a lot of infractions in the planning district and it is important for the neighborhood and the city to make a real attempt to discontinue this practice.

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The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

03-030 (9607) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$2,250,000 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 COUNCILORS ATKINS AND NESS

03-040 (9608) - AN ORDINANCE PROVIDING FOR BREWERY MALT LIQUOR OFF SALE AND TEMPORARY ON SALE LIQUOR LICENSES; AMENDING SECTIONS 8-41, 8-44 AND 8-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

K.L. Lewis stated she is in favor of the ordinance as it will allow people to drink at home instead of having to be out drinking.

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

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BY PRESIDENT STENBERG

03-029 (9609) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MEDIACOM LLC TO CONSTRUCT AND MAINTAIN A FIBER OPTIC CABLE IN THE RIGHT-OF-WAY OF AIRPORT ROAD BETWEEN HAINES ROAD AND RICE LAKE ROAD.

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

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BY COUNCILOR STOVER

03-028 (9610) - AN ORDINANCE GRANTING A DRIVEWAY AND PARKING EASEMENT ACROSS LOTS 5, 6, 11, 12, 13, 20 AND 21, TRIGG'S REARRANGEMENT OF BLOCK 76, THIRD DIVISION, DULUTH PROPER.

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 11:20 p.m.

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

- - -

ORDINANCE NO. 9607

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$2,250,000 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 service charges pledged for their payment.

1.02 The city council determines that it is necessary and desirable to make improvements to the central steam utility located in the Downtown area of Duluth (the Duluth Steam Plant), including the construction and equipping of facilities to chill and transport chilled water to the St. Louis County Courthouse and the Government Services Center for use in air conditioners, and determines that it is necessary to issue general obligation revenue bonds in an amount not exceeding \$2,250,000 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 December 1, 1998, now outstanding in the amount of \$260,000; dated December 1, 2000, now outstanding in the amount of \$325,000; and dated February 1, 2002, now outstanding in the amount of \$320,000. 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 December 1, 1998, December 1, 2000, and February 1, 2002.

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 \$2,250,000 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: August 17, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2003
Approved July 14, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9608

BY COUNCILORS ATKINS AND NESS:

AN ORDINANCE PROVIDING FOR BREWERY MALT LIQUOR
OFF SALE AND TEMPORARY ON SALE LIQUOR LICENSES;
AMENDING SECTIONS 8-41, 8-44 AND 8-56 OF THE DULUTH
CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-41 of the Duluth City Code, 1959, as amended, by amended to read as follows:

Sec. 8-41. Types generally.

With respect to intoxicating liquor, there shall be six types of licenses: on sale, on sale club, on sale wine, temporary on sale, off sale and a brewery malt

liquor off sale. On sale licenses shall permit the licensee to sell intoxicating liquor at retail for consumption on the licensed premises only. Temporary on sale licenses shall permit the licensee to sell intoxicating liquor on sale temporarily in connection with a social event sponsored by the licensee. Except as provided herein, off sale licenses shall permit the licensee to sell intoxicating liquor at retail in original packages for consumption off the licensed premises only. Brewery malt liquor off sale licenses shall permit breweries holding on sale licenses to sell malt liquor off sale in 64-ounce containers commonly known as growlers, subject to the restrictions in Minnesota Statutes Section 340A.301, subd. 7(b) and this Chapter. Notwithstanding the provisions of sections 8-21 and 8-22 of this Chapter, it shall be lawful for the holder of an off sale intoxicating liquor license or a brewery malt liquor off sale license to provide samples as provided in Minnesota Statutes, Section 340A.510, subd. 1 and subd. 2.

With respect to nonintoxicating malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale. On sale licenses shall permit the licensee to sell nonintoxicating malt liquor at retail for consumption on the licensed premises only. Off sale licenses shall permit the licensee to sell nonintoxicating malt liquor at retail in original packages for consumption off the licensed premises only. A temporary on sale license shall permit the licensee to sell nonintoxicating malt liquor at retail for a limited period of time at a designated licensed premise only.

No alcoholic beverage license of any type shall be granted to any elective, executive or administrative officer of the city, nor to any employee holding a position in the classified service of the city, nor shall any such officer or employee engage in the business, except that employees in the classified service not working in the police department or as a fire marshal or assistant fire marshal may work in any licensed establishment if they do not participate in the management of the business.

Section 2. That Section 8-44 of the Duluth City Code, 1959, as amended, by amended to read as follows:

Sec. 8-44. To whom licenses issued--intoxicating liquor.

On sale intoxicating liquor licenses shall be granted only to establishments which are used exclusively for the sale of intoxicating liquor, cigars, cigarettes, ice, all forms of tobacco, nonintoxicating malt liquor and soft drinks at retail and to hotels, clubs, restaurants and bowling alleys.

On sale club licenses shall be granted, subject to the approval of the commissioner of public safety, only to clubs or to congressionally chartered veterans organizations which have been in existence for three years or more. Such license shall authorize the sale of intoxicating liquors only to members of the licensed organization and their bona fide guests.

On sale wine licenses shall be granted only to restaurants or bed and breakfast establishments and shall authorize licensees on every day of the week to sell wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. A bed and breakfast establishment may furnish wine only to registered guests of the establishment. Sunday hours of sale shall be from Noon to 1:00 a.m. Monday. No on sale wine license shall be in effect until it is approved by the liquor control commissioner of

the state of Minnesota. For the purposes of this Section wine shall mean wine as defined by Title 27, the Code of Federal Regulations on May 1, 1975.

Temporary on sale liquor licenses shall be issued only to clubs, charitable organizations, religious organizations and other nonprofit organizations in existence for at least three years, a registered political committee or a state university in connection with a social event sponsored by the licensee. The license shall be issued for a limited length of time, not to exceed four consecutive days. Temporary on sale licenses to any one organization or for one location shall not exceed more than three four-day, four three-day, six two-day or 12 one-day licenses, in any combination not to exceed 12 days per year. No more than one license shall be issued to any one organization or for any one location within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the city. The city may authorize the temporary on sale liquor license on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on sale intoxicating liquor license used by the city.

Off sale intoxicating liquor licenses shall be granted only to exclusive liquor stores.

Brewery malt liquor off sale licenses shall be granted only to breweries holding on sale licenses and shall be subject to all restrictions, terms and conditions contained in Minnesota Statutes Section 340A.301, subd. 7(b).

Section 3. That Section 8-56 of the Duluth City Code, 1959, as amended, by amended to read as follows:

Sec. 8-56. Fees.

The license fee for off sale and on sale nonintoxicating malt liquor licenses shall be paid to the city clerk not later than March 15 of each year. The license fee for off sale intoxicating liquor licenses shall be paid to the city clerk not later than July 15 of each year. The license fee for on sale intoxicating liquor licenses may, at the option of the licensed applicant, be paid to the city clerk either in one lump sum not later than July 15 in each year, or in four equal installments, which shall be paid not later than July 15, October 15, January 15 and April 15, respectively. In any case where any payment for any alcoholic beverage license is not made when due, a ten percent penalty shall be added to the fee. Nonpayment of fees shall constitute good cause for suspension or revocation of any license.

Payment for license fees shall be made by certified check payable to the city treasurer of the city or in lawful money of the United States of America and when such fees are received by the city clerk they shall be transmitted to the city treasurer. Upon the granting of a license as provided in this Article the amount of fee for such license shall be paid into the general fund.

(a) The annual fees for on sale intoxicating liquor licenses are as follows:

(1) On sale licenses -- \$2,450 for the 1993 license year; \$2,550 for the 1994 license year; \$2,650 thereafter;

(2) Wine licenses issued to restaurants -- \$700; wine licenses issued to bed and breakfast establishments -- \$350;

(3) Club licenses -- for a club with under 200 members -- \$300; for a club with between 201 and 500 members -- \$500; for a club with between 501 and 1,000 members -- \$650; for a club with between 1,001 and 2,000 members -- \$800; for a club with between 2,001 and 4,000 members -- \$1,000; for a club with between 4,001 and 6,000 members -- \$2,000; for a club with over 6,000 members -- \$3,000.

Whenever any licensee holding an on sale intoxicating liquor license shall at any time for any purpose operate more than one permanent bar, such licensee shall pay an additional annual license fee of \$500 for each such additional permanent bar. A so-called service bar which is used solely by employees of the licensee shall not be considered a bar for purposes of this Section;

(b) The annual fee for an off sale intoxicating liquor license shall be \$1,000;

(c) The fee for a temporary on sale liquor license shall be \$200 per day with a maximum fee of \$400;

(d) The annual fee for an on sale nonintoxicating malt liquor license shall be \$350;

(e) The annual fee for an off sale nonintoxicating malt liquor license shall be \$100;

(f) The annual fee for a brewery malt liquor off sale license is \$200.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its publication. (Effective date: August 17, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2003
Approved July 14, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9609

BY PRESIDENT STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MEDIACOM LLC TO CONSTRUCT AND MAINTAIN A FIBER OPTIC CABLE IN THE RIGHT-OF-WAY OF AIRPORT ROAD BETWEEN HAINES ROAD AND RICE LAKE ROAD.

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 Mediacom LLC, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a fiber optic cable in the southerly half of that part of Airport Road right-of-way between Haines Road and Rice Lake Road as the same was dedicated to the use of the public and the plat of Airpark Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk; a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$1,000,000 for bodily injury or property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on or under public street, sidewalks, boulevard areas or rights-of-way. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said fiber optic cable and all fixtures and appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such fiber optic cable shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Airport Road right-of-way between Haines Road and Rice Lake Road and agree that the city of Duluth shall not be liable for damage caused to such fiber optic cable while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such fiber optic cable in said Airport Road right-of-way.

Section 6. The permittee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, or remove from the street, alley or public place, any property of the grantee when required by the city engineer by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks or the installation or repair of any other type of structures or improvements by governmental agencies, when action in a governmental or proprietary capacity.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 17, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2003
Approved July 14, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9610

BY COUNCILOR STOVER:

AN ORDINANCE GRANTING A DRIVEWAY AND PARKING EASEMENT ACROSS LOTS 5, 6, 11, 12, 13, 20 AND 21, TRIGG'S REARRANGEMENT OF BLOCK 76, THIRD DIVISION, DULUTH PROPER.

The city of Duluth does ordain:

Section 1. The city of Duluth does hereby grant an easement (Public Document No. 03-0714-30) for ingress, egress, driveway and parking purposes in, under, over, upon, across and along the following described tract or parcel of land lying and being in the county of St. Louis, state of Minnesota, for the use and benefit of Lawrence G. Beaumont as owner of Lots 19 and 20, Trigg's Rearrangement of Block 76, Third Division, Duluth Proper, and his successors and assigns. The tract or parcel is described as follows:

Lots 5, 6, 11, 12, 13, 20, and 21, Trigg's Rearrangement of Block 76, Third Division of Duluth Proper, including avenue and alley, with the easement more particularly described as follows:

beginning at the most northerly corner of said Lot 11, thence northeasterly along the extension of the northwesterly line of said lot 11 and the northwesterly line of said Lot 6, a distance of 24.05 feet; thence deflect 90°-00'-00" to the right in a southeasterly direction a distance of 37.50 feet; thence deflect 90°-00'-00" to the right in a southwesterly direction a distance of 4 feet; thence deflect 49°-31'-46" to the left in a southerly direction a distance of 30.89 feet; thence deflect 42°-17'-33" to the right in a southwesterly direction a distance of 111.14 feet; thence deflect 82°-45'-7" to the left in a southeasterly direction a distance of 37.50 feet; thence deflect 90°-00'-00" to the right in a southwesterly direction a distance of 50.11 feet; thence deflect 90°-00'-00" to the right in a northwesterly direction along the westerly line 4-1/2 Avenue West a distance of 37.50 feet; thence deflect 90°-00'-00" to the left in a southwesterly direction a distance of 16 feet; thence deflect 90°-00'-00" to the right in a northwesterly direction a distance of 15.00 feet; thence deflect 90°-00'-00" to the right in a northeasterly direction a distance of 16 feet; thence deflect 10°-15'-10" to the left in a northeasterly direction a distance of 87.00 feet; thence deflect 20°-31'-18" to the left in a northerly direction a distance of 87 feet to the point of beginning.

The easement hereby intended to be conveyed is indicated on the plat attached hereto as Exhibit "A" and made a part hereof.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 17, 2003)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2003
Approved July 14, 2003
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 28, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the city council meetings held on May 27 and June 9, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0728-01 Finnist Independent Apostolic Lutheran Church, et al. (nine signatures), submitting petition to reclassify from residential to commercial property described as that part of the SE1/4 of SW1/4 of Section 18, T50, R14 lying east of Sundby Road as established and in use on September 16, 1959, except the northerly 290 feet thereof. -- Assessor

03-0728-02 Leo Koski, by William B. Scalzo, architect, submitting further petition (four signatures) to reclassify from R-1-c to R-2, Lots 11, 12, 13, 14, 15, 16 and 17; Block 6, Merritts Addition; Lots 7, 8 and 9, Block 1, Wheelers Addition and Lots 1, 2, 3 and 4, Block 1, Schleunes Addition. -- Assessor

03-0728-03 Mitchell R. Marchand, et al. (two signatures) submitting petition to vacate 69th Avenue West and alley way lying on the east side of Lots 1 and 32 west of Lot 16 and 17, Block1, Mineral Addition. -- Assessor

03-0728-04 Frank A. Messina, et al. (ten signatures), submitting petition to reclassify from S to C-2 property described as the westerly three acres of the N1/2 of NE1/4 of NE1/4 of NE1/4, Section 17, T50N, R14W of the Fourth Principal Meridian. -- Assessor

03-0728-05 St. Mary's Duluth Clinic Health System submitting an application for a C-5 plan review and approval within a medical center district under Section 50-166 of the Duluth City Code and concurrent use permit to construct a skywalk connection across First Street. -- Planning commission

03-0728-06 Minnesota state auditor submitting Duluth economic development authority audit report for the year ended December 31, 2002. -- Received

03-0728-28 Deb Everett submitting letter regarding legislation pertaining to smoking in public places (03-0545R). -- Received

03-0728-29 Isobel Rapaich submitting letter regarding ratifying the existence of the Sister City Commission, Inc. (03-0538R). -- Received

03-0728-17 Leif and Eric Ringsred submitting letter regarding appeal of a demolition order for property at 1510 East Second Street (03-0541R and 03-0542R). -- Received

03-0728-07 St. Louis County Heritage and Arts Center submitting applications for facilities rental during which alcoholic beverages will be served from: (a) Lori Fulkerson and Shawn Tillman on August 2, 2003; (b) Danessa LaDoux and Justin Barnes on August 16; 2003. -- Received

03-0728-08 Barbara Teske submitting communication pertaining to traffic management on Arrowhead Road (03-0338R). -- Received

03-0728-09 The following submitting communications regarding eminent domain (03-0188R): (a) Esther Gieschen; (b) Sandy Robinson. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

03-0728-18 The following submitting communications regarding legislation pertaining to front yard parking (03-033-O): (a) Susan B. Frey (supported by 21 signatures); (b) Rob Lubiani. Received

03-0728-10 The following submitting communications regarding USA PATRIOT Act (03-0486R): (a) Diane Lings; (b) Dan Mettner. -- Received

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REPORTS OF OFFICERS

03-0728-11 Assessor submitting letters of sufficiency of petitions to:

(a) Construct a permanent alley in Ninth Avenue East between 13th and 14th Avenues East;

(b) Reclassify from S to C-2 property described as the westerly three acres of the N1/2 of NE1/4 of NE1/4 , Section 17, T50N, R14W of the Fourth Principal Meridian;

(c) Reclassify from R-1-c to R-2, Lots 11, 12, 13, 14, 15, 16 and 17; Block 6, Merritts Addition; Lots 7, 8 and 9, Block 1, Wheelers Addition and Lots 1, 2, 3 and 4, Block 1, Schleunes Addition;

(d) Reclassify from S to R-1-b Blocks 102 and 103, Home Park Division New Duluth together with Outlot C;

(e) Reclassify from residential to commercial property described as that part of the SE1/4 of SW1/4 of Section 18, T50, R14 lying east of Sundby Road as established and in use on September 16, 1959, except the northerly 290 feet thereof;

(f) Vacate the alley between Block 55 of Kimberly and Stryker's Addition and North 63rd Avenue West between Blocks 2 and 3 of Dodge's Addition and Blocks 54 and 55 of Kimberley and Stryker's Addition;

(g) Vacate 105th, 106th and 107th Avenues West between Peary and Heard streets, alleys in Blocks 102 and 103 Home Park Division New Duluth and Heard Street from 105th Avenue West in a westerly direction to the end at approximately 107th Avenue West. -- Received

03-0728-12 Engineering division submitting monthly project status report of July 1, 2003. -- Received

03-0728-13 Parks and recreation director submitting permit agreement with Twig Bakery for vending at Lake Place Park and Bayfront Festival Park during city sponsored concerts, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

03-0728-19 Public works and utilities director submitting 2002 city of Duluth utilities annual report. -- Received

03-0728-14 Purchasing agent submitting emergency orders awarded to:

(a) Utility Systems of America in the amount of an additional \$12,031.10 to repair a sanitary sewer at Wade Stadium;

(b) Qwest in the amount of \$14,373.07 to install a temporary telephone cable. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0728-15 Duluth airport authority balance sheet for month ending May 31, 2003. -- Received

03-0728-16 Duluth transit authority submitting: (a) Income statement for May, 2003; (b) Minutes of May 28, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

K.L. Lewis urged the council to proceed with the plans for Bayfront so the development of a marina can be accomplished to generate revenue for the city; the city needs to keep up the maintenance on the light fixtures Downtown, and she expressed disappointment that the chemical dependency unit was closing at Miller-Dwan Medical Center.

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Lori Kostynyk expressed frustration that the chemical dependency unit was closing at Miller-Dwan Medical Center, and reviewed that this could have an impact on companies who want to start up business in Duluth and want to have an accredited program for their employees to use.

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Harry Munger reviewed that 40 zoning ordinances have passed with conditions attached to them , but expressed concern that when the new comprehensive plan is in place, those conditions will no longer exist and will be unenforceable per the city attorney's office.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 03-0491, authorizing various license, permit and fee charges, pursuant to Section 31-6(a) of the Duluth City Code, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution by adding the following two licenses to the Section 8-56 portion of the clerk's list of fees as follows:

"§ 8-56	Liquor licenses, on and off sale (annual)	
	Temporary - on sale	
	Per day	\$200.00
	Maximum	\$400.00
	Brewery malt liquor - off sale	
		\$200.00,"

which motion was seconded and unanimously carried.

Resolution 03-0491, as amended, was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that pursuant to the following sections of the Duluth City Code, the city council authorizes the following license, permit and fee charges:

BUILDING SAFETY		
Code Section	License/permit/fee/penalty/name	Amount
§ 50-50	Board of zoning appeals filing fee	\$120.00
§ 10-2	Building permits	
	Permit surcharge	\$5.00
	Special permits and fees	
	Moving permit (over pubic property)	
	1,000 square feet or less on first floor	\$30.00
	Over 1,000 square feet on first floor	\$60.00
	Moving permit (over private property)	\$5.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BUILDING SAFETY		
Code Section	License/permit/fee/penalty/name	Amount
	Razing or demolition	
	Minimum fee	\$15.00
	Per every 100 cubic feet of volume	\$0.25
	Mobile home installation	\$50.00
§ 50-40	Certificate of occupancy	\$5.00
§ 46-10	Mobile home installation inspection fee	\$25.00
§ 51-4	Water resource management use and variance permit	
	Use permit	\$40.00
	Special use permit	\$125.00
	Variance	\$120.00

CLERK		
Code Section	License/permit/fee/penalty name	Amount
§ 5-20	Adult book store (annual)	\$20.00
§ 8-6	Alcohol, gambling and tobacco commission special meeting fee	\$100.00
§ 8-43	Bottle clubs (annual)	\$300.00
§ 5-5	Bowling alleys (annual)	
	First alley	\$40.00
	Each additional alley	\$15.00
§ 50-120	Chapter 50, amendments to	
	Reclassification petition filing fee	\$225.00
	C-3 shopping center district plan revision	\$120.00
§ 11-2	Cigarette license (annual)	\$100.00
§ 31-6	Clerk fee for issuance of license	\$2.50
§ 5-13	Coin-operated device (annual)	
	Authorization card	\$15.00
	If card issued for less than a year, for each remaining month	\$1.25
	Each location	\$15.00
§ 5-15	Supplier's License	\$10.00
§ 45-50	Community events, parades and races permit	\$50.00
§ 45-103	Concurrent use permit application filing fee	\$150.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

CLERK		
Code Section	License/permit/fee/penalty name	Amount
§ 15-6	Dance Hall License	
	Annual	\$150.00
	One dance event	\$35.00
§ 8-40	Dancing license (annual)	
	If applicant holds an on sale intoxicating liquor license	\$900.00
	If applicant holds a wine or 3.2 percent malt liquor license	\$750.00
	Seasonal dancing license for the months May through August	\$300.00
§ 33-248	Emergency wrecker license (annual)	\$350.00
§ 10A-13	Gambling manager (annual)	\$35.00
§ 25-3	Gasoline filling station	
	Annual, for first pump or distribution service outlet	\$40.00
	Annual, each additional pump or distribution service outlet	\$10.00
	Initial design, construction or modification inspection	\$75.00
§ 25-4	Gasoline filling station - new construction during license year inspection	\$50.00
§ 27-8	Hawker, peddler and transient business license (annual)	\$20.00
§ 47-3	Horse and carriage livery service license	
	Annual	\$100.00
	Per carriage	\$15.00
	Per horse	\$8.00
§ 29-4	Hotel, motel or motor court license (annual)	
	License (includes first 25 rooms)	\$50.00
	Per room above first 25 rooms	\$1.00
§ 10A-13	Jar operator (annual)	\$15.00
§ 8-40	Late hours entertainment license (annual)	\$200.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

CLERK		
Code Section	License/permit/fee/penalty name	Amount
§ 8-67	Licensed premises or designated serving area	
	Transfer/modification regarding:	
	Intoxicating liquor	\$200.00
	Nonintoxicating liquor	\$75.00
	Expansion	\$50.00
§ 8-56	Liquor licenses, on and off sale (annual)	
	Late fee penalty	10 percent
	On sale license	\$2,650.00
	Wine licenses	
	Restaurants	\$700.00
	Bed and breakfast establishments	\$350.00
	Club licenses with a membership of:	
	Under 200	\$300.00
	Between 201 and 500	\$500.00
	Between 501 and 1,000	\$650.00
	Between 1,001 and 2,000	\$800.00
	Between 2,001 and 4,000	\$1,000.00
	Between 4,001 and 6,000	\$2,000.00
	Over 6,000	\$3,000.00
	Additional bar	\$500.00
	Off sale intoxicating liquor license	\$1,000.00
	On sale nonintoxicating malt liquor license	\$350.00
	Off sale nonintoxicating malt liquor license	\$100.00
	Temporary - on sale	
	Per day	\$200.00
	Maximum	\$400.00
	Brewery malt liquor - off sale	\$200.00
§ 5-35	Massage establishment (annual)	\$75.00
§ 5-37	Massage therapist (annual)	\$15.00
§ 33-217	Motor vehicle dealer license (annual)	
	For first business	\$250.00
	Each additional business of same licensee	\$75.00
§ 45-29	Non-skywalk lights, banners, flags, etc. over streets permit	\$50.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

CLERK		
Code Section	License/permit/fee/penalty name	Amount
§ 36-3	Pawnbroker license	
	Annual	\$250.00
	Minimum fee, if prorated license	\$30.00
§ 45-4.5	Pedestrian transit zone	
	Annual renewal	\$25.00
	Initial application	\$100.00
§ 5-5	Pool, billiard snooker and bumper pool tables (annual)	
	First table	\$40.00
	Each additional table	\$15.00
§ 36-18	Precious metal dealer license	
	Annual	\$250.00
	Minimum fee, if prorated license	\$30.00
§ 47-14	Recreational and sightseeing ride license	
	Annual	\$100.00
	Per vehicle	\$30.00
§ 47-15	Recreational and sightseeing ride - vehicle(s) added during current license year inspection fee (per vehicle)	\$25.00
§ 47-41	Rental vehicle license	\$175.00
§ 5-25	Shooting range	
	Annual	\$75.00
	Initial design, construction or modification inspection	\$200.00
§ 44A-14	Skywalk bridge banner permit	\$25.00
§ 24-12	Solid waste or recyclables collection license (annual)	\$250.00
§ 8-46	Special Sunday license (annual)	\$125.00
§ 50-33	Special use permit	
	Other than low density planning development and community unit plans	\$150.00
	Low density planning development and community unit plans	
	Initial	\$240.00
	Plan alteration review	\$120.00
§ 47-17.6	Taxicab license	
	Annual	\$100.00
	Per vehicle	\$10.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

CLERK		
Code Section	License/permit/fee/penalty name	Amount
§ 8-54	Temporary expansion	
	First day	\$250.00
	Each additional day	\$125.00
	Refund if application is denied, all but:	\$25.00
§ 8-50	Temporary nonintoxicating malt liquor license	
	First day	\$75.00
	Each additional day	\$15.00
§ 45-39	Vacation of highways and easements petition filing fee	
	Vacation of highway	
	200 feet or less	\$200.00
	More than 200 feet	\$500.00
	Vacation of easement	\$200.00

FIRE DEPARTMENT		
Code section	License/permit/fee/penalty name	Amount
§ 21-6	Fire permit	\$25.00
§ 21-34	Sale and handling of Christmas trees (annual)	\$25.00
§ 21-42	Sale of fireworks permit (annual)	\$100.00

PLANNING AND DEVELOPMENT DEPARTMENT		
Code section	License/permit/fee/penalty name	Amount
§ 37-2	Plats (each)	
	Preliminary review	\$75.00
	Final approval	
	Five or less lots	\$100.00
	More than five lots	\$175.00 or \$2.50 per lot (whichever is greater)

POLICE DEPARTMENT		
Code section	License/permit/fee/penalty name	Amount
§ 29B-2	Intrusion detection device permit	\$25.00
§ 31-6	Police background investigation fee	\$6.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

PUBLIC WORKS AND UTILITIES DEPARTMENT		
Code section	License/permit/fee/penalty name	Amount
§ 45-14	Driveway crossing permit	\$15.00
§ 45-17	Excavation and obstruction permit	
	Base fee	\$15.00
	Per month per square foot occupied	\$0.07
	Minimum fee	\$10.00
	Per parking meter obstruction; for each \$.05 increment on the hourly charge for use of the meter, regardless of any time limit placed on the use of the meter	
	Per month	\$5.00
	Per week	\$1.25
	Per day	\$0.25
	Minimum penalty for work started without permit	\$50.00
§ 45-18.1	Obstruction permit (yearly)	\$200.00
§ 45-96	Obstruction to watercourse permit	\$50.00
§ 33-186.1	Transportation permit	
	Each permit	\$5.00
	Seasonal	\$25.00

RESOLVED FURTHER, that these license, permit and fee charges shall become effective on the same date as Ordinance File No. 03-031-O becomes effective (Effective Date: September 11, 2003).

Resolution 03-0491, as amended, was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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Councilor Hogg moved to suspend the rules to consider Ordinance 03-031 at this time, which motion was seconded and unanimously carried.

BY COUNCILOR HOGG

03-031 (9611) - AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FEES TO BE SET BY RESOLUTION, AMENDING SECTIONS 1-7, 5-5, 5-13, 5-15, 5-20, 5-25, 5-35, 5-37, 8-6, 8-40, 8-43, 8-46, 8-50, 8-54, 8-56, 8-67, 10-2, 10A-13, 11-2, 15-6, 21-6, 21-34, 21-42, 24-12, 25-3, 25-4, 27-8, 28-70, 29-4, 29B-2, 31-6, 33-186.1, 33-217, 33-237, 33-248, 36-3, 36-18, 37-2, 44A-14, 45-4.5, 45-14, 45-17, 45-18.1, 45-29, 45-39, 45-50, 45-96, 45-103, 46-10, 47-3, 47-14, 47-15, 47-17.6, 47-41, 50-19, 50-33, 50-40, 50-50, 50-120, 50-190 AND 51-4, AND REPEALING SECTIONS 4-81 AND 33-238 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hogg moved to amend Section 15 of the ordinance to add the recently approved temporary on sale and brewery malt liquor off sale licenses' language, to read as follows:

“Sec. 8-56. Fees.

The license fee for off sale and on sale nonintoxicating malt liquor licenses shall be paid to the city clerk not later than March 15 of each year. The license fee for off sale intoxicating liquor licenses shall be paid to the city clerk not later than July 15 of each year. The license fee for on sale intoxicating liquor licenses may, at the option of the licensed applicant, be paid to the city clerk either in one lump sum not later than July 15 in each year, or in four equal installments, which shall be paid not later than July 15, October 15, January 15 and April 15, respectively. In any case where any payment for any alcoholic beverage license is not made when due, a ten percent penalty fee, which shall be set in accordance with Section 31-6(a) of this Code, shall be added to the fee. Nonpayment of fees shall constitute good cause for suspension or revocation of any license.

Payment for license fees shall be made by certified check payable to the city treasurer of the city or in lawful money of the United States of America and when such fees are received by the city clerk they shall be transmitted to the city treasurer. Upon the granting of a license as provided in this Article the amount of fee for such license shall be paid into the general fund.

(a) The annual fees for on sale intoxicating liquor licenses are as follows:

(1) ~~On sale licenses -- \$2,450 for the 1993 license year; \$2,550 for the 1994 license year; \$2,650 thereafter;~~

(2) ~~Wine licenses issued to restaurants -- \$700; wine licenses issued to bed and breakfast establishments -- \$350;~~

(3) ~~Club licenses -- for a club with under 200 members -- \$300; for a club with between 201 and 500 members -- \$500; for a club with between 501 and 1,000 members -- \$650; for a club with between 1,001 and 2,000 members -- \$800; for a club with between 2,001 and 4,000 members -- \$1,000; for a club with between 4,001 and 6,000 members -- \$2,000; for a club with over 6,000 members -- \$3,000 shall be set in accordance with Section 31-6(a) of this Code.~~

Whenever any licensee holding an on sale intoxicating liquor license shall at any time for any purpose operate more than one permanent bar, such licensee shall pay an additional annual license fee of ~~\$500~~, which shall be set in accordance with Section 31-6(a) of this Code, for each such additional permanent bar. A so-called service bar which is used solely by employees of the licensee shall not be considered a bar for purposes of this Section;

(b) The annual fee for an off sale intoxicating liquor license shall be ~~\$1,000~~ set in accordance with Section 31-6(a) of this Code;

(c) The fee for a temporary on sale liquor license shall be ~~\$200 per day with a maximum fee of \$400~~ set in accordance with Section 31-6(a) of this Code;

(d) The annual fee for an on sale nonintoxicating malt liquor license shall be ~~\$350~~ set in accordance with Section 31-6(a) of this Code;

(e) The annual fee for an off sale nonintoxicating malt liquor license shall be ~~\$100~~ set in accordance with Section 31-6(a) of this Code;

(f) The annual fee for a brewery malt liquor off sale license is ~~\$200~~ shall be set in accordance with Section 31-6(a) of this Code,” which motion was seconded and discussed.

Councilor Atkins expressed concerns about the amount charged for the extra fee for special events.

The amendment passed upon the following vote:

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

Nays: Councilor Atkins -- 1

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

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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 Stenberg 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 bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its general obligation bonds for the following purposes:

(1) \$5,035,000 general obligation street improvement bonds, Series 2003D, are hereby authorized and shall be issued for the purpose of financing the 2003 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; and

(2) \$2,250,000 general obligation steam utility revenue bonds, Series 2003E, are hereby authorized and shall be issued pursuant to Ordinance No. 9607, adopted July 14, 2003, Minnesota Statutes, Chapter 475, Minnesota Laws 1979, Chapter 113 and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal steam utility.

The \$5,035,000 general obligation street improvement bonds, Series 2003D, and the \$2,250,000 general obligation steam utility revenue bonds, Series 2003E, are hereinafter referred to as the bonds.

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sales thereof are set forth in the official terms of offerings on file with the city clerk as Public Document No. 03-0728-20. Each and all of the terms and provisions set forth in the official terms of offerings are adopted and confirmed as the terms and conditions of the bonds and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds.

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sales 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 03-0550 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor licenses, with an application fee of \$200, subject to departmental approvals with any further restrictions, and further subject to approval of the liquor control commissioner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Northland Country Club, 3901 East Superior Street, for August 20, 2003, with Gary Schneider, manager.

Welch Center (Valley Youth Center), South Street St. Louis County Fair Grounds, for August 16, 2003, from 6:00 p.m. to midnight, with Tim Kittleson, manager.

Resolution 03-0552 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license for the period beginning September 1, 2003, and ending August 31, 2004, and issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 2004, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Coco's Catering Company, Inc. (Coco's to Geaux), 324 West Superior Street, with Arlene Coco Buscome, president and Ramona Knutson, vice president.

Resolution 03-0553 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

St. Louis County Historical Society (Classic Car Show), 506 West Michigan Street, for August 20, 2003, with Daren Nyquist, manager.

Resolution 03-0554 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Holiday Inn of Tucumcari (Canal Park Inn), 250 Canal Park Drive, for August 8, 9 and 10, 2003, with the music and serving ceasing at 12:30 a.m.

Just Take Action, Inc. (Fitger's Brewhouse), 600 East Superior Street, for September 20, 2003, with the music and serving ceasing at 11:00 p.m.

Resolution 03-0555 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on Michigan Street between Fifth and Sixth avenues West on August 20, 2003, in conjunction with the St. Louis County Heritage and Arts Center Classic Car Show, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 03-0556 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following brewery malt liquor off sale license for the period ending August 31, 2003, subject to departmental approvals, the approval of the alcohol and gambling enforcement division and Ordinance 9608 taking effect:

Just Take Action, Inc. (Fitzer's Brewhouse), 600 East Superior Street, with Rod Raymond, 50 percent stockholder and Tim Nelson, 50 percent stockholder.

Resolution 03-0558 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointments to the board of zoning appeals of Jeff Jackson and William B. Scalzo, for terms expiring on July 31, 2007, replacing Ryan E. Mears and Richard W. Towey, and John Hinzmann (planning commission) for a term expiring on July 31, 2006, replacing Jeffrey Jackson, by Mayor Doty, are confirmed.

Resolution 03-0548 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointment of Barbara Fischer (real property valuations) to the special board of review, by Mayor Doty, for a term expiring on July 31, 2007, is confirmed.

Resolution 03-0549 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2000 and 2002 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program recommends funding projects as set forth below;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262- 2000 and 2002 HUD-funded community development accounts as set forth below:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Project #	Project	Budget amount	New amount	Amount of increase or decrease
2000 CDBG transfers				
6309	Lincoln Park Phase I	\$159,000	\$173,322	\$14,322
2002 CDBG transfers				
6513	Citywide Streets	\$132,707	\$118,385	(14,322)

Resolution 03-0559 was unanimously adopted.
 Approved July 28, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to accept \$5,089 in Workforce Development Investment Act incentive award funds from the Minnesota department of economic security in accordance with Grant 2043401 and the incentive award plan as approved. Funds are available for the period from April 1, 2003, through December 31, 2004. Funds received will be deposited in Fund 0268.

Resolution 03-0499 was unanimously adopted.
 Approved July 28, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the city of Duluth is hereby authorized to execute a grant agreement filed as Public Document No. 03-0728-21 for the state fiscal year 2004, with the Minnesota department of public safety, center for crime victim services, for a \$3,000 grant for a program entitled "Emergency Fund for Crime Victims."

RESOLVED FURTHER, that funds received by the city under such grant agreement shall be deposited in the General Fund 0100, Agency 700, Organization 1428.

Resolution 03-0566 was unanimously adopted.
 Approved July 28, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 37.78 percent of the abutting property to construct a permanent alley in 102nd Avenue West alley between Gary Street and McGonagle Street, including the segment from 101st Avenue West to 102nd Avenue West Alley.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

Resolution 03-0537 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 03-0512, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Matterhorn Circle from Matterhorn Drive southerly 650 feet, including permanent residential design street with concrete curb and gutter, bituminous surface and storm sewer, and for sanitary sewer, watermain and gas main to serve the abutting property (City Job No. 0339TR); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; the benefitting property owners have waived their right to a public hearing; 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 \$250,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5383, Object 5530, and that 100 percent of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0546 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 03-0514, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Crystal Drive from Swan Lake Road easterly 1,645 feet, including permanent residential design street with concrete curb and gutter, bituminous surface and storm sewer, and for sanitary sewer, watermain and gas main to serve Lots 1 through 13, Block 2; Lots 1 through 9 Block 3, Crystal Village (City Job No. 0324TR); and

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 \$600,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5382, Object 5530, and that 100 percent of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted

to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0547 was unanimously adopted.
 Approved July 28, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute a railroad storm sewer license agreement, filed as Public Document No. 03-0728-22, between the city of Duluth and the St. Louis and Lake counties regional railroad authority necessary for the street improvement program project on 44th Avenue East for a cost of \$500 to be paid from Fund 0411, Agency 035, Organization 2186, Object 5530.

Resolution 03-0551 was unanimously adopted.
 Approved July 28, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution No. 03-0476, which set Duluth natural gas rates effective August 1, 2003, shall be amended to include the following rate:

CUSTOMER RATE SCHEDULE BASED UPON MONTHLY METERED VOLUME			
	Fixed monthly charge	Per 100 cubic feet	
	Effective August 1, 2003, rate	Effective August 1, 2003, rate	Effective January 1, 1997, rate
Firm sales service			
Residential/large volume	\$200.00	\$0.400	\$0.375

Resolution 03-0564 was unanimously adopted.
 Approved July 28, 2003
 GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with John R. Palkie and Kay A. Palkie to petition for the permanent improvement of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Water Street along its frontage with Lots 64 through 66, Fond du Lac - Water Street, said agreement filed as Public Document No. 03-0728-23.

Resolution 03-0565 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

WHEREAS, the Duluth sister city commission (the commission) was formed pursuant to Ordinance No. 8825, adopted January 26, 1987, for the purpose of promoting the interests of the city of Duluth and the United States by encouraging and fostering the development of sister city relationships of a long-term nature between the city of Duluth and cities of other countries; and

WHEREAS, members of the commission are appointed by the mayor subject to confirmation by the city council; and

WHEREAS, the Duluth Sister City Commission, Inc. (the corporation), was incorporated on October 23, 1990, to encourage and foster positive international relations between the United States and other countries particularly by forming sister city relationships with cities in other countries that are similar to Duluth, Minnesota, and by encouraging international exchanges of citizens, art work, etc.; and

WHEREAS, the by-laws of the corporation provide that members of the commission are members of the corporation and any member who ceases to be a member of the commission ceases to be a member of the corporation; and

WHEREAS, the corporation falls within the current statutory definition found at Minnesota Statute Section 465.719 (the statute) as being "created by a political subdivision before May 31, 1997," because the corporation's by-laws provide for appointed officials of the governing body of the political subdivision to be automatically appointed to the corporation's governing board and they constitute a majority of the corporation's board members; and

WHEREAS, the statute requires that in order for a corporation created by a political subdivision before May 31, 1997, to remain in existence, the political subdivision which created the corporation must, before August 1, 2003, ratify the creation of the corporation by resolution at a regularly scheduled meeting of the governing body of the political subdivision; and

WHEREAS, the city of Duluth desires to ratify the corporation and continue its existence and therefore makes the following findings as required by the statute.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth (the council) finds that the purpose and objective of the corporation is to secure and expend funds in furtherance of sister city relationships. The corporation writes and receives grants, collects membership dues and secures money from non-government sources that is spent for the purpose of creating opportunities for grass-roots citizen participants to experience and explore other cultures and foster an atmosphere in which economic development, trade, tourism, education, art, history, foreign languages, international relationships and global understanding can flourish; that the corporation is the best alternative for accomplishing these purposes because certain funding sources and fundraising activities cannot be accomplished by city commissions, but can be accomplished by a nonprofit corporation such as this which is qualified under IRS regulations 501(c).

FURTHER RESOLVED, that the council finds that the purpose of having commission members serving as board members of the corporation is to provide consistent leadership for the commission and corporation in order to assure that the corporation which is raising funds

engages in the same projects as does the commission; that to have different members on the commission and the corporation would be divisive.

FURTHER RESOLVED, that the council finds that the corporation possesses those authorities and powers as set forth in its articles and by-laws and as provided under Minnesota law to the extent that those authorities and powers do not exceed the authorities and powers of the city of Duluth.

FURTHER RESOLVED, that the council finds that the corporation is not exempted from any laws that apply to the city of Duluth.

FURTHER RESOLVED, that the council finds that if there are any contracts or obligations of the corporation which are inconsistent with any requirements of the statute, that there be a delayed application of that statutory requirement for the time necessary to avoid a breach or impairment of the contract or obligation.

FURTHER RESOLVED, that the corporation is hereby ratified.

Resolution 03-0538 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with URS Corporation, for the sum of not to exceed \$46,300, from Capital Fund 0450, Object C921, for providing certain architectural design and site planning services to the city of Duluth in connection with Bayfront Festival Park (Phase IV) warming shack and site work, 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. 03-0728-24.

Resolution 03-0539 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

WHEREAS, the Duluth public arts commission (the commission) was formed pursuant to Ordinance No. 8777, adopted April 7, 1986, for the purpose of promoting the welfare and serving the public interest, convenience and necessity through the promotion of the arts in the city of Duluth, particularly the establishment of physical works of art in public places, by identifying and selecting artists, locating and selecting appropriate locations and selecting works of art for performance or placement throughout the city; and

WHEREAS, members of the commission are appointed by the mayor subject to confirmation by the city council; and

WHEREAS, the Duluth Public Arts Fund, Inc. (the corporation), was incorporated on October 10, 1986, to encourage and foster all aspects of fine arts in the city of Duluth by funding artists and works of public art, securing location for display or performance of works of art, and subsidizing artists working in the city; and

WHEREAS, the by-laws of the corporation provide that members of the commission are members of the corporation and any member who ceases to be a member of the commission ceases to be a member of the corporation; and

WHEREAS, the corporation falls within the current statutory definition found at Minnesota Statute Section 465.719 (the statute) as being "created by a political subdivision before May 31, 1997" because the corporation's by-laws provide for appointed officials of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

governing body of the political subdivision to be automatically appointed to the corporation's governing board and they constitute a majority of the corporation's board members; and

WHEREAS, the statute requires that in order for a corporation created by a political subdivision before May 31, 1997, to remain in existence, the political subdivision which created the corporation must, before August 1, 2003, ratify the creation of the corporation by resolution at a regularly scheduled meeting of the governing body of the political subdivision; and

WHEREAS, the city of Duluth desires to ratify the corporation and continue its existence and therefore makes the following findings as required by the statute.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth (the council) finds that the purpose and objective of the corporation is to secure and expend funds in furtherance of public works of art. The corporation writes and receives grants and secures money from non-government sources that is spent for the purpose of enhancing public art in the city of Duluth, care and maintenance of all existing city sculptures through the SOS program, offering art education and art classes, providing art work for empty store windows to alleviate blight, and advancing international art exchanges with Duluth's sister cities.

FURTHER RESOLVED, that the council finds that the purpose of having commission members serving as board members of the corporation is to provide consistent leadership for the commission and corporation in order to assure that the corporation which is raising funds engages in the same projects as does the commission; that to have different members on the commission and the corporation would be divisive.

FURTHER RESOLVED, that the council finds that the corporation possesses those authorities and powers as set forth in its articles and by-laws and as provided under Minnesota law to the extent that those authorities and powers do not exceed the authorities and powers of the city of Duluth.

FURTHER RESOLVED, that the council finds that the corporation is not exempted from any laws that apply to the city of Duluth.

FURTHER RESOLVED, that the council finds that if there are any contracts or obligations of the corporation which are inconsistent with any requirements of the statute, that there be a delayed application of that statutory requirement for the time necessary to avoid a breach or impairment of the contract or obligation.

FURTHER RESOLVED, that the corporation is hereby ratified.

Resolution 03-0540 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

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 \$13,500, terms net 30, FOB destination, payable out of Special League Fund 0210, Department/Agency 030, Organization 2190, Object 5412, to be encumbered out of year 2004 budget.

Resolution 03-0560 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0561, amending Resolution 02-0545 awarding contract to Prosource Technologies, Inc., for professional right-of-way and easement acquisition services, to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

increase the amount by \$302,648 for a new total of \$691,396; and Resolution 03-0562, amending Resolution 02-0697 awarding contract to Petersen Engineering, Inc., for professional services for ten inch gas transmission pipeline, to increase the amount by \$124,549 for a new total of \$272,377, by Councilor Stover, were introduced for discussion.

Councilor Hogg expressed his concern over the size of the increase for each of these projects and felt that more information is needed from staff.

Resolution 03-0561 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0545 to ProSource Technologies, Inc., for the professional right-of-way and easement acquisition services to construct an approximately 4.7 mile 10 inch diameter x 52 inch steel pipeline for the transmission of natural gas, be amended to increase the amount by \$302,648 for a new total of \$691,396, payable out of Gas Construction Bond Fund 0521, Department/Agency 500, Object 5532.

Resolution 03-0561 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved July 28, 2003

GARY L. DOTY, Mayor

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Resolution 03-0562 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0697 to Petersen Engineering, Inc., for the professional services for the ten inch steel natural gas transmission pipeline, be amended to increase the amount by \$124,549 for a new total of \$272,377, payable out of Gas Construction Bond Fund 0521, Department/Agency 500, Object 5532.

Resolution 03-0562 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved July 28, 2003

GARY L. DOTY, Mayor

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Resolution 03-0541, affirming the decision of the building appeal board to lift the September 11, 2002, stay of a condemnation for demolition order at a garage/carriage house only at 1510 East Second Street, Duluth, Minnesota; and Resolution 03-0542, reversing the decision of the building appeal board to deny an appeal to allow a stay of the demolition order to renovate the garage/carriage house at 1510 East Second Street, Duluth, Minnesota, by Councilor Bergson, were introduced for discussion.

Resolution 03-0541 failed upon a unanimous vote (Public Document No. 03-0728-25).

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Resolution 03-0542 was adopted as follows:

BY COUNCILOR BERGSON:

WHEREAS, on February 12, 2002, the city building official issued an order condemning for demolition the garage/carriage house only located at 1510 East Second Street; and

WHEREAS, on February 26, 2002, the owners of said property, Lief and Eric Ringsred, appealed the building official's order to the building appeal board on the basis that the structure could be repaired to bring it into compliance with applicable codes and requested a stay in the

implementation of the building official's demolition order to do so; and

WHEREAS, at its meeting of August 14, 2002, the building appeal board allowed a 30 day stay of Mr. Lief and Mr. Eric Ringsred's appeal to allow time to come back with signed contracts; and

WHEREAS, at its meeting of September 11, 2002, the building appeal board allowed a stay of the demolition order and extension of time to allow for repair of the foundation of the garage/carriage house to December 2, 2002, and finish work to May 30, 2003; and

WHEREAS, at its meeting of June 11, 2003, the building appeal board lifted the stay of the demolition order and put it back into effect; and

WHEREAS, Lief and Eric Ringsred have appealed to the city council and the city council has considered this appeal and Mr. Lief and Mr. Eric Ringsred have presented appropriate evidence that they have the means to renovate the structure within the time frame set forth below and that they will obtain appropriate permits and cause required work to be performed within the time frame set forth below to bring the garage/carriage house into compliance with the codes and ordinances regulating buildings within the city of Duluth; and

WHEREAS, the city council has determined to allow an extension of time for renovating the garage/carriage under the terms and conditions set forth above.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that it is reasonably possible and practical to correct all code deficiencies giving rise to the building official's order condemning the garage/carriage house for demolition and to bring the building located at 1510 East Second Street into full compliance with such codes within the time frame set forth below.

FURTHER RESOLVED, that the building official's order condemning the garage/carriage house structure on the premises located at 1510 East Second Street is hereby stayed until (*October 14, 2003*); and the building appeal board's decision of June 11, 2003, is hereby reversed.

Resolution 03-0542 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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Resolution 03-0563, by Councilor Bergson, awarding contracts to Anderson Gravels and Demolition (\$31,300) and Stout Mechanical, Inc. (\$13,073), for demolition of three structures in the total amount of \$44,373, was introduced for discussion.

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

Marean Clement expressed concern that one of the structures has been vacant since June of 2001 and people and animals are trying to break into it. She added that the houses on each side are very close and there is concern about another fire.

Resolution 03-0563 was adopted as follows:

BY COUNCILOR BERGSON:

RESOLVED, that Anderson Gravel and Demolition (\$31,300) and Stout Mechanical, Inc. (\$13,073), be and hereby are awarded a contract for demolition of three structures for the building safety division in accordance with specifications on its low specification bids for a total of \$44,373, terms net 30, FOB job sites, payable out of General Fund 0100, Department/Agency 100, Organization 1504, Object 5453.

Resolution 03-0563 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

BE IT RESOLVED, that the city of Duluth, on behalf of all of its citizens, gratefully accepts the grant of \$350,000 from the Jeno and Lois Paulucci Family Foundation for the construction and financing of Bayfront Festival Park warming facility; authorizes the proper city officials to execute and implement the grant agreement on file with the city clerk as Public Document No. 03-728-26, and used in accordance with the grant agreement; and authorizes the proper city officials to give appropriate notice of gratitude and appreciation for the gift to the Paulucci family.

BE IT FURTHER RESOLVED, that all grant funds received be deposited and applied to the source of financing provided by the city to construct the building.

Resolution 03-0544 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

WHEREAS, 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; and

WHEREAS, 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

WHEREAS, the simple separation of smokers and nonsmokers within the same air space does not eliminate the exposure of nonsmokers to environmental tobacco smoke and there is no known safe level of exposure for nonsmoking; and

WHEREAS, regulation of smoking in public places by individual municipalities can lead to economic inequities and hardships to local business if adjoining jurisdictions do not adopt similar regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council memorializes the Duluth delegation to the state legislature to secure passage of an amendment to the Minnesota Clean Indoor Air Act which would prohibit smoking in public places in a manner similar to Duluth's present regulations and which would preempt and supercede all local regulation of public smoking.

Resolution 03-0545 was unanimously adopted.

Approved July 28, 2003

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT STENBERG

03-005 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION 50-37 TO PROVIDE FOR THE REGULATORY CONTROLS FOR PLANNED UNIT DEVELOPMENTS.

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

Councilor Hogg moved to suspend the rules to consider Ordinance 03-041 at this time, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR HOGG

03-041 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-37 TO PROVIDE FOR REGULATORY CONTROLS FOR DESIGNATED AREA DEVELOPMENTS.

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

Peggy Marrin expressed concern that the language for new planned unit development legislation should have a tighter definition for a "planned unit plan."

Councilors expressed concerns that they are not ready to adopt Ordinance 03-005 and that they would like to have more time to study Ordinance 03-041.

President Stenberg moved passage of Ordinance 03-005, which motion failed upon a unanimous vote (Public Document No. 03-0728-27).

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Councilor Hogg moved to table Ordinance 03-041, which motion was seconded and carried unanimously.

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The following entitled ordinances were read for the second time:

BY PRESIDENT STENBERG

03-035 (9612) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26, 32 AND 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO I-P, INDUSTRIAL PARK, PROPERTY LOCATED WEST OF RICE LAKE ROAD BETWEEN AIRPORT ROAD AND KRUGER ROAD (SEAWAY PORT AUTHORITY OF DULUTH).

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

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BY PRESIDENT STENBERG

03-036 (9613) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 22 AND 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, R-2, TWO FAMILY RESIDENTIAL, AND R-3, APARTMENT RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTIES LOCATED ALONG BOTH SIDES OF MAPLE GROVE ROAD BETWEEN COTTONWOOD AVENUE AND MILLER TRUNK HIGHWAY (RICHARDS, ET AL.).

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

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BY PRESIDENT STENBERG

03-037 (9614) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-4, APARTMENT RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTIES LOCATED SOUTH OF VILLAGE MALL WEST OF DECKER ROAD (WILLIAM ANDERSON).

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

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BY PRESIDENT STENBERG

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

03-038 (9615) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ST. MARK AME CHURCH TO CONSTRUCT AND MAINTAIN AN ENTRY STAIR IN THE RIGHT-OF-WAY OF FIFTH AVENUE EAST AND EAST SIXTH STREET.

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

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BY COUNCILOR NESS

03-034 (9516) - AN ORDINANCE ADDING PAINTING TO DEFINITION OF PROJECT COVERED BY CITY WAGES AND HOURS REQUIREMENTS; AMENDING SECTION 2-25 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

Nays: None -- 0

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BY COUNCILOR STAUBER

03-033 (9617) - AN ORDINANCE PERTAINING TO UNLAWFUL FRONT YARD PARKING; INCORPORATING THE FRONT YARD PARKING PROHIBITION IN THE CITY'S TRAFFIC CODE; AMENDING SECTION 33-82 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Jim VanDell felt that front yard parking should not be a crime because it is not enforceable.

Councilors Atkins and Stover felt that: this ordinance will not be enforced by the police department; it will not resolve the problem and that this issue is really a landlord- tenant problem.

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

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

Nays: Councilors Atkins and Stover -- 2

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The meeting was adjourned at 8:25 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9611

BY COUNCILOR HOGG:

AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FEES TO BE SET BY RESOLUTION, AMENDING SECTIONS 1-7, 5-5, 5-13, 5-15, 5-20, 5-25, 5-35, 5-37, 8-6, 8-40, 8-43, 8-46, 8-50, 8-54, 8-56, 8-67, 10-2, 10A-13, 11-2, 15-6, 21-6, 21-34, 21-42, 24-12, 25-3, 25-4, 27-8, 28-70, 29-4, 29B-2, 31-6, 33-186.1, 33-217, 33-237, 33-248, 36-3, 36-18, 37-2, 44A-14, 45-4.5, 45-14, 45-17, 45-18.1, 45-29, 45-39, 45-50, 45-96, 45-103, 46-10, 47-3, 47-14, 47-15, 47-17.6, 47-41, 50-19, 50-33, 50-40, 50-50, 50-120, 50-190 AND 51-4, AND REPEALING

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

SECTIONS 4-81 AND 33-238 OF THE DULUTH CITY CODE,
1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 1-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 1-7. General penalty; continuing violations.

Whenever in this Code or in any other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any other ordinance of the city shall be punished by a fine not exceeding \$1,000.

Every day any violation of this Code or any other ordinance of the city shall continue shall constitute a separate offense.

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

Sec. 5-5. Same--Application, fees, terms and conditions.

Applications for a license to maintain or operate a bowling alley or pool, billiard, snooker or bumper pool table shall be made in writing on forms supplied by the city clerk. Licenses shall be issued for a term of up to one year and shall in all cases end on April 30 each year. The fee for such license shall be set in accordance with Section 31-6(a) of this Code.

The fee for licenses issued for a term of less than one year shall be prorated.

Section 3. 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 and each location where coin-operated devices are located shall be set in accordance with Section 31-6(a) of this Code. If a coin-operated device authorization card is issued for a lesser term than one year, the fee for the same shall be set in accordance with Section 31-6(a) of this Code for each calendar month.

Section 4. 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 set in accordance with Section 31-6(a) of this Code.

Section 5. That Section 5-20 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-20. Applications; fees; expiration date; no transfers.

Applications for a license to own or operate an adult book store shall be made to the city clerk on forms provided by the city clerk. Each application shall state the name of the owner and manager and the location of the premises to be licensed and how far such premises is from the nearest church, school, public park, residential zone and public skywalk. The application shall be accompanied by a fee, which shall be set in accordance with Section 31-6(a) of this Code, for said license. Licenses issued pursuant to this Article shall expire on May 31

each year. No licenses issued pursuant to this Section may be transferred to another location or person.

Section 6. That Section 5-25 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-25. Same--Fees.

(a) The annual fee for a license issued pursuant to the provisions of this Article shall be set in accordance with Section 31-6(a) of this Code for a license for one year; provided, that all licenses shall expire on April 30 in each year next succeeding the issuance of such license. For the purpose of coordinating the time of expiration of yearly licenses in general, yearly licenses issued under the terms of this Article may be issued for a shorter time and, when thus issued, the fees therefor shall be prorated;

(b) At the time of the initial design and construction of any shooting range and at the time of and for each subsequent modification of design elements initially approved by the chief of police pursuant to Section 5-26 of this Article, an additional fee, which shall set be in accordance with Section 31-6(a) of this Code, shall be charged in addition to the annual license fee provided for above.

Section 7. That Section 5-35 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-35. License fee and license year; separate license required for each place of business; display of license.

The annual license fee shall be set in accordance with Section 31-6(a) of this Code. A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place on the licensed premises at all times. A license, unless revoked, is for the May 1 to April 30 year, or part thereof, for which it has been issued.

Section 8. That Section 5-37 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-37. Massage therapists; employment relationships; licenses required.

(a) No massage establishment licensee shall permit any person to perform a massage in the licensee's massage establishment unless such person is an employee of said licensee and unless such person is licensed as a massage therapist as provided herein. No person shall massage another for compensation unless such person has obtained a massage therapist license as provided herein and unless such person is the licensee of said massage establishment or an employee of the licensee of said massage establishment or is lawfully engaging in a massage practice as a home occupation under the terms of Chapter 50 of this Code;

(b) Massage therapist licenses shall be issued by the city clerk after approval by the chief of police. Applicant must be 18 years of age or over, of good moral character, and eligible for a license under the terms of Minnesota Statutes, Chapter 364 and the provisions of this Article. Applicant must also have successfully completed a course of study in massage of not less than 500 hours from a recognized school where the theory, method, profession or work of massage is taught; except that any person licensed as a massage therapist before July 15, 2001, may continue to receive a license notwithstanding the fact such therapist has less than 500 hours of training. Applicant shall submit a

diploma, certificate or other written proof of educational attainment with the application, including the name and address of the school;

(c) An application for such license shall be filed with the city clerk, which application shall state the name, address, date of birth, criminal record and other pertinent information as required by the chief of police. Upon receipt of the application the chief of police shall cause all necessary investigations to be made so that he may approve or disapprove of the license;

(d) The fee for such license shall be set in accordance with Section 31-6(a) of this Code. The license year shall be from May 1 to April 30 and shall not be prorated.

Section 9. That Section 8-6 of the Duluth City Code, 1959, as amended, be 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, which shall be set in accordance with Section 31-6(a) of this Code, if such special meeting is held to cover costs of the meeting.

Section 10. That Section 8-40 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-40. Dancing and late hours entertainment licenses for liquor establishments.

(a) No person licensed to sell alcoholic beverages on sale shall allow any dancing participated in by the public on said premises unless such person has first received a license pursuant to this Section;

(b) A dancing license shall entitle the license holder to have dancing participated in by the public on the licensed premises. The annual fee for a dancing license shall be set in accordance with Section 31-6(a) of this Code. The fee shall be prorated in the same manner as liquor licenses;

(c) Notwithstanding any provision of this Section or Chapter to the contrary, clubs and congressionally chartered veterans organizations that are open only to members and bona fide guests of members may have dancing participated in by members and guests, without securing a dancing license;

(d) Notwithstanding any provision of this Section or Chapter to the contrary, seasonal dancing licenses covering the months of May through August may be issued to any on sale licensee for a fee set in accordance with Section 31-6(a) of this Code;

(e) Notwithstanding any provision of this Section or Chapter to the contrary, late hours entertainment licenses may be issued to establishments holding on sale alcoholic beverage licenses if they meet the criteria set forth in this paragraph. Such license shall allow the establishment to have music and

entertainment, including dancing by patrons, after the hours when sales of alcoholic beverages are required to cease. The fee for such license shall be set in accordance with Section 31-6(a) of this Code. Every application for such license shall be investigated by the police department and alcohol, gambling, and tobacco commission. No license shall be issued in an area or under circumstances where the late hours entertainment would disturb adjoining properties or the surrounding neighborhood. In their investigation and recommendations, the police and alcohol, gambling and tobacco commission shall consider, without limitation:

- (1) The proximity of the establishment to residences and residentially zoned property;
- (2) The character of the neighborhood surrounding the establishment;
- (3) Parking facilities at the establishment;
- (4) The acoustic properties of the building housing the establishment;
- (5) The past record of the establishment; and
- (6) Any past complaints from adjoining property owners.

The license may contain conditions and limitations concerning types of entertainment and hours of entertainment. No entertainment shall be allowed after 3:00 a.m. All establishments allowing late hours dancing must have a dancing license as required by paragraphs (a) and (d) of this Section.

Section 11. That Section 8-43 of the Duluth City Code, 1959, as amended, be 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, which shall be set in accordance with Section 31-6(a) of this Code, annually to the city in addition to any fee paid to the state. The fee payable to the city shall be paid prior to the beginning of operation of a bottle club, and prior to April 1 of the following and each succeeding year;

(d) The provisions and regulations of sections 8-15, 8-16, 8-24, 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 12. That Section 8-46 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-46. Same--same--Special Sunday license.

A special license may be issued to hotels, restaurants and clubs holding on sale intoxicating liquor licenses permitting such establishments to sell intoxicating liquor on sale between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays in conjunction with the serving of food; provided, however, that no such license shall be issued to or held by a club unless such club serves meals to its members on a daily basis.

Such license shall be issued in accordance with the statutes and ordinances applicable to the issuance of on sale intoxicating liquor licenses in the city of Duluth.

Such license shall be deemed to be a part of the regular on sale intoxicating liquor license held by the licensee for purposes of sections 8-53, 8-58 and 8-67 of this Chapter.

The annual fee for such license shall be set in accordance with Section 31-6(a) of this Code, which fee shall not be prorated in case of issuance for a period of less than one year.

Section 13. That Section 8-50 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-50. To whom licenses issued--temporary nonintoxicating malt liquor.

(a) For purposes of this Section, the following words and phrases shall have the following meanings:

Charitable organization. An organization which engages in solicitation of funds, on a permanent basis, for any charitable, benevolent, philanthropic, patriotic or eleemosynary purposes.

Religious organization. An organization which is affiliated with a national or regional religious denomination and which maintains an established church and congregation.

Nonprofit organization. An organization which is neither designed for nor results in any private pecuniary gain, either directly or indirectly, for any of its members;

(b) Notwithstanding any provisions of the Duluth City Code to the contrary, temporary on sale nonintoxicating malt liquor licenses may be issued to clubs, charitable organizations, religious organizations and other nonprofit organizations permitting such club or organization to sell nonintoxicating malt beverage on sale;

(c) Such license shall be issued for a limited length of time, not to exceed 14 days, and such license shall state on its face the specific dates on which it is valid. The application for such license and the license itself shall specifically state the precise premises where such nonintoxicating malt liquor is

to be sold. The license application shall be accompanied by insurance if insurance is required under the provisions of Minnesota Statutes Chapter 340A. The fee for such license shall be set in accordance with Section 31-6(a) of this Code. Said fee and cash deposit shall be paid to the city clerk at the time of application. All applications for such licenses shall be made to and filed with the city clerk on forms provided by the city clerk. Such license shall not be transferable. No license shall be issued under this Section if it appears that the issuance of such license will endanger the health, safety or morals of the public. Licensed premises outside of buildings shall be clearly indicated;

(d) The chief of police shall designate or approve one or more security personnel to police premises licensed pursuant to this Section at times when nonintoxicating malt liquor is sold on such premises. The fees and expenses for such personnel shall be paid by the licensee.

Section 14. That Section 8-54 of the Duluth City Code, 1959, as amended, be amended to read as follows:

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

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 set in accordance with Section 31-6(a) of this Code for the first day of the event and for each day thereafter. If the application is denied, all but a portion of the fee, set in accordance with Section 31-6(a) of this Code, shall be refunded to the applicant. No temporary expansion of service area shall be granted for a period of time greater than three consecutive days.

Section 15. That Section 8-56 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-56. Fees.

The license fee for off sale and on sale nonintoxicating malt liquor licenses shall be paid to the city clerk not later than March 15 of each year. The license fee for off sale intoxicating liquor licenses shall be paid to the city clerk not later than July 15 of each year. The license fee for on sale intoxicating liquor licenses may, at the option of the licensed applicant, be paid to the city clerk either in one lump sum not later than July 15 in each year, or in four equal installments, which shall be paid not later than July 15, October 15, January 15 and April 15, respectively. In any case where any payment for any alcoholic beverage license is not made when due, a penalty fee, which shall be set in accordance with Section 31-6(a) of this Code, shall be added to the fee. Nonpayment of fees shall constitute good cause for suspension or revocation of any license.

Payment for license fees shall be made by certified check payable to the city treasurer of the city or in lawful money of the United States of America and when such fees are received by the city clerk they shall be transmitted to the city treasurer. Upon the granting of a license as provided in this Article the amount of fee for such license shall be paid into the general fund.

(a) The annual fees for on sale intoxicating liquor licenses shall be set in accordance with Section 31-6(a) of this Code.

Whenever any licensee holding an on sale intoxicating liquor license shall at any time for any purpose operate more than one permanent bar, such licensee shall pay an additional annual license fee, which shall be set in accordance with Section 31-6(a) of this Code, for each such additional permanent bar. A so-called service bar which is used solely by employees of the licensee shall not be considered a bar for purposes of this Section;

(b) The annual fee for an off sale intoxicating liquor license shall be set in accordance with Section 31-6(a) of this Code;

(c) The fee for a temporary on sale liquor license shall be set in accordance with Section 31-6(a) of this Code;

(d) The annual fee for an on sale nonintoxicating malt liquor license shall be set in accordance with Section 31-6(a) of this Code;

(e) The annual fee for an off sale nonintoxicating malt liquor license shall be set in accordance with Section 31-6(a) of this Code;

(f) The annual fee for a brewery malt liquor off sale license shall be set in accordance with Section 31-6(a) of this Code.

Section 16. That Section 8-67 of the Duluth City Code, 1959, as amended, be 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 which shall be set in accordance with Section 31-6(a) of this Code in the case of an intoxicating liquor license and a fee which shall be set in accordance with Section 31-6(a) of this Code in the case of a nonintoxicating 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 fee set in accordance with Section 31-6(a) of this Code. 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 commission.

Section 17. That Section 10-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10-2. Building permit fee schedule.

(a) Building permit fees. Fees for building permits and building inspections shall be as set forth in Table 1A and Section 107 of the Uniform Building Code, 1994 edition, provided that a surcharge, which shall be set in accordance with Section 31-6(a) of this Code, shall be imposed on any permit taken out on work done by a residential building contractor, remodeler or specialty contractor as defined by Minnesota Statutes, Section 326.83;

(b) Special permits and fees. Special permits shall be obtained and special fees paid in all cases for items included in the following schedule whether said items are installed in new buildings or in existing buildings, unless otherwise herein provided, but the value of such items need not be included in the valuation upon which the main building permit is estimated as before provided in Subdivision (a) herein.

All of the provisions of the State Building Code pertaining to permits shall apply to such special permits as well as to the main building permit, excepting only the schedule for original fees.

Fees for the following shall be set in accordance with Section 31-6(a) of this Code:

(1) Moving over public property any building which has an area of 1,000 square feet or less on the first floor;

(2) Moving over public property any building which has an area of over 1,000 square feet on the first floor;

(3) Moving any building or structure not on public property;

(4) Razing or demolishing any building or structure;

(5) The installation of a mobile home;

(c) Special permits shall also be taken out and fees paid for the installation or alteration of electrical wiring, plumbing, heating plants, fireplaces or any other construction or accessory to a building or structure, the use of which is regulated by the provisions of the State Building Code and which for any reason is not included in the permit for general construction; and the fees for same shall be ascertained in the same manner as for the construction of new buildings;

(d) The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance, for the temporary occupation of public property, for inspections, certificates, sewer connections, water connections, gas connections or other privileges or requirements;

(e) When work for which a permit is required by this Code is started or proceeded with before said permit is obtained, the fee specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the State Building Code in the execution of the work, nor from any other standards or penalties prescribed by law;

(f) No permit to erect, repair or alter any building or structure shall authorize the use of any part of any public thoroughfare, or other public ground or easement.

Section 18. That Section 10A-13 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10A-13. Application; fee; terms.

Applications for jar operator and gambling manager licenses shall be made to the city clerk on forms supplied by the city clerk. The application shall be accompanied by a license fee, which shall be set in accordance with Section 31-6(a) of this Code. The application shall contain the name, address, criminal history, date of birth, work experience in gambling operations, and any other information the chief of police deems necessary to investigate the applicant. The term of the license shall be one year from the date of issuance.

Section 19. That Section 11-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-2. Same--Fee.

The annual fee for a license required by this Chapter shall be set in accordance with Section 31-6(a) of this Code.

Section 20. That Section 15-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 15-6. Same--Fees.

Applications for licenses shall be made to the city clerk and shall be accompanied by a license fee set in accordance with Section 31-6(a) of this Code.

In cases where the entire net proceeds of conducting a dance hall are devoted wholly to charitable, philanthropic or literary purposes, no payment of any license fee shall be required. The administrative assistant may, in his discretion, permit any lodge or society not organized and maintained for profit to conduct public dances without requiring the payment of any license fee.

Section 21. That Section 21-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 21-6. Permit fees.

The fee for any permit required by this Chapter shall be set in accordance with Section 31-6(a) of this Code and shall be submitted at the time of application for the permit.

Section 22. That Section 21-34 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 21-34. Sale and handling of Christmas trees.

No person shall engage in the business of flocking or processing evergreen Christmas trees, or of selling flocked or unprocessed evergreen Christmas trees, within the city, without having obtained a permit therefor from the chief of the fire department. At the time such permit is issued, the permittee shall deposit with the chief a sum, which shall be set in accordance with Section 31-6(a) of this Code, for each location at which the flocking or processing of trees or the sale of flocked or unprocessed trees will be carried out. The deposit will be returned upon presentation to the city treasurer by the permit holder of a proper refund order issued by the chief if, within ten days after Christmas Day, all surplus trees are disposed of to the satisfaction of the chief.

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If within the time allowed, all trees are not disposed of to the satisfaction of the chief, the chief shall be authorized to expend for labor or truck hire an amount not to exceed the deposit to clean up such premises.

Section 23. That Section 21-42 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 21-42. Application; fees; term of permit; premises.

(a) Application for a permit to sell lawfully permitted fireworks at retail shall be made to the fire chief on forms supplied by the fire chief. The application shall contain the location of where the fireworks are to be sold, where the fireworks are to be stored, and any other information the fire chief may require;

(b) The fee for a lawfully permitted fireworks retail sales permit shall be set in accordance with Section 31-6(a) of this Code, which shall be paid at the time of application. The permit fee shall not be prorated;

(c) Permits shall be valid from May 1 to April 30 of each year for which the permit is issued. Permits are nontransferable;

(d) Permits shall be issued only for locations approved by the fire chief on private property zoned in the C or M categories under Chapter 50. Permits shall not be issued for locations in public right-of-ways, parks or other public grounds. If the permit applicant is not the owner or lessee of the location where sales are to be made, the applicant shall submit written permission from the property owner to use the location at the time the permit is applied for.

Section 24. That Section 24-12 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-12. Same--Fees.

Each person making application for a license to engage in the business of collecting or removing solid waste or recyclables shall accompany such application with an annual fee, set in accordance with Section 31-6(a) of this Code, for each collection or removal vehicle to be operated by such person.

Section 25. That Section 25-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 25-3. Same--Fees.

The annual license fee of a gasoline filling station shall be set in accordance with Section 31-6(a) of this Code and an additional fee shall be set in accordance with Section 31-6(a) of this Code for each pump or distribution service outlet in excess of one at such gasoline filling station; provided, that where a gasoline filling station is to be newly established and under circumstances requiring structural or other changes in the physical condition of street curbs, public walks or other public highways or places, thereby necessitating inspection and supervision by officers or agent of the city, the first annual license fee for such gasoline filling station shall be set in accordance with Section 31-6(a) of this Code, but thereafter the license fee for such newly established gasoline filling station shall be as provided in this Section. Such fees shall accompany their application to the city clerk.

Section 26. That Section 25-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 25-4. Same--Expiration date; prorating of fee.

All licenses issued under this Chapter shall be for a period terminating on the 30th day of April next following the issuance therefor. The fee for any such

license issued after the beginning of such license year, except an initial fee for new construction, which shall be set in accordance with Section 31-6(a) of this Code, shall be the proportionate amount of the annual license fee corresponding to the portion of the license year for which such license is issued, but no such license shall be issued for a shorter period than six months.

Section 27. That Section 27-8 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 27-8. Same--Fees.

Annual fees for licenses required by this Article shall be set in accordance with Section 31-6(a) of this Code.

Section 28. That Section 28-70 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 28-70. Violation and penalties.

(a) Smoking where prohibited. It is a violation of this Article for any person to smoke in an area where smoking is prohibited by this Article;

(b) Proprietors. It is a violation of this Article for the proprietor or other person in charge of any premises subject to this Article to fail to comply with the requirements of Chapter 28, Article VII, or to retaliate against an employee, applicant for employment or customer, as prohibited by Section 28-68;

(c) Private right of action. In addition to the penalties provided in Section 28-70(c), any person injured by a repeated or continuing violation of the Article may bring a civil action against the proprietor or other person in charge of a public place to enjoin further violations.

Section 29. That Section 29-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29-4. Same--Fees.

The annual fee for each hotel, motel or motor court license shall be set in accordance with Section 31-6(a) of this Code for the first 25 rooms and an additional annual fee for each additional guest room shall also be set in accordance with Section 31-6(a) of this Code, which fees shall be paid to the city clerk with their application.

Section 30. That Section 29B-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29B-2. Employee's permit for installing systems; permit fee.

It shall be unlawful for any person, including an owner, to engage directly in the business of installing, servicing, maintaining, repairing, replacing, moving or removing, in or on any building within the city of Duluth, any intrusion detection device known as a burglar alarm system unless such person shall apply for, and obtain, a permit to do so, which permit shall be applied for, granted and in existence all in compliance with the provisions of this Chapter. Such application shall set forth the name, age and address of the applicant, his past experience in the burglar alarm business, the names and addresses of his employers during the preceding period of three years.

The fee for any permit issued under this Chapter, whether it be an owner's or an employee's permit, shall be set in accordance with Section 31-6(a) of this Code, which fee shall be payable at the time application for any permit is made under the provisions of this Chapter.

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Section 31. That Section 31-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 31-6. Fees for issuance of license.

(a) The fees for all licenses and permits issued pursuant to this Code shall be set by city council resolution and shall be based on the city's cost of regulating the activity for which the license or permit is issued. At least biannually, the city council or appropriate committee of the city council shall conduct a hearing to consider the adjustment of all license fees to reflect changes in administrative and enforcement costs in accordance with appropriate economic indicators as determined by the city council or committee. The city clerk shall maintain copies of a schedule of current city license fees for distribution to the general public and shall, if feasible, maintain a schedule of city license fees on the internet for public inspection;

(b) If the license is not issued for any reason, the clerk shall refund license fees collected except the police investigation fee authorized in Subsection (c) below;

(c) The police department shall charge a fee, which shall be set in accordance with Section 31-6(a) of this Code, for performing a background investigation of any applicant for a license authorized by this Code or a state statute, except where such a fee is prohibited by law. The fee may be collected by either the police department or the city clerk.

Section 32. That Section 33-186.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-186.1. Same--Fees.

To cover administrative costs in issuing such special permits, the director of public works and utilities, with respect to highways under his jurisdiction, may charge a fee, which shall be set in accordance with Section 31-6(a) of this Code, for each such permit issued, except a seasonal transportation permit to contractors who move their own construction machinery and equipment for their own use, the fee for a seasonal permit shall be set in accordance with Section 31-6(a) of this Code.

Section 33. That Section 33-217 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-217. Same--Fees.

The annual fee for a license required by this Article for the first place of business owned and operated by the licensee shall be set in accordance with Section 31-6(a) of this Code and the annual license fee for the second and subsequent number of places of business operated by one licensee shall be set in accordance with Section 31-6(a) of this Code for each place of business more than one operated by the same person, which amount shall accompany the application to the city clerk.

Section 34. That Section 33-237 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-237. Owner's responsibility.

A person registered as owner of a snowmobile may be fined not to exceed \$1,000, if a snowmobile bearing his registration number is operated contrary to the provisions of this Code. The registered owner may not be so fined if:

(a) The snowmobile was reported as stolen to the Duluth police department at the time of the alleged unlawful act; or if

(b) The registered owner demonstrates that the snowmobile either was stolen or was not in use at the time of the alleged unlawful act; or if

(c) The registered owner furnishes to law enforcement officers, upon request, the identity of the person in actual physical control of the snowmobile at the time of such violation.

The provisions of this Section do not apply to any person who rents or leases a snowmobile if such person keeps a record of the name and address of the person or persons renting or leasing such snowmobile, the registration number thereof, the departure date and time, and the expected time of return thereof. Such record shall be preserved for at least six months, and shall be prima facie evidence that the person named therein was the operator thereof at the time it was operated contrary to the provisions of this Code. The provisions of this Section do not prohibit or limit the prosecution of a snowmobile operator for violating any of the provisions of this Code.

Section 35. 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 set in accordance with Section 31-6(a) of this Code 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 36. That Section 36-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-3. Same--Fees.

The applicant for a license under this Chapter shall accompany the application to the city clerk with a license fee, which shall be set in accordance with Section 31-6(a) of this Code.

If the license period is for less than one year, the fee to be paid by the applicant shall be a pro rata portion of the amount required for the entire year; provided that the minimum fee shall be not less than that set in accordance with Section 31-6(a) of this Code.

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Section 37. That Section 36-18 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-18. Application, bond, license fee, term.

(a) Applications for licenses shall be made in writing to the city clerk on forms provided by the city clerk. Applications shall be accompanied by a license fee, which shall be set in accordance with Section 31-6(a) of this Code, and a corporate surety bond in the amount of \$2,000. License fees may be prorated if the license is issued for less than one year, provided that no fee shall be less than the amount which shall be set in accordance with Section 31-6(a) of this Code. Corporate surety bonds shall be conditioned on the licensee's compliance with the provisions of this Article and all other laws in the conduct of his business. Such bond shall be for the benefit of the city or any person who shall suffer any damage through a wrongful act of such precious metal dealer;

(b) Any license issued under this Chapter shall expire on April 30 each year.

Section 38. That Section 37-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 37-2. Fees for approval of plats by planning commission.

The city planning commission shall make preliminary reviews of plats only after the applicant presenting such plat has paid to the director of city planning, for the use and benefit of the city, a service charge for each plat, which shall be set in accordance with Section 31-6(a) of this Code. No plat required by law to be approved by the city planning commission shall be finally approved by such commission unless the applicant presenting such plat has paid to the director of city planning and development, for the use and benefit of the city, a service charge in addition to the preliminary review service charge, which shall be set in accordance with Section 31-6(a) of this Code, for each the following:

(a) If there are five or less lots in such plat; or

(b) If there are more than five lots in such plat.

Section 39. That Section 44A-14 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 44A-14. Skywalk bridge banner permits.

(a) Any person wishing to attach a banner to one or more bridges on the Duluth skywalk system shall apply to the skywalk operations administrator for a permit to do so. Said application shall contain the name of the organization or person on behalf of whom the permit is sought, the address of said organization or person, if an organization, the name and address of the responsible party representing said organization, and the identity of the bridge or bridges upon which the banners are to be hung together with the beginning and ending dates proposed for said display. Said application shall be accompanied by a fee, which shall be set in accordance with Section 31-6(a) of this Code, an accurate representation of the appearance of the banner, including pictures and words, the dimensions of the proposed banner or banners for each bridge and proof of insurance as is required by Section 45-31 of this Code and a general form indemnity bond protecting the city in the amount of at least \$500;

(b) No permit shall be issued to hang a banner for a time period in excess of 30 consecutive days and no permit shall be issued to hang a banner on any bridge when the height of that banner exceeds the distance between the

banner hanging points provided on that bridge or when said banner exceeds the length of that bridge. No permit shall be issued for a commercial advertising or political-type banner. All such banners shall be suspended from the aforesaid hanging points by top and bottom and shall not hang across any skywalk bridge window;

(c) The skywalk operations administrator may issue a permit for any such banner or banners provided such banner or banners comply with the dimensional requirements above, provided that all or a portion of all of the time requested for hanging a banner on any particular bridge has not been previously granted by permit to another applicant and provided that the administrator shall not find that the content of any proposed banner would violate any law or ordinance;

(d) Any decision of the skywalk operations administrator under this Section may be appealed by any adversely affected party as provided for in Section 44A-11 above.

Section 40. That Section 45-4.5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-4.5. Pedestrian transit zone.

The city council finds that it is to the public's benefit to provide for safe, convenient, and efficient pedestrian travel around and upon the public lands and easements of the city. In some areas of the city, pedestrian travel and safety is unreasonably inhibited by persons stopping upon the public ways, or committing crimes, or conducting private business, or soliciting the public, or doing other activities which are not pedestrian travel. Accordingly, the city council is authorized to, by resolution, establish a pedestrian transit zone in any place in the city owned or controlled by the city where such a zone will help eliminate obstructions to safe and convenient pedestrian travel, or will further the public safety, peace, or welfare.

Establishment of a pedestrian transit zone shall commence with the filing of an application, on a form approved by the city, with the city planning department. Each application for each zone shall be processed when the city receives from the applicant the required application fee, which shall be set in accordance with Section 31-6(a) of this Code. The application shall state the experiences or circumstances which are a basis for the establishment of a pedestrian transit zone and the proposed location of the zone.

The planning department shall, after consideration, either approve or deny the application, or the application as amended, stating, in writing, its reasons therefore, and notifying the applicant. In the case of a denial, the applicant may appeal to the city council by filing with the city clerk a written notice of appeal within 15 days of the date the notice of denial was sent to the applicant. In the case of approval, the planning department shall promptly request the city council to establish the pedestrian transit zone, and shall prepare a resolution for that purpose. The city council shall promptly, after proper public notice is given, conduct a public hearing on each appeal and on each resolution to establish a zone, and shall act on the matter after the hearing. The zone is established when the enabling resolution becomes effective. The zone shall remain in existence so long as the applicant, or the applicant's successor in interest, pays the annual

renewal fee, which shall be set in accordance with Section 31-6(a) of this Code, and the city council has not, by resolution, terminated the zone.

A pedestrian transit zone may be located on any sidewalk, path, skywalk, way, trail, parkway or other property owned or controlled by the city.

A pedestrian transit zone shall be configured so as to allow the efficient, safe, pleasant and convenient travel of pedestrians in the area. It shall be large enough to accommodate the expected traffic volume. It shall not, in areas which are public fora for free speech, be configured so as to leave no reasonable method for the exercise of constitutional rights, although, it may be configured so that the location of such exercise is reasonably moved or regulated, as provided by law. It shall be configured so that pedestrians who wish to stop or linger may do so within a reasonable distance from the zone or the ends of the zone.

The activities allowed in a pedestrian transit zone are the following and no others are allowed:

(a) Traveling from one point to another, as evidenced by constant movement through the zone to a point or points outside the zone (frequent, repetitive movement within the zone, back and forth, is not allowed);

(b) Law enforcement activities;

(c) Maintenance activities by the city's agents;

(d) Safety and emergency response activities;

(e) Conduct legal picketing by members of an employee organization or member of an organization engaging in organizational pickets in a manner consistent with all laws, regulations, and valid court orders, and in a manner that does not obstruct pedestrian travel, nor pedestrian access to abutting properties.

The boundaries of the zone shall be indicated to the public in a reasonable manner.

Any person who is present in a pedestrian traffic zone and carries out activities inconsistent with the uses allowed by this Section is in violation of the ordinance and may be punished as set out in Duluth City Code, Section 1-7, or its successor.

Any person who interferes with pedestrian traffic in a pedestrian traffic zone, or obstructs it, or hinders the zone's availability for use by transiting pedestrians is in violation of this ordinance, and may be punished as set out in Duluth City Code, Section 1-7, or its successor.

Section 41. That Section 45-14 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-14. Driveway crossings.

No person shall construct a driveway or crossing from a publicly maintained street or highway into private property without having first applied for and obtained a permit so to do from the office of the city engineer. Upon receiving this permit said driveway or crossing shall be constructed according to plans and specifications approved by the city engineer, and such construction shall be carried out under the direction and inspection of such engineer or his representative.

The city engineer shall charge a fee, which shall be set in accordance with Section 31-6(a) of this Code, for each permit issued pursuant to this Section, and in addition shall charge a fee sufficient to cover the actual cost of inspections conducted by the city in connection with the issuance of such permit.

No driveway or crossing from a publicly maintained street or highway into private property shall be constructed or maintained in such a manner that it obstructs the flow of surface water along any gutter or ditch line or causes such water to flow onto, under or across the publicly maintained portion of such street or highway.

Section 42. That Section 45-17 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-17. Same--Fee.

Except for free permits issued to city employees, the city engineer shall charge fees set in accordance with Section 31-6(a) of this Code for the following permits issued pursuant to this Article:

(a) A base fee; plus

(b) An amount per month per square foot of area occupied, or a minimum fee, whichever is greater, provided that when the square footage monthly fee exceeds the above-mentioned minimum fee, and the permit is issued for a fraction of any month, the square footage fee shall be prorated to charge only for the fraction of the month the area is actually occupied, but in no case shall any prorated fee be less than the above-mentioned minimum fee; plus

(c) If the area occupied is equipped with parking meters, an additional fee shall be charged for each parking meter space or part thereof that has been closed to parking , which fees shall be set in accordance with Section 31-6(a) of this Code.

Such fee or fees shall be deposited with the city treasurer, to the credit of the engineering department.

Where any work done pursuant to a permit granted hereunder requires an inspection from the engineering division, the city engineer shall estimate the cost of inspecting such work and add said cost to the permit fee.

Whenever any work is started before a permit is applied for and granted by the city engineer, a penalty will be added to the cost of the permit fee. The penalty will be based on additional inspection, enforcement and processing time incurred by the city engineer's office, but in no event shall the penalty be less than that set in accordance with Section 31-6(a) of this Code.

Section 43. That Section 45-18.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-18.1.Limited yearly permit for certain types of obstructions.

(a) Notwithstanding any provision in this Article to the contrary, the city engineer may issue limited yearly permits subject to the restrictions set forth herein. The fee for such permit shall be set in accordance with Section 31-6(a) of this Code. No limited yearly permit shall be issued unless the applicant has first filed a bond and insurance required by Section 45-19 in this Article. A limited yearly permit shall authorize the permit holder to make an unlimited number of obstructions which meet the following criteria:

(1) No obstruction shall last longer than 24 hours, and the permittee shall not obstruct that area or the surrounding 100 feet for at least five days thereafter;

(2) No part of any street or alley shall be obstructed unless one unobstructed lane of traffic at least 12 feet wide is maintained in each direction,

and, in the case of sidewalks, at least a five foot width of sidewalk or boulevard shall remain unobstructed for pedestrian passage;

(3) No excavations shall be involved;

(4) The area obstructed shall not exceed 350 square feet, at any location;

(5) No mobile machinery shall be moved onto an obstructed sidewalk;

(6) Only equipment and mobile machinery needed for maintenance purposes may be placed in a street or alley;

(7) All street and alley obstructions must be signed and/or protected by traffic control devices as set forth in the Minnesota manual on uniform traffic control devices and its appendices;

(8) The city engineer may impose any other conditions on the permit deemed necessary to protect public safety, including a requirement that the city be notified of street obstructions;

(b) The holder of a limited yearly permit shall be required to take out individual permits pursuant to this Article for any obstruction or excavation not meeting the criteria set forth in Subdivision (a) of this Section;

(c) The holder of a limited yearly permit shall post such permit or a copy thereof on each job site where work is being done pursuant to such permit.

Section 44. That Section 45-29 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-29. Same--Fee.

The fee for any permit issued under this Article shall be set in accordance with Section 31-6(a) of this Code.

Section 45. That Section 45-39 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-39. Same--Contents; fee.

Each petition provided for in this Article shall state the facts and reasons for such vacation, be accompanied by a plat of the ground, and the signatures on such petition shall be verified by a properly notarized affidavit of one of the petitioners which shall be attached to such petition. Such affidavit shall state that all the signatures on such petition were made in the presence of the affiant and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Every petition shall be accompanied by a fee to cover the city's cost of processing the application. The amount of such fee shall be set in accordance with Section 31-6(a) of this Code for the each of following:

(a) In the case of a petition for vacation of a highway:

(1) If the highway proposed to be vacated is 200 feet, or less, in length;

(2) If the highway proposed to be vacated is more than 200 feet in length;

(b) In the case of a petition for vacation of a publicly-owned utility easement.

The petitioner shall also pay any fees incurred by the city for the filing of such vacation resolution with the county recorder.

No part of such fees shall be returned to petitioners.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 46. That Section 45-50 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-50. Permits required for community events, parades and races; applications; filing and investigation fee.

(a) No person shall conduct a community event, parade or race, as defined in this Article, without having first secured a permit to conduct such event from the administrative assistant. Only civic, charitable or educational organizations or groups or associations of abutting owners shall be eligible for community events permits;

(b) Applications for permits for community events, parades and races shall be made in the office of the city clerk on forms provided by the clerk at least 30 days before the event is to take place, provided that the administrative assistant or chief of police may waive the 30-day waiting period for good cause. Each application shall contain the name of the applicant, the organization which the applicant represents, the street and/or sidewalk to be used, the amount of unused street and/or sidewalk to be available to the traveling public, the number of people expected to participate and be in attendance at the event, the nature and purpose of the event, the number of days the event shall take place and the hours of each day the event shall be taking place, whether electronic sound amplification will be used and the hours and nature of such amplification, and any other information required by the administrative assistant or chief of police. In the event the permit is requested by a group or association of abutting owners, the application shall list all such abutters participating in the event and the ratio which such participants bear to the total number of abutters;

(c) Each application shall be accompanied by a filing and investigation fee which shall be set in accordance with Section 31-6(a) of this Code.

Section 47. That Section 45-96 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-96. Same--Fee.

Every application for a permit under this Article shall be accompanied by a fee set in accordance with Section 31-6(a) of this Code.

Section 48. That Section 45-103 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-103. Application--fee.

Before the city council shall give consideration to any ordinance granting a permit to an owner of real estate abutting on a public street allowing such owner to make concurrent use of such portion of a street not physically being used or occupied by the public, the applicant for such a permit shall file with the city clerk an application, in writing, and accompany the same with a fee set in accordance with Section 31-6(a) of this Code, which shall cover the cost to the city of investigating and processing such application. If the application is denied, no part of the fee shall be refunded. If the application is approved, the applicant shall pay to the city clerk the cost of publication of the ordinance granting the concurrent use permit and no such ordinance shall be effective until such publication costs have been paid by the applicant.

Section 49. That Section 46-10 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 46-10. Inspection of mobile home installations.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(a) When any mobile home, as defined in Minnesota Statutes, Section 327.31, is moved into the city, no person shall occupy such mobile home until the installation of such mobile home has been inspected by the building official of the city and found to comply with applicable state and federal codes for such installation;

(b) The building official shall charge a fee, which shall be set in accordance with Section 31-6(a) of this Code, to be paid in advance, for each such installation to be inspected;

(c) Any person moving a mobile home to a new location within the city shall request the building official in writing to inspect the installation. Such request shall be on a form supplied by the building official and shall contain all information the building official deems necessary. The request for inspection shall be made before the mobile home is occupied.

Section 50. That Section 47-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-3. Application; expiration; fees.

All applications for horse and carriage livery service licenses shall be filed with the city clerk upon forms provided by the clerk and shall be accompanied by all license and registration fees. The fees shall be refunded to the applicant if the license is denied. Each application shall include the name and business address of the applicant; applicant's experience in the horse and carriage livery business; the number and description of carriages and horses to be used; the name, address and experience of any driver employed or expected to be employed in the operation; and any further information the clerk may require. Licenses shall expire December 31 of each year. The annual license fee shall be set in accordance with Section 31-6(a) of this Code. In addition, there shall be a registration fee per carriage and per horse used in the operation, which shall be set in accordance with Section 31-6(a) of this Code. Additional carriages and horses may be registered during the license year. No fees shall be prorated.

Section 51. That Section 47-14 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-14. Licensing procedure.

(a) An application for a recreational and sightseeing ride license shall be filed with the city clerk upon forms provided by the city. Such application shall include the following information:

(1) The name and business address of the applicant and garage location for all vehicles;

(2) The experience of the applicant in the transportation of passengers for hire;

(3) The description of each vehicle to be used;

(4) Such further information as the police department may reasonably require;

(5) The name, address and date of birth of each driver employed or expected to be employed by applicant;

(b) Before a recreational and sightseeing ride license is issued to any person by the city clerk, the application shall first be submitted to the police department for investigation, then to the administrative assistant of the city for his approval or denial. The administrative assistant shall not deny a license except

for good cause. In determining whether good cause exists, the administrative assistant may consider, without limitation, the public need for such service, the experience and qualifications of the applicant and the drivers and the investigative report of the police department. If the application is denied by the administrative assistant, the applicant may, within ten days, appeal such denial to the city council;

(c) The annual fee for each recreational and sightseeing ride license shall be set in accordance with Section 31-6(a) of this Code, plus an additional fee for each vehicle used shall be set in accordance with Section 31-6(a) of this Code. Any license may be issued for a period of not less than three months on a pro rata basis. Licenses are not transferable;

(d) All licenses shall expire on December 31 in each year;

(e) No license shall be issued until the applicant has submitted insurance covering all vehicles used and meeting the requirements of Section 47-18 of this Chapter.

Section 52. That Section 47-15 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-15. Vehicle inspections.

(a) No vehicle shall be used for recreational or sightseeing rides unless it has first been inspected as provided in Section 47-20(a) of this Chapter. Vehicles shall be subject to periodic inspection as provided for in Section 47-20(b) of this Chapter;

(b) Before putting any different or additional vehicles into service during a license year, the licensee shall submit a complete description of the vehicle to the city clerk, pay a fee, which shall be set in accordance with Section 31-6(a) of this Code, to the clerk and have the vehicle inspected in accordance with Section 47-20 of this Chapter.

Section 53. That Section 47-17.6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-17.6. Same--Fees; expiration dates.

The annual fees for each taxicab license and for each taxicab vehicle license shall be set in accordance with Section 31-6(a) of this Code. Any taxicab license may be issued for a period of not less than three months on a pro rata basis.

All taxicab and taxicab vehicle licenses shall expire on December 31 in each year.

Section 54. That Section 47-41 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-41. Same--Fee; application; expiration date.

The annual fee for a license required by this Article shall be set in accordance with Section 31-6(a) of this Code. Each license shall expire on April 30.

Section 55. That Section 50-19 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-19. Penalties.

Any person violating any of the provisions of this Chapter or failing to comply therewith or building or altering a building in violation of any detailed statement or plan submitted and approved thereunder shall be deemed guilty of

a misdemeanor and shall be fined as provided in Section 1-7 of this Code. The owner of any building or premise or part thereof, where anything in violation of this Chapter shall be placed or shall exist, and any architect, builder, contractor, agent or other person employed therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense. Each day's violation existing in excess of 30 days after notification shall constitute a separate offense.

Section 56. That Section 50-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-33. Application fee.

Before any action is taken either by the city planning commission or the city council, the applicant, except the state or any of its political subdivisions and except the federal government, shall pay to the city clerk a filing fee, which shall be set in accordance with Section 31-6(a) of this Code, for all special use permits other than low density planned developments and community unit plans. In the case of low density planned developments and community unit plans, such fees for initial permits and plan alteration reviews shall be set in accordance with Section 31-6(a) of this Code. The purpose of such fees is to help defray the cost of reviewing and hearing such applications. Any fee paid to the city clerk shall be refunded by the city clerk if the applicant for the permit withdraws his permit application prior to consideration of such application by the planning commission.

Section 57. That Section 50-40 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-40. Application; fee.

Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. Such certificate shall be issued within three days after a written request for the same has been made to the building inspector or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Chapter.

Written application for a certificate of occupancy for the use of vacant land, for a change in the use of land or of a building or for a change in a nonconforming use, as provided in this Chapter, shall be made to the building inspector. If the proposed use is in conformity with the provisions of this Chapter, the certificate of occupancy therefor shall be issued within three days after the application for same has been made. The fee for such certificate of occupancy or each copy thereof shall be set in accordance with Section 31-6(a) of this Code, to be paid to the building inspector.

Section 58. That Section 50-50 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-50. Filing fees.

A fee, set in accordance with Section 31-6(a) of this Code, shall be paid to the building official at the time the notice of appeal to the board is filed, which fee shall be retained by the city to help defray the cost of such appeal; provided, that such fee shall be refunded by the building official to the appellant if the appeal is withdrawn prior to consideration by the board.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 59. That Section 50-120 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-120. Fees.

Before any action is taken upon any application as provided by this Article, either by the planning commission or the city council, the applicant shall pay through the city clerk into the treasury of the city fees, which shall be set in accordance with Section 31-6(a) of this Code, for the following:

- (a) A filing fee to help defray the cost of reviewing and hearing such application;
- (b) A fee for revisions to C-3 shopping center district approved plans;
- (c) An additional fee to pay all costs for publications, map changes and public notices.

Section 60. That Section 50-190 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-190. Penalties.

Every person who shall construct, establish, substantially change, alter or repair any existing structure of use, or permit the growth of any tree without having complied with the provision of this ordinance or who, having been granted a permit or variance under the provisions of this ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished as provided in Section 1-7 of this Code, or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The airport zoning administrator may enforce all provisions of this ordinance through such proceedings for injustice relief and other relief as may be proper under the laws of Minnesota Statute §360.073 and other applicable law.

Section 61. That Section 51-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 51-4. Applications.

(a) All applications for use permits, special use permits or variances under this Chapter shall be made to the city building official on forms provided by the building official. Any application, except those made by the state of Minnesota or any of its political subdivisions, shall be accompanied by a non-refundable fee, set in accordance with Section 31-6(a) of this Code;

(b) Before accepting any application for any permit, special use permit or variance required by this Chapter, the building official shall require the applicant to submit in duplicate site plans including landscape plans as defined in Chapter 50 of the City Code. In addition, the building official or, in the case of variances, or special use permits the planning commission may require such applicant to submit any other data they deem pertinent. Such data may include, but shall not be limited to, plat maps, sketch maps, surveys and engineering certifications. All applications for work in flood plains and shorelands shall include site elevations and lowest floor elevations for all new structures and additions to existing structures. The building official shall maintain a record of the elevations of such structures and additions;

(c) The applicant shall be required to submit certification by a registered professional engineer, registered architect, registered land surveyor or

other qualified individual, that the finished fill and building elevations were accomplished in compliance with the provisions of this Chapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect;

(d) Certificate of occupancy in floodplains. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of occupancy has been issued by the building official stating that the use of the building or land conforms to the requirements of this Chapter. Where a nonconforming use or structure is extended or substantially altered, the certificate of occupancy shall specifically state the manner in which the nonconforming structure or use differs from the provisions of this Chapter.

Section 62. That Section 4-81 of the Duluth City Code, 1959, as amended, is repealed in its entirety.

Section 63. That Section 33-238 of the Duluth City Code, 1959, as amended, is repealed in its entirety.

Section 64. That this ordinance shall take effect and be in force 30 days from and after its publication. (Effective date: September 11, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 28, 2003
Approved July 28, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9612

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26, 32 AND 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO I-P, INDUSTRIAL PARK, PROPERTY LOCATED WEST OF RICE LAKE ROAD BETWEEN AIRPORT ROAD AND KRUGER ROAD (SEAWAY PORT AUTHORITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That Plate Nos. 26, 32 and 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:

(MAPS)

(See pages at end of meeting)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 11, 2003)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Ness, Stauber, Stewart, Stover and President Stenberg -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 28, 2003
Approved July 28, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9613

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 22 AND 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, R-2, TWO FAMILY RESIDENTIAL, AND R-3, APARTMENT RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTIES LOCATED ALONG BOTH SIDES OF MAPLE GROVE ROAD BETWEEN COTTONWOOD AVENUE AND MILLER TRUNK HIGHWAY (RICHARDS, ET AL.).

The city of Duluth does ordain:

Section 1. That Plate Nos. 22 and 27 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows (Reference File No. 03068):

(MAPS)

(See pages at end of meeting)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 11, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Ness, Stauber, Stewart, Stover and President Stenberg -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 28, 2003
Approved July 28, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9614

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-4, APARTMENT RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTIES LOCATED SOUTH OF VILLAGE MALL WEST OF DECKER ROAD (WILLIAM ANDERSON).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 1. That Plate No. 22 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows (Reference File No. 03069):

(MAP)

(See page at end of meeting)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 11, 2003)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 28, 2003

Approved July 28, 2003

GARY L. DOTY, Mayor

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ORDINANCE NO. 9615

BY PRESIDENT STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ST. MARK AME CHURCH TO CONSTRUCT AND MAINTAIN AN ENTRY STAIR IN THE RIGHT-OF-WAY OF FIFTH AVENUE EAST AND EAST SIXTH STREET.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to St. Mark AME Church, their successors and interests, referred to herein as the permittee, to occupy, erect and maintain an entry stair in the southerly six feet of that part of the East Sixth Street right-of-way and the westerly one foot of that part of North Fifth Avenue East adjoining Lot 84, Duluth Proper First Division, East Sixth Street as the same was dedicated to the use of the public and on file and of record in the office of the registrar of deeds in and for the St. Louis County, Minnesota.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittee shall file with the city clerk: a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$1,000,000 for bodily injury or property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on or under public street, sidewalks, boulevard areas or rights-of-way. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittee for

any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittee six months written notice by resolution of the council of the city of Duluth to the last known address of the permittee shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittee shall remove said stairway and all fixtures and appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittee, and without right on the part of the permittee to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby 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 permittee, and agree that such stairway 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 Sixth Avenue East and North Fifth Avenue East and agree that the city of Duluth shall not be liable for damage caused to such stairway 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 stairway in said Sixth Avenue East and North Fifth Avenue East rights-of-way.

Section 6. The permittee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, or remove from the street, alley or public place, any property of the grantee when required by the city engineer by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks or the installation or repair of any other type of structures or improvements by governmental agencies, when action in a governmental or proprietary capacity;

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 11, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 28, 2003
Approved July 28, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9616

BY COUNCILOR NESS:

AN ORDINANCE ADDING PAINTING TO DEFINITION OF PROJECT COVERED BY CITY WAGES AND HOURS REQUIREMENTS; AMENDING SECTION 2-25 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 1. That Section 2-25 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-25. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them in this Section:

Basic hourly rate. The hourly wage paid to any employee.

Prevailing wage rate. The basic hourly rate plus fringe benefits prevailing in the city of Duluth as determined by the United States secretary of labor pursuant to the Davis-Bacon Act, as amended; provided that whenever employer and employee organizations employing and representing a majority of a class of workers in a particular industry within the city jointly certify that the prevailing basic hourly rate plus fringe benefits of such workers differs from the amount determined by the secretary of labor, the certified rate shall be considered to be the prevailing wage rate for such class of workers in that industry.

Fringe benefits. Employer contribution for health and welfare benefits, vacation benefits, pension benefits, and all other economic benefits other than the basic hourly rate.

Apprentice-trainee. An employee who is working under a training program which is approved either by the U.S. department of labor bureau of apprenticeship and training or the Minnesota director of voluntary apprenticeship.

Project. Erection, construction, demolition, painting, remodeling or repairing of any public building, highway, sidewalk, bridge, water or gas line, sewer and sewage treatment facility or other public work performed under contract with the city.

Laborer, mechanic. All persons utilized, employed or working on a project who are doing work usually done by mechanics and laborers, including proprietors, partners, and members of cooperatives.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: September 11, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 28, 2003
Approved July 28, 2003
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9617

BY COUNCILOR STAUBER:

AN ORDINANCE PERTAINING TO UNLAWFUL FRONT YARD PARKING; INCORPORATING THE FRONT YARD PARKING PROHIBITION IN THE CITY'S TRAFFIC CODE; AMENDING SECTION 33-82 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 1. That Section 33-82 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-82. Prohibitions generally.

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (8) Within seven feet upon the approach to the entrance of any alley or private driveway;
- (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance when properly signposted;
- (11) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street (double parking);
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel when such parking or stopping is prohibited by official signs;
- (14) At any place where official signs prohibit stopping;
- (15) Between the curb line and property line or between the edge of the roadway and property line;
- (16) On any area designated as a fire lane;
- (17) Except as otherwise authorized, within a front yard area, as such area is defined by Section 50-1.77 of this Code:

(b) No person shall move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful;

(c) No person shall, for the purpose of camping, lodging, or residing therein, leave or park a vehicle or motor vehicle on or within the limits of any highway or on any highway right-of-way, except where signs are erected designating the place as a camp site;

(d) No person shall stop or park a vehicle on a street or highway when directed or ordered to proceed by any peace officer invested by law with authority to direct, control or regulate traffic.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 14, 2003)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Nays: Councilors Atkins and Stover -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 28, 2003
Approved July 28, 2003
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 11, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilors Atkins and Bergson -- 2

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0811-01 Gary Holt, et al. (three signatures), submitting petition to vacate that portion of Fourth Street which fronts Fond du Lac Fourth Street, Lots 22, 24 and 26. -- Assessor

03-0811-02 Public Financial Management, Inc., submitting presale analysis regarding the issuance of \$5,035,000 G.O. street improvement bonds, Series 2003D, and \$2,250,000 G.O. steam utility revenue bonds, Series 2003E. -- Received

03-0811-18 Roger Wedin submitting communication regarding the proposed regulatory controls for designated area developments (03-041-O). -- Received

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REPORTS OF OFFICERS

03-0811-03 Building official submitting appeals of the board of zoning appeals' decisions to:

(a) Deny variances to:

(1) Reduce the minimum frontage requirement from 50 to 35 feet and the minimum lot size from 5,000 to 4,375 square feet for the construction of a single family dwelling on property located at 327 North 58th Avenue West (Northern Communities Land Trust);

(2) Allow oversized off premise signage in a scenic area to be increased from 240 to 360 square feet on property located at 2120 London Road (Burger King Restaurant- Patronas);

(b) Grant a variance to allow a parcel of property that is under two acres to be developed for a single family dwelling at 1405 Walnut Street (Lindberg). -- Committee 2 (physical development)

03-0811-04 Clerk submitting report regarding the matter of the on sale intoxicating liquor license of Wizner Company, d/b/a Norman's. -- Received

03-0811-05 Parks and recreation department director submitting Lake Superior zoological society minutes of May 21, 2003, meeting. -- Received

03-0811-06 Purchasing agent submitting emergency order awarded to Anixter, Inc., in the amount of \$10,300.84 to purchase fiber and associated termination equipment to be installed in City Hall to upgrade the data infrastructure connections. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0811-07 Civil service board minutes of June 18, 2003, meeting. -- Received

03-0811-08 Duluth/North Shore sanitary district board minutes of July 1, 2003, meeting. -- Received

03-0811-09 Duluth state convention center administrative board minutes of June 30, 2003, meeting. - Received

03-0811-10 Seaway Port authority of Duluth submitting tax increment financing district report for Rice's Point. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis suggested that land owned by the city be used for solar power energy and sold as revenue for the city; Duluth should sell solar energy equipment to countries that are experiencing drought as they have a lot of sun and we should advertise more on the events happening in Duluth.

- - -

Harry Munger voiced concern that conditions are not being met that are set out in the zoning code when permits are issued and therefore the process is not being followed.

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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 officers are hereby authorized to execute an initial transfer of \$300,000 from the Home Energy Loan Fund 0555 to the Energy Management Fund 0210 and \$150,000 shall be transferred from Fund 0555 to Fund 0520. Beginning in 2004, an automatic transfer of up to \$75,000 from Fund 0555 to Fund 0210 will occur annually on July 1 for the next 20 years, as well as an additional automatic transfer each July 1 of \$150,000 from Fund 0555 to Fund 0520 for the next 19 years to repay the initial loan made by the gas utility. Any proposed changes to this authorization will require council approval.

Resolution 03-0588 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 9, 2003, municipal and school board primary election and the November 4, 2003, municipal and school board general election, as listed in Public Document No. 03-0811-11.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$7 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.36 per mile; payable from General Fund 015-1512-5441.

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

Resolution 03-0580 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that pursuant to Minnesota Statues 204B.16, the following locations are designated as polling places for the September 9, 2003, municipal and school board

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

primary election and November 5, 2002, for the municipal and school board general election:

POLLING PLACE LIST

	POLLING PLACE	ADDRESS
1.	St. Michael's Catholic Church (lower level)	4901 East Superior Street
2.	Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
3.	Lutheran Church of the Good Shepherd (lower level)	1325 North 45th Avenue East
4.	Faith Lutheran Church (lower level)	1814 North 51st Avenue East
5.	Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6.	Woodland Community Club	3211 Allendale Avenue
7.	Glen Avon Presbyterian Church	2105 Woodland Avenue
8.	Duluth Congregational Church	3833 East Superior Street
9.	Pilgrim Congregational Church	2310 East Fourth Street
10.	U.M.D. Kirby Student Center	1120 Kirby Drive
11.	Kenwood Lutheran Church	324 West Cleveland Street
12.	Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
13.	Mt. Olive Lutheran Church (lower level)	2012 East Superior Street
14.	First Lutheran Church (London Road entrance)	1100 East Superior Street
15.	Trinity Lutheran Church	1108 East Eight Street
16.	Peace Church (Tenth Avenue entrance)	1015 East 11th Street
17.	First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
18.	Central Hillside Community Center	12 East Fourth Street
19.	Rainbow Senior Center	211 North Third Avenue East
20.	Lafayette Square (upper level)	3026 Minnesota Avenue
21.	Duluth Public Library (Green Room)	520 West Superior Street
22.	St. Peter's Catholic Church (lower level)	818 West Third Street
23.	Lincoln Park Senior Center (lower level)	2014 West Third Street
24.	Holy Cross Lutheran Church (lower level)	410 North Arlington Avenue

POLLING PLACE LIST

	POLLING PLACE	ADDRESS
25.	Duluth Heights Community Club	33 West Mulberry Street
26.	Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
27.	St. Lawrence Church	2410 Morris Thomas Road
28.	Holy Family Catholic Church	2430 West Third Street
29.	Harrison Community Club	3002 West Third Street
30.	City Center West	5830 Grand Avenue
31.	Faith Haven (recreation room)	4901 Grand Avenue
32.	Elim Lutheran Church (social hall)	6101 Cody Street
33.	Bayview Heights School (gym)	8702 Vinland Street
34.	Bethany Baptist Church (social hall)	6700 Grand Avenue
35.	Goodfellowship Community Center (warming area)	1242-88th Avenue West
36.	Stowe School (gym)	715-101st Avenue West

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, that an absentee ballot board shall be in effect and utilized as allowed for under Minnesota Statutes, for the September 9, 2003, and November 4, 2003, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 9, 2003, and November 4, 2003, 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 03-0581 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts and conclusions and adopts the recommendations set forth in Public Document No. 03-0811-04 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Wizner Company (Norman's Bar), 113 West First Street.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation, and/or civil penalty is as follows: that the Duluth City Council fines Wizner Company the sum of \$1,000, but stay the imposition of the fine for one year on the condition that Wizner Company has no administrative licensing problems that brings it before the commission during the year. If Wizner Company has no such problems during the year, the fine does not have to be paid.

Resolution 03-0584 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with SAS Associates, for the sum of not to exceed \$13,280, from Community Development Fund 262, Dept. 624, Obj. 6539, for providing certain consulting services to the city of Duluth in connection with Harrison Recreation Center site improvements (Phase I), 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. 03-0811-13.

Resolution 03-0571 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of sidewalk repairs in Morgan Park and Lincoln Park for the engineering division in accordance with specifications on its low specification bid of \$48,120, terms net 30, FOB job sites, \$6,736.80 payable out of Community Development Fund 0262, Dept./Agency 626, Object 6611 and \$41,383.20 payable out of Community Development Fund 0262, Dept./Agency 626, Object 6613.

Resolution 03-0578 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 63rd Avenue West between Petre and Elinor streets and the alley between Petre and Elinor streets between 62nd and 63rd avenues West (Reference File No. 03086) legally described as 63rd Avenue West, adjoining Blocks 2 and 3, Dodge's Addition and Blocks 54 and 55, Kimberly and Stryker's Addition, and the alley in Block 55, Kimberly and Stryker's Addition; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its July 23, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 63rd Avenue West and the alley described above and as more particularly described on Public Document No. 03-0811-14.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

RESOLVED FURTHER, that the city retain 20 feet each side of the centerline of 63rd Avenue West between Petre and Elinor streets as a utility easement.

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

Resolution 03-0567 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

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

File No.	Applicant	Parcel #'s Legal Description	Location
3093	Lynn Williams	1130-00220 southerly 28x80 feet of Lot 10 including five feet of vacated avenue adjacent, Block 70, Myers Rearrangement of Block 70 of Duluth Proper Second Division	on Goat Hill north of Piedmont Avenue between West Second and First Streets in Lincoln Park
same	same	1130-00260 southerly 30 feet of Lot 14, Block 70, Myers Rearrangement of Block 70 of Duluth Proper Second Division	on Goat Hill north of Piedmont Avenue between West Second and First Streets in Lincoln Park south of Water Street near 25th Avenue East
3094	Richard A. Skoglund	0610-01420 Lot 6, Block 9, Coffin Warner and Jones Addition	between Springvale Road and the Piedmont community recreation area south of North 23rd Street, Piedmont Heights

Resolution 03-0568 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, Duluth economic development authority (DEDA) Resolution 03D-54 authorizing acquisition in the amount of \$101,650, payable from Fund 0865, District No. 7, of certain property from the state of Minnesota and the sale in the amount of \$25,000 of said properties and other property to Billman Construction, Inc., and the city of Duluth for the Habitat for Humanity-Duluth/Billman Construction Duluth Heights Phase II development, approved by the DEDA board of commissioners at its meeting

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

of June 28, 2003, a copy of which is on file in the office of the city clerk as Public Document No. 03-0811-15, is hereby approved.

Resolution 03-0570 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 59.75 percent of the abutting property to construct a permanent alley in Ninth Street Alley between 13th and 14th avenues East; and

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

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

Resolution 03-0543 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to acquire two gas pipeline easements from various parties described in Public Document No. 03-0811-16(a) in Douglas County, Wisconsin, for a total consideration of \$8,500, payable from Fund 0521, Agency 500, Object 5532. A table showing the landowners, the purchase price and tract number (Exhibit A) is filed as Public Document No. 03-0811-16(b). A map (Exhibit B) filed as Public Document No. 03-0811-16(c), shows the pipeline route from Gary-New Duluth to its connection point with the Great Lakes Gas Transmission Company pipeline south of Oliver, Wisconsin, near the Irondale Road.

Resolution 03-0572 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the United States department of the army, a copy of which agreement is on file in the office of the city clerk as Public Document No. 03-0811-17, authorizing the city to accept a grant in the estimated amount of \$350,000 for the Morgan Park wastewater collection system improvement project, which funds shall be deposited into Fund 0530, Agency 500, Org. 1905, Obj. 5533.

Resolution 03-0573 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the design of a chiller plant; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the city desires to hire a consulting engineer/architect to provide the engineering services required for design, specifications and construction management phases of a chiller plant and distribution piping at 414 West First Street building; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, is estimated not to exceed \$200,000, will be payable from the Steam District #1 Fund 0540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 03-0574 was unanimously adopted.

Approved August 11, 2003

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 the construction of Third Street Alley between 18th Avenue East and 19th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$27,207.85, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5360, Object 5530.

Resolution 03-0575 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for the construction of 57th Avenue West Alley between 57th Avenue West and Cody Street for the engineering division in accordance with specifications on its low specification bid of \$33,459, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5361, Object 5530.

Resolution 03-0576 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Morton Salt Division, c/o Hallett Dock Company, be and hereby is awarded a contract for furnishing road salt for year 2003/2004 winter season for the maintenance operations division in accordance with specifications on its low specification bid of \$138,450, terms net, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 03-0577 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Groebner and Associates, Inc., be and hereby is awarded a contract for furnishing and delivering 1,000 gas meters for the utility operations division in accordance

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

with specifications on its low specification bid of \$52,520.48, terms net 30, FOB destination, payable out of Gas Fund 0520, Dept./Agency 500, Organization 2410, Object 5227.

Resolution 03-0579 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for rehabilitation of Miller Creek walls and bed from Third Street to Seventh Street for the engineering division in accordance with specifications on its low specification bid of \$80,450, terms net 30, FOB job sites, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5535.

Resolution 03-0582 was unanimously adopted.

Approved August 11, 2003

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 Basswood Avenue from Walnut Avenue to 676 feet north for the engineering division in accordance with specifications on its low specification bid of \$147,791, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Organization 5376, Object 5530; 100 percent assessable for street and utilities project.

Resolution 03-0583 was unanimously adopted.

Approved August 11, 2003

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 Matterhorn Circle between Matterhorn Drive southerly 650 feet to cul-de-sac for the engineering division in accordance with specifications on its low specification bid of \$269,881.33, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5383, Object 5530; 100 percent assessable street and utility project.

Resolution 03-0585 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for construction of Crystal Drive between Swan Lake Road to 1,645 feet easterly to cul-de-sac for the engineering division in accordance with specifications on its low specification bid of \$526,861.55, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5382, Object 5530; 100 percent assessable street and utility project.

Resolution 03-0586 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

WHEREAS, the proper city officers are hereby authorized to execute an agreement between the city of Duluth and the Duluth Area Family Services Collaborative, filed as Public Document No. 03-0811-12, to receive a time study funding grant in the amount of \$10,800. The grant shall be used to pay for part-time recreation staff and supplies at Endion recreation community center for the period of July 1, 2003, through December 31, 2003. Such funds shall be deposited into General Fund 0100-400-1812-4259.

Resolution 03-0569 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR GILBERT:

RESOLVED, that the city council of the city of Duluth hereby supports the neighborhood district participation agreement concept.

Resolution 03-0587 was unanimously adopted.

Approved August 11, 2003

GARY L. DOTY, Mayor

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Resolution 03-0597, by councilors Ness and Stewart, recognizing the GLBT Pride Festival weekend, was introduced for discussion.

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

Angie Nichols, Deborah Petersen-Perlman and Luther Christensen thanked councilors for bringing forward a resolution of support for the GLBT Pride Festival weekend, which recognizes the history and struggle of the gay lifestyle; stating that the city needs to recognize the valuable contributions of the GLBT community, should welcome all people and should not judge people on their sexual orientations.

Councilor Ness stated that Duluth needs to be tolerant of diversity because diversity is needed for prosperity.

Resolution 03-0597 was adopted upon the following vote:

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

Nays: Councilors Stauber and President Stenberg -- 2

Absent: Councilors Atkins and Bergson -- 2

[Editor's note: Resolution 03-0597 was vetoed by Mayor Doty on August 25, 2003 (Public Document No. 03-0825-06).]

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY COUNCILOR HOGG

03-041 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-37 TO PROVIDE FOR REGULATORY CONTROLS FOR DESIGNATED AREA DEVELOPMENTS.

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

Councilor Hogg moved to amend the ordinance by adding the following language to the end of Code Section 50-37.2:

"(t) Commercial use. Commercial uses in a designated area development shall be of a size, type and scale to primarily serve the people who utilize the housing and education uses in the development and the people who live in the neighborhood immediately adjacent to it. The planning commission shall consider whether the application for a designated area development special use permit, or amendments thereto, complies with the above standard and make written findings thereon in its report," which motion was seconded and unanimously carried.

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

Jerry Kimball stated the language in the amendment does not specify limits and suggested changes to the ordinance.

Councilor Ness moved to send the amended ordinance to the planning commission, along with the amendment submitted by Mr. Kimball, which motion was seconded and unanimously carried.

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The following entitled ordinance was read for the first time:

BY COUNCILOR STAUBER

03-043 - AN ORDINANCE AMENDING CHAPTER 40 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY AMENDING SECTION 40-11 TO EXPAND THE TIME PERIOD SUBSEQUENT TO THE OCCURRENCE OF A NUISANCE EVENT DURING WHICH ADDITIONAL NUISANCE EVENTS SHALL BE DEEMED A SPECIAL SECURITY ASSIGNMENT.

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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

Special meeting of the Duluth City Council held on Thursday, August, 21, 2003, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Atkins -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0821-01 Public Financial Management, Inc., submitting: (a) Official statement; (b) Bid results regarding sale of \$5,035,000 G.O. street improvement bonds, Series 2003D and \$2,250,000 G.O. steam utility revenue bonds, Series 2003E. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 03-0611, providing for the issuance, sale and delivery of \$2,250,000 general obligation steam utility revenue bonds, Series 2003E; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 03-0612, providing for the issuance, sale and delivery of \$5,035,000 general obligation street improvement bonds, Series 2003D, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

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

Katherine Kardell, representing Public Financial Management, Inc., financial consultants, reviewed the bid results.

Resolutions 03-0611 and 03-0612 were adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws 1979, Chapter 113, and Minnesota Statutes, Section 475, as amended, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal steam utility (including bonds representing part of the interest cost of the issue, within the limitations specified in 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. 9607 adopted on July 14, 2003, authorized the issuance and sale of general obligation bonds of the city to finance improvements to the city's municipal steam utility (the project), in an amount not to exceed \$2,250,000.

1.03 Public Financial Management, Inc., financial consultant to the city, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc., to be prospective bidders on the general obligation steam utility revenue bonds, Series 2003E (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

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clerk and Public Financial Management, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.04 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of USB Financial Services, Inc., of Chicago, Illinois (the purchaser), to purchase the bonds at a cash price of \$2,216,301.80, plus accrued interest on the total principal amount from September 1, 2003, 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 A. The bonds to be issued hereunder shall be dated September 1, 2003, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2005	\$45,000	2.250%	2015	\$235,000	4.000%
2006	90,000	2.250%	2016	125,000	4.125%
2007	90,000	2.250%	2017	130,000	4.300%
2008	90,000	2.500%	2018	140,000	4.400%
2009	95,000	3.000%	2019	145,000	4.500%
2010	100,000	3.200%	2020	150,000	4.600%
2011	100,000	3.500%	2021	160,000	4.700%
2012	105,000	3.625%	2022	165,000	4.750%
2013	110,000	3.800%	2023	175,000	4.750%

B. The bonds maturing on February 1 in the year 2015 shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01B at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The bond registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

- (1) For bonds maturing on February 1, 2015 (the 2015 term bonds):

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Year	Principal Amount
2014	\$ 115,000

The remaining \$120,000 stated principal amount of the 2015 term bonds shall be paid at maturity on February 1, 2015.

If less than such amount of the term bonds is outstanding on such payment date, the city shall pay the remaining balance of the term bonds then outstanding. The bond registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the term bonds the amounts specified above and the term bond selected by the bond registrar shall become due and payable on such date.

2.02 A. The bonds maturing in the years 2005 through 2012 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 2013 and in subsequent years shall each be subject to redemption and prepayment at the option of the city on February 1, 2012, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the city and by lot as to the bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

B. In the event any of the bonds are called for redemption, notice thereof identifying the bonds to be redeemed will be given by the bond registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books kept by the bond registrar; provided however, that so long as the bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (DTC), notice of redemption shall be given in accordance with the terms of the representation letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the bonds of a maturity are called for redemption while the bonds are registered in the name of Cede & Co., the city or the bond registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the bonds of a maturity are called for redemption and the bonds are not registered in the name of Cede & Co., the bond registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an interest payment date), commencing August 1, 2004. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar designated below shall make all interest payments with respect to the bonds by check or draft mailed to the registered owners of the bonds shown on the bond registration records maintained by the bond registrar at the close of business on the 15th day (whether or not a

business day) of the month next preceding the interest payment date at such owners' addresses shown on such bond registration records.

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

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

2.05 The city hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the bonds (such bank or its successor is herein referred to as the bond registrar). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-0821-02. No bond shall be valid or obligatory for any purpose until the bond registrar's authentication certificate on such bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication certificate on each bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 A. In order to make the bonds eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

B. All of the bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city on each interest payment date to the account of Cede & Co. on each interest payment date at the address indicated in or pursuant to the representation letter.

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

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

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this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new bonds of the like aggregate principal amount, as requested by the transferor.

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

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION STEAM UTILITY REVENUE BOND, SERIES 2003E

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	September 1, 2003	

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, 2003, 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,

2004. 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 \$2,250,000, 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 August 21, 2003 (the "Resolution"), and is issued for the purpose of providing funds to pay for improvements to the municipal steam utility 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 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 maturing in the year 2015 shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds of this series maturing in the years 2005 through 2012 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2013 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2012, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository

Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

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

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

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

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IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date	Registered Owner	Signature of Bond Registrar
9/___/03	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by

an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. 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 \$2,138,033.84 from the proceeds of the bonds, 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 \$78,216.16 as capitalized interest, plus \$51.60 unused discount, 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 percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the city's liability on the bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the city, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the bonds, without limitation as to rate or amount.

Section 4. Tax covenants; miscellaneous.

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

4.02 A. No portion of the proceeds of the bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the bonds or \$100,000. To this effect, any proceeds of the bonds and any sums from time to time held in the debt service fund (or any other city account which will be used to pay principal and interest to become due on the bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

C. The city hereby covenants not to use the proceeds of the bonds, or to cause or permit them to be used, in such a manner as to cause the bonds to be "private

activity bonds” within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the bonds, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the bonds will be allocated to expenditures for the governmental purpose of the bonds within six months of the date of issue of the bonds; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the bonds, and that 100 percent of the available proceeds of the bonds will be allocated within 30 months from the date of issue of the bonds.

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

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

Section 6. Certificate of proceedings.

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

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

6.03 The officers of the city are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 03-0611 was unanimously adopted.

Approved August 21, 2003

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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 2003 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:

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
02-0220	4/8/02	\$1,031,036	Congdon Park Denfeld Hunters Park - East Lakeside - Lower Central Ramsey - South Woodland - Upper Far West
02-0481	7/22/02	\$242,779	UMD/Lower Chester III Granitoid 4

C. The city council hereby determines to finance \$5,035,000, through the issuance of general obligation improvement bonds, for payment of costs of the 2003 Street Improvement Program.

1.02 Pursuant to the authority herein recited, the city authorizes and directs the issuance and sale of \$5,035,000 general obligation street improvement bonds, Series 2003D, to be dated September 1, 2003, as the date of original issue (the bonds) for financing the 2003 street improvement program.

1.03 Public Financial Management, Inc., financial consultant to the city, has given notification to at least five firms determined by Public Financial Management, Inc., to be prospective bidders on the bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Public Financial Management, Inc., taken with regard to the sale of the bonds are hereby ratified and approved.

1.04 Pursuant to such solicitation for bids for the sale of the bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of USB Financial Services, Inc., of Chicago, Illinois (the purchaser), to purchase the bonds at a cash price of \$4,988,480.70, plus accrued interest on the total principal amount from September 1, 2003, to the date of delivery of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

bonds and upon condition that the bonds mature and bear interest at the times and annual rates set forth in Section 2. The city, after due consideration, finds such offer reasonable and proper and the offer of the purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the city a contract for the sale of the bonds in accordance with the purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of bonds.

2.01 The bonds to be issued hereunder shall be dated September 1, 2003, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2005	\$295,000	2.000%
2006	265,000	2.000%
2007	270,000	2.250%
2008	280,000	2.500%
2009	290,000	3.000%
2010	295,000	3.150%
2011	310,000	3.500%
2012	320,000	4.000%
2013	340,000	4.000%
2014	350,000	4.000%
2015	365,000	4.000%
2016	385,000	4.125%
2017	405,000	4.250%
2018	420,000	4.375%
2019	445,000	4.500%

2.02 A. The bonds maturing in the years 2005 through 2012 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 2013 and in subsequent years shall each be subject to redemption and prepayment at the option of the city on February 1, 2012, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the city and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

B. In the event any of the bonds are called for redemption, notice thereof identifying the bonds to be redeemed will be given by the bond registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books kept by the Bond Registrar;

provided however, that so long as the bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (DTC), notice of redemption shall be given in accordance with the terms of the representation letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the bonds of a maturity are called for redemption while the bonds are registered in the name of Cede & Co., the city or the bond registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the bonds of a maturity are called for redemption and the bonds are not registered in the name of Cede & Co., the bond registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an interest payment date), commencing August 1, 2004. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The bond registrar designated below shall make all interest payments with respect to the bonds by check or draft mailed to the registered owners of the bonds shown on the bond registration records maintained by the bond registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest payment date at such owners' addresses shown on such bond registration records.

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

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

2.05 The city hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the bonds (such bank or its successor is herein referred to as the bond registrar). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-0821-03. No bond shall be valid or obligatory for any purpose until the bond registrar's authentication certificate on such bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the bond registrar. Authentication certificates on different bonds

need not be signed by the same representative. The manual signature of one officer of the city or the executed authentication certificate on each bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 A. In order to make the bonds eligible for the services provided by The Depository Trust Company, New York, New York (DTC), the city has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the city and DTC (the representation letter).

B. All of the bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the bond registrar's receipt of funds from the city on each interest payment date to the account of Cede & Co. on each interest payment date at the address indicated in or pursuant to the representation letter.

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

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

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

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION STREET IMPROVEMENT BOND, SERIES 2003D

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	September 1, 2003	

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, 2003, 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, 2004. 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 \$5,035,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted by the governing body of the City on August 21, 2003 (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 2005 through 2012 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2013 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2012, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of 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

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Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
9/__/03	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13- 2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, accounts and covenants.

3.01 Upon payment of the purchase price of the bonds, the city shall credit the proceeds from the sale of the bonds in the amount of \$4,988,480.70 into the 2003 street improvement account (the 2003 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 2003 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 2003 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 2003 street improvement program in an amount which, together with the proceeds of federal grants to the city for such improvement projects, is not less than 20 percent of the costs of such projects financed by the proceeds of the Bonds. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.03 A separate account within the special assessment debt service fund maintained by the city is hereby created and is designated the 2003 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

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same from any other fund of the city and said fund shall be reimbursed out of said account. Into the 2003 Improvement bond account shall be paid from the proceeds of the bonds capitalized interest in the amount of \$-0-, plus the amount of accrued interest on the bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied pursuant to Section 3.04 hereof.

3.04 A. The full faith and credit and taxing power of the city are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the city which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the city for the years and in the amounts as follows:

Levy Year	Collection Year	Gross Tax Levy	Estimated Special Assessment Revenue	Net Tax Levy
2003	2004	\$ 576,923	\$ 350,713	\$ 226,210
2004	2005	460,648	83,427	377,221
2005	2006	460,333	82,427	377,906
2006	2007	464,454	86,302	378,152
2007	2008	467,604	84,927	382,677
2008	2009	463,719	83,277	380,442
2009	2010	469,712	86,544	383,168
2010	2011	468,819	84,444	384,375
2011	2012	476,379	87,044	389,335
2012	2013	472,599	84,444	388,155
2013	2014	473,649	86,844	386,805
2014	2015	479,319	89,044	390,275
2015	2016	483,644	90,950	392,694
2016	2017	481,320	87,550	393,770
2017	2018	488,277	94,050	394,227

Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the bonds, will produce at least 5 percent in excess of the amount needed to meet when due the principal and interest on the bonds.

Such tax levies shall be irrevocable as long as any of the bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to said debt service account of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

B. All proceeds of the special assessments from the properties described in Section 1.01 hereof and said taxes are hereby appropriated and shall be paid when collected into the 2003 improvement bond account within the special assessment debt service fund. If the balance in the 2003 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 2003 improvement bond account when the balance therein is sufficient.

3.05 Proceeds of the bonds on deposit in the 2003 street account and 2003 improvement bond account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the bonds when due.

Section 4. Tax covenants; miscellaneous.

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

4.02 A. No portion of the proceeds of the bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the bonds were issued. To this effect, any proceeds of the bonds and any sums from time to time held in such debt service account (or any other city account which will be used to pay principal and interest to become due on the bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the code).

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

4.03 A. Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the bonds, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the bonds will be allocated to expenditures for the governmental purpose of the bonds within six months of the date of issue of the bonds; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on

such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the bonds, and that 100 percent of the available proceeds of the bonds will be allocated within 30 months from the date of issue of the bonds.

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

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

Section 6. Certificate of proceedings.

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

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

6.03 The officers of the city are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 03-0612 was unanimously adopted.

Approved August 21, 2003

GARY L. DOTY, Mayor

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 25, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the city council meeting held on June 23, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0825-01 James and Nancy Holmgren, by Michael W. Lien, attorney, submitting petition to vacate a portion of Fourth Avenue West from Skyline Parkway on Seventh Street to the alley easement. -- Assessor

03-0825-02 Thomas D. Larson, et al. (two signatures), submitting petition to vacate a portion of 20th Street adjacent to Lots 19 and 21. -- Assessor

03-0825-03 Frank A. Messina, et al. (12 signatures), submitting amendment petition to reclassify from S to C-5 property described as the westerly three acres of the N1/2 of NE1/4 of NE1/4 of Section 17, T50N of the Fourth Principal Meridian. -- Assessor

03-0825-04 Northern Communities Land Trust submitting:

(a) Letter withdrawing appeal of the decision of the board of zoning appeals to deny a variance to reduce the minimum frontage requirement from 50 feet to 35 feet and the minimum lot size from 5,000 square feet to 4,375 square feet for the construction of a single family dwelling on property located at 327 North 58th Avenue West. -- Received

(b) Petition (two signatures) to vacate Anson Avenue between Restormel Street and the alley above Restormel Street. -- Assessor

03-0825-05 Jonathan E. Shenett submitting petition to construct a sanitary sewer in Locust Street and reconstruct as a gravel surfaced street. -- Assessor

03-0825-13 Steven Boberg submitting communication regarding the proposed change in hours of sale of alcoholic beverages to 2:00 a.m. (03-044-O). -- Received

03-0825-14 Eric Dings submitting communication regarding the proposed acceptance of nine rules of civility (03-0638R). -- Received

03-0825-15 Paul Guthrie, Pioneer Building owner, by A. Blake MacDonald, attorney, submitting communication regarding renewal of the on sale alcoholic beverage license for Scanlon River Inn, Inc. (Pioneer Bar) at 323 West First Street, Duluth, Minnesota (03-0635R and 03-0636R). -- Received

03-0825-16 Myrna Matheson submitting communication regarding amendment to Chapter 40 of the Duluth City Code to expand the time period subsequent to the occurrence of a nuisance event during which additional nuisance events shall be deemed a special security assignment (03-043-O). -- Received

03-0825-17 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from St. Louis County Historical Society for Classic Car Show and Sock Hop on August 20, 2003. -- Received

03-0825-18 The following submitting communications regarding recognition of the GLBT Pride Festival weekend (03-0597R): (a) Duluth human rights commission; (b) Robert Jansen. -- Received

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REPORTS OF OFFICERS

03-0825-06 Mayor Doty submitting veto of Resolution 03-0597, recognizing the GLBT pride festival weekend. -- Received

03-0825-07 Assessor submitting:

(a) Letters of sufficiency of petitions to:

(1) Construct a sanitary sewer in Locust Street and reconstruct as a gravel surfaced street;

(2) Reclassify from S to C-5 property described as the westerly three acres of the N1/2 of NE1/4 of NE1/4 of NE1/4 of Section 17, T50N of the Fourth Principal Meridian;

(3) Vacate Anson Avenue between Restormel Street and the alley above Restormel Street;

(4) Vacate that portion of Fourth Street which fronts Fond du Lac Fourth Street, Lots 22, 24 and 26;

(b) Letter of insufficiency of petition to vacate 69th Avenue West and alley way lying on the east side of Lots 1 and 32 west of Lot 16 and 17, Block 1, Mineral Addition to West Duluth. -- Received

03-0825-08 Engineering division submitting monthly project status report of August 1, 2003. -- Received

03-0825-09 Treasurer submitting annual report of all gifts received by the city for \$5,000 or less during the period of August 1, 2002, through July 31, 2003, pursuant to Resolution 97-0954. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0825-10 Commission on disabilities minutes of June 4, 2003, meeting. -- Received

03-0825-11 Planning commission minutes of June 10, 2003, meeting. -- Received

03-0825-12 Special assessment board minutes of July 8, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Harry Munger expressed his concerns about conditions for the Miller Hill development that have not been met. He presented materials (Public Document No. 03-0825-31) relative to commitments made in 1996 to prevent water runoff into Miller Creek. Mr. Munger stated that he felt that these commitments were not followed through with and that another new developer is currently not following through either.

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Skip Hendrickson expressed concern for the need for green space in the area surrounding the Miller Hill Mall and he requested that the area be rezoned back to residential until the legal aspects of the prior rezoning can be resolved.

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Greg Price expressed concern that the mayor and council have not for 17 years dedicated the bridge on the Evergreen Memorial Highway.

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K.L. Lewis commented on the Evergreen Memorial Highway, the DECC's proposed cinema, long term planning on major highway arteries, plans for the skywalk to the Technology Village and Miller Hill Mall development near Miller Creek.

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C.J. Bird commented on racial profiling that her husband experienced in Duluth.

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At this time, 7:30 p.m., President Stenberg recessed the regular order of business and announced that the public hearing regarding a proposed forgivable loan to United HealthCare would begin (03-0596R).

Michael Conlan, director of the planning and business development department and planning, gave an overview of the nature of this hearing relative to the state of Minnesota's forgivable loan that was granted to United HealthCare Services, Inc., because of the commitment that the company made to create and maintain a specific workforce level. He stated that Resolution 03-0596 requests the state to extend the time lines that United HealthCare Services, Inc., has to achieve the required work levels.

Jim Wrobleski, Minnesota department of employment and economic development, stated that it is very common for these extensions to be requested and approved and if after that period passes, if the loan is not repaid, the state will request that a pro-rated amount of the funds the company received, plus interest, be returned to the state.

The following speakers spoke on the resolution: K.L. Lewis; Jean Beattie and Irene Holcomb and Lyman Brooks, representing the Minnesota Senior Federation, Northeast; Eric Peterson and Peggy Marrin. They commented that: there was skepticism when the project initially started and if the company will keep existing jobs in town if this is not approved; in general the city should not give subsidies to large national companies that have no loyalty to Duluth; the profits and salaries for chief executive officers and financial conditions of United HealthCare do not warrant this action; the city of Duluth gave them a tax increment district, which affects taxpayers; the conditions upon which the tax increment district was created for United HealthCare have not been met and the state and city deadlines are different and that terms of average wages is not mentioned in state law. The question of what hardship is shown for United HealthCare was also raised.

Jim Wrobleski, speaking as a private citizen, noted that the current median wage of job offerings in the second quarter of 2003 was \$7.50 per hour and according to the Minnesota wage survey the median wage for an office or administrative support person is \$11.55 per hour. He continued that the wages at United HealthCare start at \$12.50 an hour with a benefits package that is better than what many other employers offer.

At this time, 8:23 p.m., President Stenberg closed the public hearing and announced that regular order of business would resume.

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President Stenberg moved to suspend the rules to consider Resolution 03-0596, authorizing a second amendment for forgivable loan for Minnesota investment fund with United HealthCare Services, Inc., at this time, which motion was seconded and unanimously carried.

Councilors discussed the issues presented and expressed concern that United HealthCare was not present to answer questions.

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

Yeas: Councilor Atkins, Bergson, Gilbert, Hogg, Ness, Stauber, Stewart and Stover -- 8

Nays: President Stenberg -- 1

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At this time, 8:30 p.m., President Stenberg recessed the regular order of business and announced that the public hearing regarding a proposed amendment to the business subsidy agreement with Sinex Aviation Technologies would begin (03-0598R).

Mr. Conlan stated that this public hearing is also relative to a forgivable loan granted by the state of Minnesota to Sinex Aviation Technologies because of the commitment that the

company made to create and maintain a specific workforce level. He stated that Resolution 03-0598 requests the state to extend the time lines that the Sinex Aviation Technologies has to achieve the required work levels.

Peter Miller, director of communications for Sinex Aviation Technologies, reviewed the background of the company, the financing that has been utilized, current employment status and future plans.

Lyman Brooks, representing the Minnesota Senior Federation, Northeast, and K.L. Lewis expressed support for this extension of time because this local company has been affected by the economic down turn.

At this time, 8:40 p.m., President Stenberg closed the public hearing and the regular order of business was resumed.

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Councilor Hogg moved to suspend the rules to consider Resolution 03-0598, authorizing an amendment to the business subsidy agreements with Sinex Aviation Technologies, at this time, which motion was seconded and unanimously carried.

Resolution 03-0598 was adopted as follows:

BY PRESIDENT STENBERG:

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. 03-0825-30 to the business subsidy agreement with Sinex Aviation Technologies (Sinex) extending the term of the agreement with no change in contract cost.

Resolution 03-0598 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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RESOLUTION RECONSIDERED

Councilor Stewart moved to reconsider Resolution 03-0597, recognizing the GLBT pride festival weekend, which motion was seconded and carried upon the following vote:

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

Nays: President Stenberg -- 1

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

The following speakers supported the resolution: Bob Janis; K.L. Lewis; Drew Digby; Peggy Marrin; Mike Garmaker, speaking for Kate Francis Kulos; Andrew Olson and Jess Karfman. Reasons cited in support of the resolution were: festival speakers will address issues that affect their members; awards will be given to those supporting their lifestyles; individuals will see how wonderful and beautiful the city is; individuals attending the festival are all equal; successful economic cities welcome all people; there is a need to move into the modern knowledge arena; with support from elected officials, individuals feel safe to walk down the street holding hands; personal biases should not be the reason to undermine democracy and America stands for freedom.

Meg Bye, speaking for the human rights commission, reviewed the contents of a letter (Public Document No. 03-0825-18(a)) of support from the commission.

Mike Flaherty and John Rathi spoke in opposition to the resolution citing that: the city council should not be endorsing anything that has to do with an individual's private sexual preference; references to "alley queer" should not be endorsed; endorsements are considered a means of support and this issue should not be a political issue and not require agreement or disagreement.

Councilors Stewart, Ness and Hogg supported the resolution because the city has repeatedly supported, through mayoral proclamations, issues that are not within the city's jurisdiction; this resolution is the view of the council, not the mayor; this resolution only recognizes an effort that has been made to create a world that is inclusive and accepting; there still is ignorance, hate and bigotry towards this group of people; the value of all Duluthians needs to be recognized and this is a leadership issue.

Councilors Stauber, Bergson, Atkins and President Stenberg opposed the resolution for the following reasons: the council has not in the past recognized any other festivals; this issue annually divides the city instead of uniting it; this is not the right venue to support the issue; governmental bodies should not be recognizing a group based by their sexual preference; any mayor has the right to recognize, or not, a particular group, with a mayoral proclamation.

Resolution 03-0597 failed upon the following vote (Public Document No. 03-0825-32):

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

Nays: Councilors Atkins, Bergson, Stauber and President Stenberg -- 4

[Editor's Note: Resolution 03-0597 shall not go into effect because the council failed to override the mayor's veto by a vote of at least six of its members.]

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RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 03-0522, confirming the appointment of Fred T. Friedman to the Duluth economic development authority, replacing Dale S. Lewis, from table, which motion was seconded and unanimously carried.

Resolution 03-0522 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the appointment of Fred T. Friedman to the Duluth economic development authority, by Mayor Doty, for a term expiring on April 27, 2007, replacing Dale S. Lewis, is confirmed.

Resolution 03-0522 was unanimously adopted.

Approved August 25, 2003

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.)

President Stenberg 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 enter into a grant agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0825-19(a), with the office of justice programs of the Minnesota department of public safety in the amount of \$189,742 to fund ARC Northland's fetal alcohol prevention and intervention project; said funds to be deposited in Fund 0210 Special Projects Fund.

FURTHER RESOLVED, that said officials are hereby authorized to enter into a subgrant agreement, a copy of which is on file in the office of the city clerk as Public Document

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

No. 03-0825-19(b), RC Northland, granting ARC Northland up to \$180,742 for the implementation of said project, payable from the afore-said fund.

Resolution 03-0623 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on Superior Street between Sixth Avenue and Seventh Avenue East on September 20, 2003, in conjunction with Adventure Fest, 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 03-0557 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license subject to departmental approvals:

Lakeside/Lester Park Business Association (Lester River Rendevous), Lester Park, for September 27, 2003, (rain date September 28) with Andy Peterson manager.

Resolution 03-0601 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, with an application fee of \$200, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Vietnam Veterans Association, Bayfront Park, for September 13, 2003, with Sandra Fjeld manager.

Resolution 03-0602 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for September 26 and 27, 2003, with the serving and music ceasing at 12:30 a.m.

Resolution 03-0603 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 2004, and on sale wine license for the period beginning September 1, 2003 and ending August 31, 2004, subject to departmental approvals, the payment of sales and property taxes, and approval of the liquor control commissioner:

Nutty Megs, Inc. (Nutty Megs Café), 11 East Superior Street, with Sara B. Kavajecz, 60 percent stockholder, and Lisa S. Olson, 40 percent stockholder.

Resolution 03-0604 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 70 on sale intoxicating liquor, 73 on sale Sunday intoxicating liquor, 17 on sale dancing and seven additional bar licenses for the period beginning September 2, 2003, and ending August 31, 2004, 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. 03-0825-20.

Resolution 03-0605 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 21 on sale wine licenses for the period beginning September 1, 2003, and ending August 31, 2004, 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. 03-0825-21.

Resolution 03-0606 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 20 off sale intoxicating liquor licenses for the period beginning September 1, 2003, and ending August 31, 2004, for issuance by the liquor control commissioner and further subject to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 03-0825-22.

Resolution 03-0607 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of eight on sale club liquor licenses for the period beginning September 1, 2003, and ending August 31, 2004, 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. 03-0825-23.

Resolution 03-0608 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of one brewery malt liquor off sale intoxicating liquor license for the period beginning September 1, 2003, and ending August 31, 2004, 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. 03-0824-24.

Resolution 03-0609 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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

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

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

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

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

	<u>Licensee</u>	<u>Gambling site</u>
1.	Lester Park Hockey Association	O'Gilby's
2.	Congdon Park Recreation Association	Round Up Bar & Grill

Resolution 03-0610 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR ATKINS:

RESOLVED that the proper city officials are hereby authorized to enter into a confidentiality and indemnification agreement with Blue Cross Blue Shield of Minnesota, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0825-25, allowing the exchange of data related to the city's group hospital-medical benefits plans.

Resolution 03-0621 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the appointment of Stephen W. Christopher to the tree commission, - by Mayor Doty, for a term expiring on August 31, 2005, replacing Robert N. Johnson who resigned, is confirmed.

Resolution 03-0599 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth is an entitlement community and is eligible to receive CDBG funding; and

WHEREAS, the city is an entitlement entity, has the ability to make application for Section 108 loan guarantee funds; and

WHEREAS, the city under the Section 108 program has the authority to pledge future entitlement grants to guarantee the repayment of any loan funds not repaid by participation projects.

NOW THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to apply to HUD for funds available through HUD's Section 108 loan guarantee program to provide funding for financial assistance to rental housing development projects, preference to be given to Miller Creek, Hope VI and Village Place of Duluth.

FURTHER RESOLVED, that each project to receive Section 108 loan guarantee program funding must receive the prior approval of the Duluth City Council.

Resolution 03-0600 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Resolution 01-0117 to R.L.K. Kuusisto, Ltd., for the professional engineering services for design services for Lincoln Park, be amended to increase the amount by \$14,322 for a new total of \$63,417, payable out of Community Development Fund 0262, Dept./Agency 623, Object 6309.

Resolution 03-0617 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR GILBERT:

RESOLVED, that Hovland, Inc., be and hereby is awarded a contract for construction of accessibility parking improvements mid-block pedestrian curb ramp installations for the engineering division in accordance with specifications on its low specification bid of \$70,174, terms net 30, FOB job sites, payable out of Community Development Fund 0262, Dept./Agency 626, Object 6614.

Resolution 03-0624 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for construction of pedestrian trail and bridges in Lincoln Park for the engineering division in accordance with specifications on its low specification bid of \$379,189.30, terms net 30, FOB job sites, payable out of Permanent Improvement Fund 0411, Department/Agency 035, to be reimbursed \$62,190.90 out of Community Development Fund 0262, Department/Agency 623, Object 6309 and \$300,000 federal T21 enhancement funds.

Resolution 03-0625 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 99-0239, the Duluth economic development authority's (DEDA) agreement with Northspan Group, Inc., to fund the Arrowhead Business Connection regional recruitment and retention program approved at its meeting of August 19, 2003, pursuant to DEDA Resolution No. 03D-51, a copy of which is on file in the office of the city clerk as Public Document No. 03-0825-26, is hereby approved.

Resolution 03-0633 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 99-0239, the Duluth economic development authority's (DEDA) purchase of certain property from St. Louis County subject to an agreement with John Hovland approved at its meeting of August 19, 2003, pursuant to DEDA Resolution No. 03D-61, a copy of which is on file in the office of the city clerk as Public Document No. 03-0825-27, is hereby approved.

Resolution 03-0634 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to extend sanitary sewer within Locust Street and to reconstruct Locust Street as a graveled street beginning at North Basswood Avenue and extending easterly approximately 250 feet.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city council to cause

this improvement to be made, provided that further information demonstrates that the improvement should be made.

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

Resolution 03-0589 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent numbered 03-0589 the council did request the administration to prepare plans and specifications for the construction of sanitary sewer in Locust Street and reconstruction of Locust Street as a graveled street beginning at North Basswood Avenue and extending approximately 250 feet easterly at an estimated cost of \$28,400; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$28,400 payable from Special Assessment Fund 0410, Agency 038, Organization 5384, Object 5530, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0613 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED that the city of Duluth accepts the dedication of the following roadway and utility easement from J & S Partnership, LLP, and Scott Vesterstein and Lori Vesterstein:

A 66.00 foot road and utility easement over, under and across part of Lots 6 and 7, Block 1, Village Mall First Addition, and that part of the North Half of North Half of Southwest Quarter of Northwest Quarter (N $\frac{1}{2}$ of N $\frac{1}{2}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$), Section Nineteen (19), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian. Said easement being 22.00 feet to the right and 44.00 feet to the left of the following described line:

Beginning at the northeast corner of said Lot 6, thence south 00°22'-57" east, along the east line of said Lot 6 and the southerly extension of said east line, a distance of 183.00 feet, and said line there terminating.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Together with a 66.00 foot easement over, under and across that part of said Lot 6 and that part of said North Half of North Half of Southwest Quarter of Northwest Quarter (N½ of N½ of SW¼ of NW¼), the centerline of said easement is described as follows:

Commencing at the southeast corner of said Lot 6, thence south 89°-37'-03" west along the South line of said Lot 6, a distance of 22.00 feet to the beginning of said centerline to be described; thence continue south 89°-37'-03" west, along said south line of Lot 6, a distance of 118.76 feet, and said line there terminating.

Together with an easement for road and utility purposes over, under and across that part of said Lot 6 and that part of said North Half of North Half of Southwest Quarter of Northwest Quarter (N½ of N½ of SW¼ of NW¼) which lies within the circumference of a circle having a radius of 66.00 feet. The center of said circle is at the terminus of the above-described centerline.

Resolution 03-0615 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Ferrellgas Company be and hereby is awarded a contract for furnishing and delivering 60,000 gallons of liquid propane for the utility operation division in accordance with specifications on its low specification bid of \$40,122, terms net, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5390.

Resolution 03-0616 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for rental of 16 Caterpillar Model 143H motor graders for six months each for a total of 84 months during the year 2003/2004 winter season for the street maintenance division in accordance with specifications on its low specification bid of \$430,941.60, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 03-0619 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to pay \$15,000 to the Arrowhead Regional Development Commission as the city's share of the cost of the Duluth urbanized area growth impact study; said sum payable from the Water Utility Fund 0510, Agency 500, Org. 1915, Object 5441.

Resolution 03-0622 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Paige and Rick Mellinger the sum of \$12,600.06 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer; payment to be made from Self-Insurance Fund 0610.

Resolution 03-0629 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northern Business Products, Inc., be and hereby is awarded a contract for furnishing and delivering office components for the new Public Works & Utilities Service Center Building located on Garfield Avenue, in accordance with specifications on its quotation of \$208,717.10, terms net 30, FOB destination, \$48,631.08 payable out of Water Fund 0510, Dept./Agency 0500, Organization 1905, Object 5540; \$61,362.83 payable out of Gas Fund 0520,

Dept./Agency 0500, Organization 1905, Object 5540; \$57,605.92 payable out of Sewer Fund 0530, Dept./Agency 0500, Organization 1905, Object 5540; and \$41,117.27 payable out of Stormwater Fund 0535, Dept./Agency 0500, Organization 1905, Object 5540.

Resolution 03-0632 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that Jefferson Fire and Safety, Inc., be and hereby is awarded a contract for furnishing and delivering 132 structural firefighting boots for the fire department in accordance with specifications on its low specification bid of \$29,700, terms net 30, FOB destination, \$20,790 payable out of Special Projects Fund 0210, Dept./Agency 030, Organization 2169, Object 5219 and \$8,910 payable out of General Fund 0100, Dept./Agency 100, Organization 1502, Object 5241.

Resolution 03-0620 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 03-0631, by Councilor Hogg, authorizing annual late hours permit fees, pursuant to Sections 8-17 and 8-18 of the Duluth City Code, was introduced for discussion.

Councilor Atkins moved to table the resolution to consider it with the second reading of Ordinance 03-044, which also deals with this issue, which motion was seconded and unanimously carried.

- - -

Resolutions 03-0635 and 03-0636, to deny and grant, respectively, the renewal of the on sale alcoholic beverage license for Scanlon River Inn, Inc. (Pioneer Bar), at 323 West First Street, Duluth, Minnesota, by Councilor Atkins, were introduced for discussion.

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

Blake MacDonald, attorney for the building owner, spoke in support of Resolution 03-0636 citing reasons of: the scope of the issue is that the whole building needs to be sprinkled, not just the bar area; additional time is needed to put together financing and the bar owner just became aware a month ago that the liquor license renewal was in jeopardy.

Eric Simonson, fire marshal, cited that: the fire department works hard at working with businesses to get them into compliance with the Code; the building was inspected in July of 1991 and notification was made to the previous owner, the present owner was notified in February of 2001 that the whole building needed a sprinkler system and that numerous communications, meetings and extensions have transpired since that time.

Paul Guthrie, owner of the building, reviewed that he: has been the owner of the building for three years; did have a partner and that all of these problems were inherited; has been working to get financing for the needed sprinklers and has approached the Duluth housing and redevelopment authority for assistance. He stated that he had a buyer for the building and intended to leave \$70,000 in escrow to address the problem, but the sale fell through.

Steve Kiminski, owner of the Pioneer Bar, spoke of his attempts to keep his business open while the building owner tried to resolve this issue. He stated that while he knew there were concerns with the building, he just recently became aware that his business would have to close until this is resolved.

The council discussed the issue and the timing of the state fire marshal's approval process extensively.

Councilor Atkins moved to amend Resolution 03-0636, by:

(a) Inserting the following language in the seventh paragraph:

(1) After the words "before it," "finds that the building at 323 West First Street is not in compliance with the Fire Code and should not be a licensed premises for on sale alcoholic beverages in its present condition, but if it is brought into compliance with the Fire Code, the renewal of the license may be granted";

(2) Between the words "proceedings" and "grants," "the city council";

(3) Between "August 31, 2004," and the word "provided" "if the licensed premises are brought into compliance with the Fire Code in conformance with the following requirements:

(a) That the city clerk shall not deliver the on sale alcoholic beverage license and on sale Sunday license to the licensee for the licensed premises at 323 West First Street until the building owner has a signed contract based on plans and specifications for a sprinkler system which has been submitted to the state fire marshal for approval, and the state fire marshal has certified that such plans and specifications demonstrate that the licensed premises will comply with the Fire Code if the sprinkler system is constructed as shown in the plans. The licensee shall also provide the city with an executed agreement providing a waiver of the time limits for notice of revocation and acknowledgment that noncompliance with this requirement will constitute grounds for revocation. If such contract is not submitted, the city clerk shall hold the license;

(b) That within two months of the submission of the signed contract and based on the approval of the state fire marshal, the building owner shall submit a contract for the construction and installation of the sprinkler system which meets the requirements of the Fire Code, which is served by an adequate water supply from the city water mains in accordance with the approved plans and specifications, which contract is with a contractor or

contractors licensed to perform such work by the state of Minnesota, and which contract or contracts show a completion date within four months for said sprinkler system. If such contract for construction of the sprinkler system is not submitted within two months of the time of approval by the state fire marshal the licensee will be subject to revocation pursuant to the executed agreement and the Duluth City Code and if pursuant to the contract the improvements are not completed within four months of the date of the submission of the contract for the sprinkler system, the on sale alcoholic beverage license and the on sale Sunday license will be subject to revocation pursuant to the executed agreement and the Duluth City Code.

RESOLVED FURTHER, that the license shall be held by the city clerk until the documents described in (a) above are provided” ;

(b) In the last paragraph:

(1) Delete the words “the city council may revoke”;

(2) Insert the words after the word “Code” “will be subject to revocation pursuant to the executed agreement and the Duluth City Code,”

which motion was seconded and carried upon the following vote:

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

Nays: Councilors Stauber and Stover -- 2

Councilors Gilbert, Stauber and Stewart expressed concerns about: public safety; that the issue of the business having to close is an issue between the business and building owners and that there are other locations in the city for this business to move into. They supported Resolution 03-0635.

Resolution 03-0636, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Ness, Stover and President Stenberg -- 6

Nays: Councilors Gilbert, Stauber and Stewart -- 3

[Editor’s Note: Resolution 03-0636 was vetoed by Mayor Doty on August 29, 2003 (Public Document No. 03-0904-01).]

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Resolution 03-0635 failed upon the following vote (Public Document No. 03-0825-28):

Yeas: Councilors Gilbert, Stauber and Stewart -- 3

Nays: Councilors Atkins, Bergson, Hogg, Ness, Stover and President Stenberg -- 6

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Resolution 03-0592, affirming a decision of the board of zoning appeals to approve the construction of a single family dwelling on a parcel of land that is under two acres, subject to specified conditions, on property located at 1405 Walnut Street (proposed address), and Resolution 03-0593, reversing a decision of the board of zoning appeals to approve a variance in minimum lot area in an unsewered area which variance would accommodate the construction of a single family dwelling on a parcel of land that is under two acres, subject to specified conditions, on property located at 1405 Walnut Street (proposed address), by President Stenberg, were introduced for discussion.

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

John Alberding expressed a need to get clarification on the interpretation of what the necessary amount of frontage is.

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

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Resolutions 03-0594 and 03-0595, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request by Nick Patronas for a variance to allow oversized off premise signage in a scenic area and to allow for the installation of an additional 120 square feet of signage to the existing 240 square feet (360 square feet total) of off premise signage on a retaining wall at the southwest end of the parking lot on property located at 2120 London Road, by President Stenberg, were introduced for discussion.

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

K.L. Lewis expressed support for Resolution 03-0594, noting that there should not be a large advertising object on a area that should be beautiful and relatively uncommercial.

Councilor Hogg supported Resolution 03-0594 because the variance was unanimously denied by the board of zoning appeals.

Resolution 03-0594 failed upon the following vote (Public Document No. 03-0825-29):

Yeas: Councilor Hogg -- 1

Nays: Councilors Atkins, Bergson, Gilbert, Ness, Stauber, Stewart, Stover and President Stenberg – 8

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Resolution 03-0595 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Nick Patronas has appealed to the city council the decision of the board of zoning appeals denying a request for a variance to allow oversized off premise signage in a scenic area for the installation of an additional 120 square feet of signage to the existing 240 square feet (360 square feet total) of off premise signage on a retaining wall at the southwest end of the parking lot on property located at 2120 London Road; and

WHEREAS, the property is located within a scenic area as defined by Section 44-34, paragraph (a)(9); and

WHEREAS, Section 44-34, paragraph(b), states that no off premise sign in excess of 60 square feet shall be erected or maintained in scenic areas; and

WHEREAS, the board of zoning appeals denied the requested variance upon the following grounds and reasons:

(a) There does not exist an exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property at issue for which the strict application of the terms of the Chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property;

(b) The applicant failed to demonstrate the existence of the following two additional mandated requirements of Section 50-47, paragraph (b):

(1) Special circumstances or conditions applying to the building or land in question which are peculiar to such property and do not apply generally to other land or buildings in the vicinity;

(2) The necessity of the variance in order to preserve the enjoyment of a substantial property right and not merely the convenience of the applicant;

(c) The sole basis for the request was the applicant's desire to increase revenues from a commercial activity and such mere convenience of the applicant is a prohibited basis upon which a variance may be granted; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the city council has considered this appeal and the documents, records and information provided, and based upon said record it disagrees with the decision of the board of zoning appeals, and finds as follows:

(a) The record supports the a conclusion that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of the city code will result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property;

(b) That special circumstances or conditions applying to the building or land in question are peculiar to such property, and do not apply generally to other land or buildings in the vicinity;

(c) 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;

(d) Authorizing the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of July 22, 2003, is hereby reversed by the city council, the appeal is granted; and the applicant shall be entitled to the requested variance upon the following terms and conditions:

(a) No more than 120 square feet of signage may be added to the existing 240 square feet of signage, and no more than 360 square feet of signage shall be placed on the property;

(b) Such signage shall be erected and maintained in compliance with all applicable city codes and state laws and regulations.

Resolution 03-0595 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved August 25, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the residents of the city of Duluth place a high value on respect and civility in their lives and they understand that these characteristics are essential to any healthy community; and

WHEREAS, the Duluth City Council supports opportunities for civil discourse and discussion in the community and at City Hall; and

WHEREAS, the city council sometimes addresses controversial issues about which people often feel passionately, which at times leads to uncivil behavior; and

WHEREAS, an atmosphere of incivility and disrespect can have a damaging effect on the proceedings, on the quality of debate, and on the practice of democracy itself;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council recognizes nine tools of civility that will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face our city. These tools include:

- (a) Pay attention;
- (b) Listen;
- (c) Be inclusive;
- (d) Do not gossip;
- (e) Show respect;
- (f) Be agreeable;
- (g) Apologize;
- (h) Give constructive criticism;
- (i) Take responsibility.

BE IT FURTHER RESOLVED, that the Duluth City Council shall promote the use and adherence of these tools in conducting the business of the council.

Resolution 03-0638 was unanimously adopted.

Approved August 25, 2003

GARY L. DOTY, Mayor

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Resolution 03-0628, by Councilor Stover, declaring the segment of Arrowhead from Kenwood Avenue to Rice Lake Road to be an urban district, and establishing a speed limit of 30 m.p.h. on the segment, was introduced for discussion.

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

K.L. Lewis stated that this resolution is the least unacceptable solution, however there is a need to study the possibility of developing alternative routes for future use.

Travis Silvers stated that it is irresponsible to make laws that are arbitrary and not followed. He felt that the law needs to have an enforceability.

Councilors Ness and Stover felt that the road was designed for 40 m.p.h.; that the city does not need to punish those who follow the laws and that 30 m.p.h. zones are intended for small residential streets and not four lane roadways.

Resolution 03-0628 was adopted as follows:

BY COUNCILOR BERGSON:

RESOLVED, that the city council hereby declares the segment of Arrowhead Road from the intersection with Kenwood Avenue to the intersection with Rice Lake Road (south from Arrowhead Road) to be an "urban district" as defined in MN Statute 169.01, Subd. 59, as this segment of Arrowhead Road is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter mile or more.

RESOLVED FURTHER, that the city council hereby establishes the speed limit on the segment of Arrowhead Road from Kenwood Avenue to Rice Lake Road as described above to be 30 miles per hour, as provided for in MN Statute 169.14, Subd. 2.(1) and Subd. 5b.

Resolution 03-0628 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber and President Stenberg -- 6

Nays: Councilors Ness, Stewart and Stover -- 3

Approved August 25, 2003

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 ATKINS

03-044 - AN ORDINANCE PROVIDING FOR CHANGES IN HOURS OF SALE OF ALCOHOLIC BEVERAGES; AMENDING SECTIONS 8-17, 8-18, 8-19 AND 8-43 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

K.L. Lewis supported the ordinance for the reasons that it gives bar owners the ability to choose what hours are suitable for their business.

Patty Wheeler, Cal Haworth, Teri Johnson and Alan Davin expressed concerns for this ordinance change, noting: the number of traffic fatalities in 2002 were the worst in the last two decades and in 2003, the numbers are looking to surpass last year's; law enforcement is stretched due to budget cuts; more drivers will drink more here in Duluth and be more intoxicated; public safety and lives should be put before money; there will not be a reduction in drivers going to Superior because of the night club atmosphere there; the financial and economic benefits to bars should not be considered more important than the financial and economic hardship of widows and children who lose their family's provider and law enforcement personnel do not support this change.

David Ross, representing the Duluth Area Chamber of Commerce, expressed support for the ordinance, noting that this is an opportunity to support small business owners, especially with the smoking ordinance that is in effect, the availability of additional liquor licenses and the existing competitive disadvantages with establishments doing business in Superior.

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At this time, 10:55 p.m., Councilor Bergson moved to suspend the rules to extend the council meeting until 11:10 p.m., which motion was seconded and unanimously carried.

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BY COUNCILOR BERGSON

03-045 - AN ORDINANCE AMENDING SECTION 10-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; PROVIDING FOR A BUILDING PERMIT FEE SCHEDULE AS SPECIFIED IN THE CURRENT UNIFORM BUILDING CODE.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

03-043 (9618) - AN ORDINANCE AMENDING CHAPTER 40 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY AMENDING SECTION 40-10 AND SECTION 40-11 TO EXCLUDE A DOMESTIC ABUSE EVENT FROM THE DEFINITION OF NUISANCE EVENT AND TO EXPAND THE TIME PERIOD SUBSEQUENT TO THE OCCURRENCE OF A NUISANCE EVENT DURING WHICH ADDITIONAL NUISANCE EVENTS SHALL BE DEEMED A SPECIAL SECURITY ASSIGNMENT.

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

K.L. Lewis, Joanne Alexander, Joanne Wright and Myrna Matheson expressed support for this ordinance for reasons of: accountability is needed; the police need the time that is required to investigate these nuisance calls for more important duties; something needs to be done about absentee landlords, destruction of neighboring properties needs to stop, loud

parties and rowdiness needs to be controlled and the quality of life has been affected by these nuisances needs to be restored.

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

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The meeting was adjourned at 11:08 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9618

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 40 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY AMENDING SECTION 40-10 AND SECTION 40-11 TO EXCLUDE A DOMESTIC ABUSE EVENT FROM THE DEFINITION OF NUISANCE EVENT AND TO EXPAND THE TIME PERIOD SUBSEQUENT TO THE OCCURRENCE OF A NUISANCE EVENT DURING WHICH ADDITIONAL NUISANCE EVENTS SHALL BE DEEMED A SPECIAL SECURITY ASSIGNMENT.

The city of Duluth does ordain:

Section 1. That Section 40-10 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 40-10. Definitions.

For the purpose of this Chapter, the terms defined in this Section shall have the meanings ascribed to them:

Nuisance event. An event requiring special security assignment in order to protect the public peace, health, safety and welfare. A nuisance event includes, but is not limited to, the following:

- (a) Unlawful sale, possession, storage, delivering, giving, manufacture, cultivation or use of controlled substance;
- (b) Prostitution or prostitution-related activity;
- (c) Illegal gambling or gambling-related activity;
- (d) Unlicensed sales of alcoholic beverages or unlawful sales or gifts of alcoholic beverages by an unlicensed person or underage consumption at a specific location;
- (e) Loud and boisterous conduct, noises and activities that disturb the peace;
- (f) Events between 11:00 p.m. and sunrise which disturb the peace and tranquility of the neighborhood;
- (g) Congregating in a tumultuous, noisy or rowdy crowd;
- (h) Fighting or use of obscene or inflammatory language;
- (i) Loud music constituting a nuisance or disturbing the peace;
- (j) Activities causing excessive pedestrian or vehicular traffic and parking problems and congestion;
- (k) Indecent exposure or lewd conduct.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

For the purposes of this Article, the term nuisance event shall not include an event of domestic abuse as that term is defined in Minnesota Statutes Section 518B.01 Subdivision 2(a).

Owner. A person or persons shown to be owner or owners of property on the property tax records of St. Louis County, Minnesota.

Personal service. Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

Police services fee. A fee imposed for law enforcement services associated with a special security assignment. Such fee may be either a flat fee of \$250 or an additional amount of up to a total of \$1,000 based on, but not limited to, salaries of police officers while responding to or remaining at the nuisance event, the pro rata cost of equipment, the cost of repairing city equipment and property and the cost of any medical treatment of injured police officers.

Responsible person. A person who owns the property where the nuisance event takes place, and/or a person in charge of the premises, and/or a person who organized or served as a host of the nuisance event. If the responsible person is a minor, then the parents or guardians of that minor will also be considered responsible persons.

Special security assignment. The assignment of police officers, services and/or equipment during a second or subsequent response to a nuisance event at a particular location after the service of a written notice to the responsible persons that a police services fee may be imposed for costs incurred by the city for any subsequent police response at such location.

Section 2. That Section 40-11 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 40-11. Initial police response to nuisance event.

When any police officer responds to any nuisance event and determines that there is a threat to the public peace, health, safety or general welfare, the police officer may serve a written notice by mail or personal services to the responsible person or persons that any subsequent police response to that same location or address within a 90 day period shall be deemed a special security assignment and that the responsible person or persons may be liable for a police services fee.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 10, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 25, 2003
Approved August 25, 2003
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, September 4, 2003, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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REPORTS OF OFFICERS

03-0904-01 Mayor Doty submitting veto of Resolution 03-0636, granting renewal of on sale alcoholic beverage and on sale Sunday licenses to Scanlon River Inn, Inc. (Pioneer Bar).

-- Received

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RESOLUTION RECONSIDERED

Councilor Atkins moved to reconsider Resolution 03-0636, to grant the renewal of the sale of alcoholic beverage license and on sale Sunday license for Scanlon River Inn, Inc. (Pioneer Bar), at 323 West First Street, Duluth, Minnesota, which motion was seconded and unanimously carried.

Mayor Doty explained his position and reasoning for invoking the veto. He stated he hopes the council respects that it is his right as mayor to veto, just as he understands and respects the council's ability to override his veto. Mayor Doty reviewed the fire department's file on this building in regard to Code violation citations and the safety of this building. He emphasized that in condemning the building, the safety of the residents of 23 housing units within the building was taken into consideration, that the city could be held liable if someone were hurt or killed because of a fire in the building and that he would hold himself personally responsible if he did not use this opportunity to do something to prevent it. Mayor Doty concluded by urging the council not to override his veto because a human life has no price tag.

Councilor Stauber reviewed that a fire which occurred in 1990 took the lives of two residents of an apartment building after several years of unenforced notices for Code violation citations from the fire department that the building was unsafe. He urged the council not to allow that kind of incident to occur again in the city.

Councilor Ness noted that the conditions in the resolution are enforceable and require the building to be brought up to Code regulations within six months. Councilor Ness stated that ultimately, the city could lose the entire building and the housing that it provides, as well as the small business and livelihood that it provides to the bar owner and his employees if this veto is not overridden.

Councilor Stewart agreed with statements made by the mayor, stating that the city has been very generous over the last few years with this particular building owner and that the issue is not the livelihood of a particular business, but the potential for loss of human life.

Councilor Bergson stated that this issue involves one business owner, seven employees and 33 residents who will be punished because one person ignored the pleas of a building inspector.

Responding to Councilor Atkins, Mayor Doty stated that it is not the city's responsibility to relocate the affected business if his veto prevails. He stated that the city will work with the county in relocating the residents who live there because their safety is being jeopardized, but the building owner should be held responsible and accountable because he allowed the building to fall into this dangerous condition because he did not heed warnings over the past number of years.

City Attorney Brown stated that in regard to Code compliance, the city does not guarantee the safety of any building. He continued that when the fire marshal approves a plan, he is not expressing an opinion of safety, but indicating either Code compliance or compliance with some other procedural requirement. Mr. Brown explained that there were four issues that the license holder had to present to the fire marshal before the city clerk's office is allowed to release the license, and none of those issues guarantee safety for anyone. He added that although the city tries to get buildings in compliance with building and life safety codes, the city is not in the position to ensure the safety of all the citizens.

Resolution 03-0636 was adopted as follows:

BY COUNCILOR ATKINS:

WHEREAS, on July 15, 2003, the city clerk received application for renewal of the on sale alcoholic beverage license and on sale Sunday license for Scanlon River Inn, Inc. (Pioneer Bar) at 323 West First Street; and

WHEREAS, on July 29, 2003, the fire marshal notified the licensee and the building owner that he had inspected and examined the licensed premises and that the licensed premises did not show substantial compliance with the Fire Code, and a report of the fire marshal was presented to the alcohol, gambling and tobacco commission; and

WHEREAS, at its meeting of August 12, 2003, the alcohol, gambling and tobacco commission held a hearing to determine whether or not there is good cause to grant an on sale alcoholic beverage license and on sale Sunday license and did not find good cause to recommend the renewal of the on sale alcoholic beverage license and on sale Sunday license for Scanlon River Inn, Inc. (Pioneer Bar) at 323 West First Street; and

WHEREAS, the city council has received a report from the fire marshal that the licensed premises at 323 West First Street still does not show substantial compliance with the Fire Code; and

WHEREAS, the city council has received a request from the building owner to allow additional time for the licensed premises at 323 West First Street to be brought into substantial compliance with the Fire Code; and

WHEREAS, the building owner and licensee have made supplementary assurances that the building at 323 West First Street will comply with the requirements of the Fire Code.

NOW, THEREFORE, BE IT RESOLVED, that the city council, based on the record before it, finds that the building at 323 West First Street is not in compliance with the Fire Code and should not be a licensed premises for on sale alcoholic beverages in its present condition, but if it is brought into compliance with the Fire Code, the renewal of the license may be granted, the assurances made by the building owner and the licensee, and the city council proceedings, the city council grants the renewal of the on sale alcoholic beverage license and the on sale Sunday license to Scanlon River Inn, Inc. (Pioneer Bar) at 323 West First Street, Duluth, for the period September 1, 2003, thru August 31, 2004, if the licensed premises are brought into compliance with the Fire Code in conformance with the following requirements:

(a) That the city clerk shall not deliver the on sale alcoholic beverage license and on sale Sunday license to the licensee for the licensed premises at 323 West First Street until the building owner has a signed contract based on plans and specifications for a sprinkler system which has been submitted to the state fire marshal for approval, and the state fire marshal has certified that such plans and specifications demonstrate that the licensed premises will comply with the Fire Code if the sprinkler system is constructed as shown in the plans. The licensee shall also provide the city with an executed agreement providing a waiver of the time limits for notice of revocation and acknowledgment that noncompliance with this requirement will

constitute grounds for revocation. If such contract is not submitted, the city clerk shall hold the license;

(b) That within two months of the submission of the signed contract and based on the approval of the state fire marshal, the building owner shall submit a contract for the construction and installation of the sprinkler system which meets the requirements of the Fire Code, which is served by an adequate water supply from the city water mains in accordance with the approved plans and specifications, which contract is with a contractor or contractors licensed to perform such work by the state of Minnesota, and which contract or contracts show a completion date within four months for said sprinkler system. If such contract for construction of the sprinkler system is not submitted within two months of the time of approval by the state fire marshal the licensee will be subject to revocation pursuant to the executed agreement and the Duluth City Code and if pursuant to the contract the improvements are not completed within four months of the date of the submission of the contract for the sprinkler system, the on sale alcoholic beverage license and the on sale Sunday license will be subject to revocation pursuant to the executed agreement and the Duluth City Code.

RESOLVED FURTHER, that the license shall be held by the city clerk until the documents described in (a) above are provided, provided that the licensed premises be brought in to substantial compliance of the Fire Code.

RESOLVED FURTHER, that the fire marshal shall conduct further inspection and examination of the licensed premises and shall confirm the assurances which have been made that the licensed premises will comply with the Fire Code relating to on sale alcoholic beverages licenses and will further determine that the construction of the required Fire Code improvements are undertaken with reasonable diligence, and determine that the licensed premises will comply with the Fire Code.

RESOLVED FURTHER, that the license shall be held by the city clerk until the fire marshal determines that the licensed premises at 323 West First Street show substantial compliance with the requirements of the Fire Code.

RESOLVED FURTHER, that if the licensee does not comply with the requirements set forth above, such license as provided for in the Duluth City Code, will be subject to revocation pursuant to the executed agreement and the Duluth City Code.

Resolution 03-0636, as amended, was adopted upon the following vote:

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

Nays: Councilors Stauber and Stewart -- 2

Approved September 4, 2003, pursuant to Section 12 of the Duluth City Charter.

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The meeting was adjourned at 5:30 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 8, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0908-01 Peter S. Gravett, et al. (six signatures) submitting petition to vacate the westerly 23 feet of the utility easement in the vacated 27th Avenue East above Second Street. -- Assessor

03-0908-02 Mitchell R. Marchand submitting further petition (one signature) to vacate 69th Avenue West and alley way lying on the east side of Lots 1 and 32 west of Lot 16 and 17, Block 1, Mineral Addition. -- Assessor

03-0908-03 Minnesota state auditor submitting:

(a) Comprehensive annual financial report for the year ended December 31, 2002, for Western Lake Superior Sanitary District;

(b) Management and compliance reports for the year ended December 31, 2002, for Western Lake Superior Sanitary District. -- Received

03-0908-18 Riverside Development Company, by Arno S. Kahn, submitting communication regarding the proposed special use permit for a low-density planned development located above Grand Avenue Place between Traders Court and Gogebic Street (03-0652R). -- Received

03-0908-05 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from: (a) Rachel Wickstrom on September 13, 2003; (b) Jessica Wendland/Stephen Berg on September 20, 2003. -- Received

03-0908-06 St. Mark AME Church submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9615 on July 28, 2003. -- Received

03-0908-07 Helen Snider submitting communication regarding recognition of the GLBT Pride Festival weekend (03-0597R). -- Received

03-0908-19 The following submitting communications regarding the proposed change in hours of sale of alcoholic beverages to 2:00 a.m. (03-044-O): (a) Jim Chinn; (b) Kenneth A. Steil. -- Received

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REPORTS OF OFFICERS

03-0908-20 Mayor Doty submitting: (a) 2004 budget; (b) 2004 budget address. -- Received

03-0908-08 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings of the special assessment board to be held on Tuesday, September 9, 2003, at 4:00 p.m. in Room 402 , City Hall, on the proposed improvements:

(1) Permanent alley for Ninth Street from 13 to 14th avenues East;

(2) Permanent alley for 102nd Avenue West from Gary Street to McGonagle Street;

(b) Letters of sufficiency of petitions to vacate:
Duluth;

(1) Alleyway and 69th Avenue West, Block 1, Mineral Addition to West

(2) Fourth Avenue West from Skyline Parkway to alley easement;

(c) Letter of insufficiency of petition to vacate a portion of 20th Street adjacent to Lots 19 and 21, Lower Duluth, Minnesota Avenue;

(d) For confirmation of the assessment rolls levied to defray the assessable portions of 11th Street Alley sanitary sewer extension, Contract 5351 (assessable - \$25,640.16), low pressure sanitary sewer extension for Falcon Street, Contract 5366 (assessable - \$17,761.84) and sanitary sewer extension for Clay Street Alley, Contract 5364 (assessable - \$24,127.84). -- Received

03-0908-09 Building official submitting appeal of the board of zoning appeals' decision to deny the appeal of certain variances which have been requested in connection with the Village Place housing project proposed at 610 East Fifth Street (Central Hillside Development Limited Partnership, LLLP). -- Committee 2 (physical development)

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-0908-04 American Indian commission submitting copy of resolution regarding Spirit Mountain. -- Received

03-0908-10 Civil service board minutes of: (a) June 3, 2003; (b) July 11, 2003, meetings. -- Received

03-0908-11 Duluth airport authority: (a) Minutes of July 15, 2003, meeting; (b) Unaudited balance sheet of June 30, 2003. -- Received

03-0908-12 Duluth/North Shore Sanitary District board minutes of: (a) August 5; (b) August 26, 2003, meetings. -- Received

03-0908-21 Environmental advisory council submitting communication regarding the proposed resolution to terminate the inflow and infiltration grant program and requesting the administration to recommend a program closure plan (03-0312R). -- Received

03-0908-13 Housing and redevelopment authority minutes of: (a) June 24, (b) July 21, 2003, meetings. -- Received

03-0908-14 Planning commission minutes of June 25, 2003, meeting. -- Received

03-0908-15 Seaway Port authority of Duluth minutes of: (a) January 22; (b) February 27; (c) March 12; (d) March 28; (e) April 24; (f) May 22; (g) June 26; (h) July 31, 2003, meetings.-- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Alison Clarke expressed frustration that the planning commission is considering the Lakewalk Townhome development, which is a controversial issue, at their day meeting when it should be considered at their evening meeting.

- - -

K.L. Lewis stated that the Duluth Transit Authority has improved the bus service to the mall and suggested that service also include London Road.

- - -

Peggy Marrin expressed thanks to the councilors that did not fall to the pressure when criticizing the planning director last year.

- - -

RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 03-0631, authorizing annual late hours permit fees, pursuant to Sections 8-17 and 8-18 of the Duluth City Code, from table, which motion was seconded and unanimously carried.

Councilor Hogg moved to suspend the rules to consider the resolution at the end of the agenda with a companion ordinance, which motion was seconded and unanimously carried.

- - -

President Stenberg moved to remove Resolution 03-0596, authorizing a second amendment for forgivable loan for Minnesota investment fund with United HealthCare Services, Inc., from the table, which motion was seconded and unanimously carried.

Mark Lindsay, representing United HealthCare Services, Inc., stated that the objective is to seek an extension to the timeline that was agreed to regarding the hiring of another 166 employees during 2004. He reviewed that over the past five years they have been successful in the employment area where the number of employees hired has gone from 35 to the current level of 855. Mr. Lindsay continued saying that they are seeking a fair partnership with the city that is aided by an understanding with DEDA, and because the city has been such a good partner, the company has brought jobs to Duluth from other facilities that have closed. He went on to say that by making the appropriate business decisions, the company is able to keep a sustainable business in Duluth, but the right conditions need to exist in order to hire additional employees.

David Ross, executive director of the Duluth Area Chamber of Commerce, reviewed the history of the company and encouraged the council to allow United HealthCare Services, Inc., to continue its good work in the community.

Jean Beattie stated that DEDA staff changed the original terms of the contract by extending the time frame for job creation from two to two and one-half years, which is wrong and illegal.

Councilor Ness suggested that if the city forgives the loan, the city should see some good will by having United HealthCare Services, Inc., guarantee that jobs will stay in Duluth until 2010.

Councilor Stewart stated if there is going to be an extension for United HealthCare Services, Inc., there needs to be something given back to the taxpayers of the city.

Councilor Ness moved that the council request an extension of time for the contract to run through and requested that the administration work in good faith with United HealthCare Services, Inc., to bring back a proposal that the council can vote on, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Stauber -- 1

Councilor Ness moved to table the resolution, which motion failed upon the following vote:

Yeas: Councilors Ness, Stewart and Stover -- 3

Nays: Councilors Atkins, Bergson, Gilbert, Hogg, Stauber and President Stenberg -- 6

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

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

Nays: Councilors Ness and Stewart -- 2

Resolution 03-0596 was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into a second amendment, contingent upon receipt of a grant adjustment notice by Minnesota department of employment and economic development, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 03-0908-16 to the forgivable loan of Minnesota investment fund (MIF) agreement with United HealthCare Services, Inc. (UHC), extending the term of the agreement with no change in contract cost.

Resolution 03-0596 was adopted upon the following vote:

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

Nays: Councilors Ness and Stewart -- 2

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following resolution was read for the first time:

BY PRESIDENT STENBERG AND COUNCILOR HOGG

03-0657 - RESOLUTION AMENDING RULE 7 OF THE STANDING RULES OF THE CITY COUNCIL TO ALLOW CITIZENS TO ADDRESS A MAXIMUM OF THREE AGENDA AND ONE NONAGENDA ITEMS.

- - -

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:

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

(a) 11th Street Alley sanitary sewer extension (Contract No. 5351, assessable amount - \$25,664.16);

(b) Falcon Street low pressure sanitary sewer extension (Contract No. 5366, assessable amount - \$17,761.84),

(c) Clay Street Alley sanitary sewer extension (Contract No. 5364, assessable amount - \$24,127.84), are hereby confirmed.

Resolution 03-0648 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment of Ryan E. Mears (architect) to the technical design advisory committee for the DWMX-D, by Mayor Doty, for a term expiring on May 31, 2005, replacing Kenneth Johnson, is confirmed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

RESOLVED FURTHER, that the appointments of James P. Berry and Lynn M. Nephew to the technical design advisory committee for the DWMX-D, by Mayor Doty, for terms expiring on May 31, 2006, replacing Jay Bergman and Michael Bowes (who resigned), are confirmed.

Resolution 03-0639 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment of Richard W. Towey (District 3) to the Duluth transit authority, by Mayor Doty, for a term expiring on June 30, 2004, replacing Jean Wiseheart who resigned, is confirmed.

Resolution 03-0646 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment of Nancy Kastelic (finance) to the building appeal board, by Mayor Doty, for a term expiring on February 1, 2004, replacing Tony Vittorio who resigned, is confirmed.

Resolution 03-0647 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nelson Technologies, Inc., be and hereby is awarded a contract for furnishing and delivering natural gas odorant injection system for the public works and utility operations department in accordance with specifications on its low specification bid of \$31,632.13, terms net 30, FOB Snyder, Texas, payable out of Enterprise Fund 0521, Department/Agency 500, Object 5532.

Resolution 03-0637 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Letourneau & Sons be and hereby is awarded a contract for construction of 5,200 feet of sanitary sewer in Morgan Park for the engineering division in accordance with specifications on its low specification bid of \$1,087,254.05 terms net 30, FOB job site, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5533.

Resolution 03-0650 was unanimously adopted.

Approved September 8, 2003

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 of approximately 130 feet of sanitary sewer across Superior Street at 47th Avenue East to alleviate a public health concern due to sewer backups in basements and eliminate a common private line; that the costs of said

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

improvement estimated at \$60,000 shall be paid from the Special Assessment Fund 0410, Agency 038, Organization 5385, Object 5530, and that said costs be levied against the property specifically benefitted by said improvements.

Resolution 03-0653 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 21, 2004.

GENERAL		
010	Total legislative and executive	1,943,700
015	Total administrative services	7,155,100
020	Total planning and development	757,000
030	Total finance	2,705,900
100	Total fire	14,697,000
200	Total police	13,356,500
300	Total library	3,812,200
400	Total parks and recreation	2,592,100
500	Total public works	9,047,700
700	Total transfers	12,572,800
100	General fund total	68,640,000
PUBLIC ENTERPRISE		
503	Golf fund - total	1,998,500
510	Water fund - total	13,519,600
520	Gas fund - total	44,235,100
530	Sewer fund - total	17,516,100
535	Stormwater fund - total	3,357,200
540	Steam fund - total	3,955,100

Resolution 03-0640 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0641, by Councilor Hogg, proposing the sum to be raised by taxation for general purposes for the year 2004, was introduced for discussion.

Councilor Hogg stated that the current budget raises taxes by 4.9 percent from what they were last year, but does not include money to complete the comprehensive plan. He continued by saying that if taxes are raised by 6.97 percent, the budget would include an additional \$200,000 to complete the comprehensive plan.

Councilor Ness reviewed that the vote tonight is setting the maximum levy that would be permitted by law and that the final levy will be set in December, which could be less than what is voted on tonight. He added that the additional money is needed to complete the comprehensive plan next year, and the public will have until that time to let the council know if there is support for a tax increase to complete a comprehensive plan.

Councilor Ness moved to amend the resolution as follows:

- (a) In Section 1, replace the figure "\$10,153.500" with "\$10,353,500";
- (b) In Section 2, replace the figure "\$5,886,600" with "\$6,086,600",

which motion was carried upon the following vote:

Yeas: Councilors Bergson, Hogg, Ness, Stewart and Stover -- 5

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

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

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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 2004 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,063,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Sec. 458A.31, Subd. 1, there will be levied for transit operations the sum of \$1,063,100.

Resolution 03-0642 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 469.053, the city council adopts the following proposed property tax levy.

Section 1. The sum to be raised by taxation for the year 2004 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$658,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 485.15, there will be levied for the purpose of providing for the Seaway Port authority special taxing district the sum of \$658,100.

Resolution 03-0643 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statute 469.033 subdivision six, the city council adopts the following proposed property tax levy.

Section 1. The sum to be raised by taxation for the year 2004 for the housing and redevelopment authority taxing district's operations is hereby determined to be the sum of \$522,700 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statute 469.033 subdivision six, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$522,700.

Resolution 03-0644 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that pursuant to the requirements of Minnesota Statutes, Section 275.065, Subd.6, the city council hereby sets the following date and time for the public hearing to review the city's final budget of 2004 and final city property tax levy for taxes payable in 2004: December 1, 2003, at 7:00 p.m. in the Duluth City Council Chamber.

Resolution 03-0645 was unanimously adopted.

Approved September 8, 2003

GARY L. DOTY, Mayor

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Resolution 03-0656, by Councilor Hogg, adopting license, permit and fee charges for 2004, was introduced for discussion.

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

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Resolution 03-0649, by Councilor Gilbert, approving the prioritization of projects to receive 2004 low income housing tax credits, was introduced for discussion.

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

- - -

Resolution 03-0652, by President Stenberg, granting a special use permit to LHB Engineers and Architects for low-density planned development, consisting of 48 condominium units in nine buildings, 7.73 acres of land, located above Grand Avenue Place between Traders Court and Gogebic Street, was introduced for discussion.

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

Arno Kahn urged councilors not to support this resolution for several reasons including: neighborhood opposition; the density is beyond what the site should have; not enough parking is proposed for the facility and the council needs to get more information on the development before voting on the project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Nays: President Stenberg -- 1

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into a permit agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0908-17 with the Adventure Duluth L.L.C. for the Adventure Duluth Racing Adventure to be held on September 20, 2003.

Resolution 03-0661 was unanimously adopted.

Approved September 8, 2003

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 ATKINS

03-042 - AN ORDINANCE PERTAINING TO CHARITABLE GAMBLING PREMISES LEASES; ELIMINATING THE PROHIBITION ON PERCENTAGE OF THE GROSS PREMISES LEASES; ADDING NEW LIMITS ON LEASE PAYMENTS; AMENDING SECTION 8-24 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY PRESIDENT STENBERG

03-047 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-1, COMMERCIAL, AND R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF WATER STREET BETWEEN 20TH AND 22ND AVENUES EAST (NORTHLINE GROUP).

- - -

BY PRESIDENT STENBERG

03-048 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 20 AND 21 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, SINGLE FAMILY RESIDENTIAL, TO R-2, TWO FAMILY RESIDENTIAL, PROPERTY LOCATED NORTH OF WEST SECOND STREET BETWEEN 34TH AND 35TH AVENUES WEST (KOSKI).

- - -

BY PRESIDENT STENBERG

03-049 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO C-2, PLANNED COMMERCIAL, PROPERTY LOCATED WEST OF ARLINGTON AVENUE AND SOUTH OF ARROWHEAD ROAD (MESSINA/LASAVAGE).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR ATKINS

03-044 (9619) - AN ORDINANCE PROVIDING FOR CHANGES IN HOURS OF SALE OF ALCOHOLIC BEVERAGES; AMENDING SECTIONS 8-17, 8-18, 8-19 AND 8-43 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

David Ross, representing the Duluth Area Chamber of Commerce, urged the passage of the ordinance because its members who are in the bar, restaurant and hotel business support the extended hours for serving alcoholic beverages.

Patti Wheeler, Cal Haworth, Alan Davin, and Ken Steil urged the council to vote against the ordinance for the following reasons: concerns for public safety, human lives, and quality of life should be a priority instead of having the bars making more money; councilors voted against this change two years ago so why have the views changed on this issue now; the police department, highway patrol and the sheriff's department do not support this ordinance; it rearranges the driving problems of drunk drivers; there are several related crimes that result from drunken behavior and councilors need to stand up to the pressure from the chamber and liquor industry and vote against this ordinance.

Councilor Gilbert stated that the council should consider the views and concerns of law enforcement agencies, public safety and the related costs of enforcement of this ordinance before voting for the extended hour of drinking.

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

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

Nays: Councilor Gilbert -- 1

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Resolution 03-0631, by Councilor Hogg, authorizing annual late hours permit fees, pursuant to Sections 8-17 and 8-18 of the Duluth City Code, was introduced for discussion.

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

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

Nays: Councilor Ness -- 1

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BY COUNCILOR BERGSON

03-045 - AN ORDINANCE AMENDING SECTION 10-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; PROVIDING FOR A BUILDING PERMIT FEE SCHEDULE AS SPECIFIED IN THE CURRENT UNIFORM BUILDING CODE.

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

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The meeting was adjourned at 9:45 p.m.

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

- - -

ORDINANCE NO. 9619

BY COUNCILOR ATKINS:

AN ORDINANCE PROVIDING FOR CHANGES IN HOURS OF SALE OF ALCOHOLIC BEVERAGES; AMENDING SECTIONS 8-17, 8-18, 8-19 AND 8-43 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-17 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-17. Hours of sale¹--intoxicating liquor.

No sale of intoxicating liquor shall be made after 1:00 a.m. on Sunday, except as permitted by special license issued pursuant to the provisions of Section 8-46, or by on sale wine license, nor shall such sales be made after 8:00 p.m. on December 24.

No on sale shall be made until 8:00 a.m. on Monday nor between the hours of 1:00 a.m. and 8:00 a.m. on any other weekday.

No off sale shall be made before 8:00 a.m. nor after 10:00 p.m. of any day. No off sales shall be made on Thanksgiving Day or Christmas Day (December 25).

Sales can be made at other times that are authorized by Minnesota Laws 2003, Chapter 126 (M.S.A. Sec. 340A.504) or its amendments or successor,² provided that the seller has first obtained each required state permit and has paid required fees, and has applied for and obtained a late hours permit from the office of city clerk, and paid any fee due, which system of late hours permit and fee for any type of on sale business is hereby authorized.

No person holding an off sale license for an exclusive liquor store shall, either directly or indirectly, suffer or permit such place to remain open for the transaction of any business at any other time than that prescribed in this Section for the sale of intoxicating liquor.

Section 2. That Section 8-18 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-18. Same--Nonintoxicating malt liquor.

No sale of nonintoxicating malt liquor shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 Noon. No sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday inclusive.

Sales can be made at other times that are authorized by Minnesota Laws 2003, Chapter 126 (M.S.A. Sec. 340A.504) or its amendments or successor, provided that the seller has first obtained each required state permit and has paid

¹For state law as to hours of sales, see M.S.A., § 340.14.

²M.S.A. Sec. 340A.504 was amended in 2003 to generally allow sales until 2:00 a.m. under a state permitting system, and make changes in Sunday sales and sales in theaters and bowling centers.

required fees, and has applied for and obtained a "late hours" permit from the office of city clerk, and paid any fee due.

No owner or proprietor of any premises for which an on sale intoxicating liquor license has been granted shall directly or indirectly permit upon such premises the sale, dispensing or furnishing of nonintoxicating malt liquor at any time during Sunday unless he has a valid special Sunday license as provided for in Section 8-46 of the Duluth City Code, 1959, as amended.

Section 3. That Section 8-19 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-19. Hours for consumption, service, etc., of alcoholic beverages on on sale licensed premises.

(a) On any licensed on sale premises, no person shall consume or furnish to another person any alcoholic beverage in that period from one hour after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin, except that in the case of premises holding a late hour entertainment license, no person shall consume or furnish to another person any alcoholic beverage from 30 minutes after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin;

(b) No person in charge of such licensed on sale premises shall allow another person to consume any alcoholic beverages on such premises in that period from one hour after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin;

(c) The person in charge of such on sale premises shall not allow alcoholic beverages in glasses, cups or containers used for drinking, or in opened and uncorked cans or bottles on such licensed premises during such times when consumption of alcoholic beverages on such premises is prohibited by this Section. For the purposes of this Section 8-19, open bottles of intoxicating liquor stored behind the bar with pouring spout stoppers shall be considered corked bottles.

(d) Notwithstanding any other provision of this Section 8-19, on any licensed on sale premises that is not covered by a valid late hour entertainment license, no person shall consume or furnish to another person any alcoholic beverage, nor shall the person in charge of the premises allow, nor shall any person possess, any alcoholic beverage in a glass, cup, or container used for drinking, or in open and uncorked cans or bottles after the time of 2:00 a.m.

Section 4. That Section 8-43 of the Duluth City Code, 1959, as amended, be 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, 8-17, 8-18, 8-19, 8-24, 8-26, 8-28, 8-34 and 8-35 shall fully and equally apply and regulate establishments holding bottle club licenses from the Minnesota state liquor control commissioner.

Section 5. That this ordinance shall take effect and be in force 30 days from and after its publication. (Effective date: October 19, 2003)

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

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

Nays: Councilor Gilbert -- 1

Passed September 8, 2003

Approved September 8, 2003, pursuant to Section 12 of the Duluth City Charter.

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, September 15, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Bergson, Hogg, Ness, Stauber, Stewart, Stover and President Stenberg -- 7

Absent: Councilors Atkins and Gilbert -- 2

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0915-01 The following submitting communications regarding a request for variances for the Village Place project (03-0665R and 03-0666R): (a) Affordable Housing Coalition; (b) Iver Bogen; (c) Alison Clarke; (d) Duluth housing commission. -- Received

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RESOLUTION TABLED

Councilor Hogg moved to remove amended Resolution 03-0641, proposing the sum to be raised by taxation for general purposes for the year 2004, from the table, which motion was seconded and unanimously carried.

Responding to councilors, Administrative Assistant Winson stated that if the amended resolution is amended back to its original form, the mayor has agreed that he will set aside \$200,000 and designate it to be used for a consultant for the comprehensive plan and that he will request that the departments make additional budget cuts to be included in the final budget that will be presented to the council.

He also stated that he does not know what budget cuts will be made to accommodate this adjustment, but he believes it can be done without cutting positions. Mr. Winson agreed that if the additional \$200,000 that the council amended into the resolution stays in the budget, then the council needs to pass a resolution of intent to amend the budget to include that amount and also designate that the money is to be used for the comprehensive plan because the preliminary budget that has already been passed does not include it.

Councilors Ness, Stewart, Stover, Bergson and Hogg spoke in support of retaining the additional \$200,000 that was amended into the budget because the council does not know what specific cuts the mayor will propose. They continued that while they are confident that the mayor will find the funds in the existing budget, they do not know if the proposed cuts will be in emergency services or other areas that the council is uncomfortable with. Councilors stated that there is no harm in leaving the additional funding in place for the comprehensive plan, which the community has stated support for, and that if cuts are made that are deemed reasonable, then the levy can be reduced when it is finalized in December.

Councilor Stauber and President Stenberg stated that they will not support the amended budget because every increase, no matter how small, affects taxpayers who live on fixed incomes and makes it more difficult for them to live. They commented that experience has shown that when additional money is available, it will be spent instead of making the tough decision of what cuts to make, which results in increased taxes and is bad for businesses considering doing business in the city. They urged the council to trust the mayor to make the necessary budget cuts.

Resolution 03-0641, as amended, was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed property tax levy.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 1. The sum to be raised by taxation for the year 2004 for general operations is hereby determined to be the sum of \$10,353,500 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 \$6,086,600.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$3,976,900.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$290,000.

Resolution 03-0641, as amended, was adopted upon the following vote:

Yeas: Councilors Bergson, Hogg, Ness, Stewart and Stover -- 5

Nays: Councilor Stauber and President Stenberg -- 2

Absent: Councilors Atkins and Gilbert -- 2

Approved September 15, 2003

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR ATKINS:

WHEREAS, on September 9, 2003, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a primary municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election districts in the city have made their returns of said election and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 03-0915-02) at 7:00 p.m., September 15, 2003, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 23,107 cast votes, said votes having been cast in the following manner:

Mayor

Charlie Bell	4,760
Herb W. Bergson	4,930
Joanne Fay	879
Greg Gilbert	4,429
Thomas Huntley	2,847
Vernon Letourneau	1,670
Jim Stauber	3,536

Councilor at Large

Timothy A. Bearheart	2,108
Mike Flaherty	2,411
Rennette Grace	1,913
Brian Homstad	2,756
Garry Krause	5,795
Tim Little	6,846
Peggy Marrin	3,015
Donny Ness	13,631

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilor - First District

Todd Fedora 1,736
Laurie Johnson 3,009
Steve Khalar 1,097

Councilor - Fifth District

Nicholas T. Bogdan 110
Maryellen F. Kervina 1,335
Wally Pfister 1,149
Russell W. Stover 1,924

NOW, THEREFORE, BE IT RESOLVED, that Charlie Bell and Herb W. Bergson, having received the two largest numbers of the votes cast at said election for mayor, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal ballot.

BE IT FURTHER RESOLVED, that Garry Krause, Tim Little, Peggy Marrin and Donny Ness, having received the four largest numbers of the votes cast at said election for councilor at large, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, that Todd Fedora and Laurie Johnson, having the two largest numbers of the votes cast at said election for councilor - first district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, that Maryellen F. Kervina and Russell W. Stover, having the two largest numbers of the votes cast at said election for councilor - fifth district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

Resolution 03-0672 was unanimously adopted.

Approved September 15, 2003

GARY L. DOTY, Mayor

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Resolutions 03-0665 and 03-0666, by President Stenberg, affirming and reversing, respectfully, the decision of the board of zoning appeals to deny variances to construct a 55-unit apartment building (Village Place), were introduced for discussion.

President Stenberg stated that more information about this project was reviewed at a committee meeting held prior to this special council meeting tonight.

Councilors Stewart and Bergson commended the developer on his perseverance on this project with the difficulties he experienced in working with the neighborhood in the planning of a mixed use/housing project for this site.

Councilor Hogg stated that this housing project is one of three that the council has prioritized because it is very much needed in this area, however, because the developer had to spend so much time with the neighborhood and city administration to come up with an acceptable project, there is now an issue of timeliness in getting this approved and making application for Minnesota low income housing tax credits and other programs available for this project. He noted that in reversing the board of zoning appeals denial of variances to construct this building, the council needs to acknowledge its findings of hardship in the resolution.

Councilor Hogg moved that the blanks in paragraph 13 of the resolution be replaced with the following language:

(a) In the second line after the word “of,” replace the blank with the words “the presence of a creek running through the property, the meeting of two zoning districts on the parcel, the presence of elevation that may limit the convenient access to some configurations of buildings to be constructed on the property, that implementation of all area density, set back, and parking regulations would limit the ability to replace vital housing in the area which was lost as part of development”;

(b) After the words “strict application of the Zoning Code to this property would result in,” replace the blank with the words “a loss of needed affordable housing, interference with the council’s previously stated plan to have a project of this type in this area, a loss of this project because the time limits to qualify for tax credits could not be met, and inability to configure the needed number of units for this project into the available space in this target neighborhood”;

(c) After the words “and do not apply generally to other land or buildings in the vicinity and,” replace the blank with the words “the practical considerations already mentioned and the proposed variances will not alter the essential character of the neighborhood, including access to sunlight and air, nor the land uses typical to the area, which include multi-family dwellings, so”;

(d) After the words “the right of,” replace the blank with the words “owning and developing land in a manner consistent with the uses and general welfare of the area,” which motion was seconded and unanimously carried.

Resolution 03-0666, as amended, was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Hanft Fride PA, by Mark D. Pilon, has appealed the board of zoning appeals denial of a variance request to allow two main buildings on one lot; to reduce the front yard setback from 25 feet to ten feet; to reduce the side yard setback on a corner lot from 15 feet to ten feet; to reduce the interior side yard setback from 24 feet to zero feet; to relax the maximum height allowed from one story to 43 feet at the principal front of the building; to allow parking in the front yard of an R District; and to increase the number of units allowed per lot area in the R-3 District from 26 to 37 units for the construction of a 55-unit apartment building on property located at 610 East Fifth Street (proposed); and

WHEREAS, the property is partially located within a C-1 commercial zoning district and partially in an R-3 apartment residential zoning district; and

WHEREAS, Chapter 50-11 states that, except as specifically provided in this Chapter, every building erected or structurally altered after July 14, 1958, shall be located on a lot as defined in this Chapter and in no case shall there be more than one main building on one lot; and

WHEREAS, Chapter 50-20 requires a 25 foot minimum front yard; and

WHEREAS, Chapter 50-23(a) requires a 15 foot minimum side yard setback on corner lots; and

WHEREAS, Chapter 50-20.13 requires a minimum of a six foot side yard setback for each story with a maximum side yard of 54 feet; and

WHEREAS, Chapter 50-20 allows a maximum building height of one story; and

WHEREAS, Chapter 50-30 does not allow parking in the required front yard of any R District; and

WHEREAS, Chapter 50-20 requires a minimum of 1,500 square feet of lot area per family in an R-3 District; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed which constituted special circumstances or conditions

applying to the building or land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the Zoning Code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE BE IT RESOLVED, that the city council finds that, by reason of the presence of a creek running through the property, the meeting of two zoning districts on the parcel, the presence of elevation that may limit the convenient access to some configurations of buildings to be constructed on the property, that implementation of all area density, set back, and parking regulations would limit the ability to replace vital housing in the area which was lost as part of development, strict application of the Zoning Code to this property would result in a loss of needed affordable housing, interference with the council's previously stated plan to have a project of this type in this area, a loss of this project because the time limits to qualify for tax credits could not be met, and inability to configure the needed number of units for this project into the available space in this target neighborhood to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity and the practical considerations already mentioned and the proposed variances will not alter the essential character of the neighborhood, including access to sunlight and air, nor the land uses typical to the area, which include multi-family dwellings, so that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of owning and developing land in a manner consistent with the uses and general welfare of the area and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the board of zoning appeals' decision of August 26, 2003, is hereby reversed by the city council and the appeal is granted.

Resolution 03-0666, as amended, was unanimously adopted.

Approved September 15, 2003

GARY L. DOTY, Mayor

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Resolution 03-0665 failed upon a unanimous vote (Public Document No. 03-0915-03).

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

JEFFREY J. COX, City Clerk

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 22, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: President Stenberg -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-0922-01 Michael Hudyma, et al. (six signatures), submitting petition to vacate the following easements: Block 6, Lots 16-35; Block 7, Lots 16-25; Block 11, Lots 1-10 and 27-36; Block 12, Lots 1-5 and 57-61; all in Home Acres, First Division. -- Assessor

03-0922-02 Miller and Holmes submitting concurrent use permit application to retain the existing pump canopy that presently hangs four to five feet over the Michigan Street right-of-way. -- Planning commission

03-0922-03 St. James Catholic Church submitting petition to vacate seven feet of 57th Avenue West street easement between Elinor Street and Kinnear Place, West Duluth, Sixth Division. -- Assessor

03-0922-05 Ehlers and Associates, Inc., submitting draft tax increment financing plan for the establishment of the Harbor View Phase I tax increment financing district within Project Area No. 1 (03-0695R). -- Received

03-0922-06 Eric Kaiser submitting appeal of notice to connect to the new sewer line on Waverly Avenue. -- City engineer

03-0922-07 Janet Karon submitting communication regarding the proposed resolution declaring an international day of peace (03-0684R). -- Received

03-0922-08 Riverside Redevelopment Company submitting communication regarding the proposed issuance of a special use permit to LHB Engineers and Architects to allow a low-density planned development on 7.73 acres of land located above Grand Avenue Place between Traders Court and Gogebic Street (03-0652R). -- Received

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REPORTS OF OFFICERS

03-0922-09 Assessor submitting letters of sufficiency of petitions to vacate:

(a) A portion of 20th Street adjacent to Lots 19 and 21, Lower Duluth, Minnesota Avenue;

(b) The westerly 23 feet of the utility easement in the vacated 27th Avenue East above Second Street;

(c) Seven feet of 57th Avenue West street easement between Elinor Street and Kinnear Place, West Duluth, Sixth Division. -- Received

03-0922-10 Building official submitting appeal of Barbara Koralia to reverse the decision of the board of zoning appeals to deny a request to structurally alter a building that has a nonconforming use by constructing an 11 feet by 11 feet addition with loading dock on property located at 1202 Maple Grove Road. -- Committee 2 (physical development)

03-0922-11 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Duluth Art Fair at the Depot on November 7 and 8, 2003 (raffles); (b) St. Michael's Church on November 16, 2003 (bingo and raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-0922-17 Alcohol, gambling and tobacco commission minutes of July 8, 2003, meeting. -- Received

03-0922-12 Commission on disabilities minutes of August 6, 2003, meeting. -- Received

03-0922-13 Duluth state convention center administrative board minutes of: (a) July 29, regular; (b) August 4, 2003, building committee, meetings. -- Received

03-0922-14 Parking commission minutes of June 17, 2003, meeting. -- Received

03-0922-15 Planning commission submitting excerpt of August 27, 2003, meeting. -- Received

03-0922-16 Special assessment board minutes of: (a) August 12; (b) August 18, 2003, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

K.L. Lewis expressed concerns for various traffic safety areas.

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David Chimielewski expressed support for the communication (Public Document No. 03-0922-02) for a concurrent use permit for the M & H gas station.

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RESOLUTIONS TABLED

Vice President Hogg moved to remove Resolution 03-0631, authorizing annual late hours permit fees, pursuant to sections 8-17 and 8-18 of the Duluth City Code, from the table, which motion was seconded and unanimously carried.

Councilors expressed several concerns regarding: what revenue is expected to be received by the city with increased taxes from this extra hour; that these fees seem too high; that the state is already collecting fee for these; after one year, the council could reassess these fees and there needs to be further information supplied as to extra police costs.

Resolution 03-0631 failed upon a unanimous vote (Public Document No. 03-0922-18).

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Councilor Gilbert moved to remove Resolution 03-0649, approving the prioritization of projects to receive 2004 low income housing tax credits, from the table, which motion was seconded and unanimously carried.

Councilor Ness moved to amend the resolution by changing the "The Village at Matterhorn" to "second priority" and "New San Marco Apartments" to the "first priority," which motion was seconded and carried as follows:

Yeas: Councilors Atkins, Bergson, Ness, Stewart, Stover and Vice President Hogg -- 6

Nays: Councilors Gilbert and Stauber -- 2

Absent: President Stenberg -- 1

Resolution 03-0649, as amended, was adopted as follows:

[Editor's Note: Resolution 03-0649 was reconsidered, amended and approved on October 14, 2003.]

BY COUNCILOR GILBERT:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the act), the city of Duluth, Minnesota (the city) is a suballocator of low income housing tax credits (LIHTCs); and

WHEREAS, the city's 2004 allocation of LIHTCs is estimated at \$227,989; 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 2004 setting forth criteria governing the award of the city's LIHTCs; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the city received three applications for projects requesting allocation of 2004 LIHTCs (the projects); and

WHEREAS, the applications for the projects have been scored in accordance with the plan; and

WHEREAS, the Duluth housing commission, at its August 28, 2003, meeting, recommended LIHTCs be allocated to the projects on a priority basis.

BE IT FURTHER RESOLVED, that the city of Duluth supports the Pennel Park Commons project and intends to submit a bond authority application to the State of Minnesota on behalf of the developer Duluth Leased Housing Associates 1, LLL.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the city hereby approves the Duluth housing commission's prioritization of projects to receive 2004 low income housing tax credits as forth below:

First priority	New San Marco Apartments
Second priority	The Village at Matterhorn
Third priority	Pennel Park Commons

Resolution 03-0649, as amended, was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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At this time, 7:30 p.m., the public hearing on the HRA proposed Harbor View Phase 1 tax increment financing (TIF) district began

Rick Ball, executive director, Housing and Redevelopment Authority of Duluth, reviewed the nature of the plan.

Sid Inman, Ehlers & Associates, Inc., financial advisors, reviewed the aspects of the financing plan.

Dennis Fink, St. Louis County commissioner, expressed his concerns against tax increment financing in general, citing concern that any project would not happen "but for" creation of a TIF district. He presented information reflecting the 21 existing TIF districts and asked the council to look at the challenges that might arise with these districts.

Pam Kramer, program director, Local Initiative Support Corporation, supported the project and the creation of the TIF district.

Peggy Marrin expressed her concern that, while she supports this project, that creation of some TIF districts have not been appropriate.

Jeff Cory, director, North City's Land Trust, spoke in support of the project and the need for more affordable housing and more tools for allowing it to happen.

K.L. Lewis spoke in support of the project.

Stan Kaitfors, executive director, Community Action, and vice chairperson, Affordable Housing Coalition, noted the hugh need for this housing and the use of TIF.

At this time, 8:05 p.m. the public hearing was declared closed and the regular order of business resumed.

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A motion was made, seconded and unanimously carried to suspend the rules to consider Resolution 03-0695 at this time.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Resolution 03-0695, by Councilor Gilbert, approving a tax increment financing plan for the Harbor View Phase I tax increment financing district in Redevelopment Project No. 1 as proposed by the housing and redevelopment authority of Duluth, Minnesota, was introduced for discussion.

Resolution 03-0695 was adopted as follows:

BY COUNCILOR GILBERT:

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

Section 1. Recitals; findings.

1.01 The council has been informed that the Housing and Redevelopment Authority of Duluth (the authority) desires to promote development of property located in the city.

1.02 In order to promote such development, the authority has established Redevelopment Project No. 1 (the project) in the city and adopted a redevelopment plan (the redevelopment plan) therefor pursuant to Minnesota Statutes, Sections 469.001 through 469.047 (the act).

1.03 The authority is additionally considering establishment of the Harbor View Phase I Tax Increment Financing District (the district) within the project and adoption of 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 Project. The authority has prepared the TIF plan in accordance with the TIF act.

1.04 Pursuant to Section 469.175, Subdivision 3 of the TIF act, the Authority has requested the city to hold a public hearing on the TIF plan and approve the TIF plan, which hearing was held this day, at which the views of all interested parties were heard.

1.05 The authority has transmitted a copy of the TIF plan to the council in a document entitled "The Tax Increment Financing Plan for The Establishment of The Harbor View Phase I Tax Increment Financing District," which is now on file in the office of the city clerk.

1.06 The council has been provided with a copy of the TIF plan.

Section 2. Statutory findings.

2.01 The land in the project would not be made available for redevelopment without the financial aid to be sought by establishing the district.

2.02 It is the opinion of the council, based on discussions with representatives of the authority regarding projects proposed to be constructed in the district and information contained in the redevelopment plan and the TIF plan: that development and redevelopment within the District would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future; that the increased market value of the site to be included in the 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 district after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF plan; and that the use of tax increment financing is necessary. Appendix F to the TIF plan sets out the following:

(a) An estimate of the amount by which the market value of the district will increase without the use of tax increment financing;

(b) An estimate of the increase in the market value that will result from the development or redevelopment to be assisted with the tax increment financing described herein; and

(c) The present value of the projected tax increments for the maximum duration of the district permitted by the TIF plan.

2.03 Based on information contained in the redevelopment plan and the TIF plan, the TIF plan conforms to the general plan for the development and redevelopment of the city as a whole.

2.04 Based on information contained in the redevelopment plan 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 project by private enterprise.

Section 3. Approval.

3.01 The TIF plan is approved.

3.02 The geographic boundaries of the Project and district are described in the redevelopment plan and the TIF plan, which documents are incorporated herein by reference and which, together with this resolution, contain the requirements set forth in Section 469.028, Subdivision 2 of the act and Section 469.175, Subd. 3 of the TIF act.

Section 4. Designation of district.

4.01 The proposed district is a housing district as defined in Section 469.174, Subdivision 11 of the TIF act because: it consists of a portion of the Project intended for occupancy, in part, by persons or families of low and moderate income, as defined in Minnesota Statutes, Chapter 462A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state or municipal legislation or the regulations promulgated under any of those acts; not more than 20 percent of the total fair market value of the planned improvements in the redevelopment plan and TIF plan will be constructed for commercial uses or uses other than low and moderate income housing; tax increment generated from the district will be used solely in accordance with Section 469.176, Subdivision 4d of the TIF act; and the income limitations set forth in Section 469.1761 of the TIF act will be satisfied.

Resolution 03-0695 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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Councilor Ness moved to remove Resolution 03-0592, affirming a decision of the board of zoning appeals to approve the construction of a single family dwelling on a parcel of land that is under two acres, subject to specified conditions, on property located at 1405 Walnut Street (proposed address); and Resolution 03-0593, reversing a decision of the board of zoning appeals to approve a variance in minimum lot area in an unsewered area which variance would accommodate the construction of a single family dwelling on a parcel of land that is under two acres, subject to specified conditions, on property located at 1405 Walnut Street (proposed address), introduced by President Stenberg, from the table, which motion was seconded and unanimously carried.

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

John Alberding requested support for Resolution 03-0592.

Resolution 03-0592 was adopted as follows:

BY COUNCILOR NESS (introduced by President Stenberg):

WHEREAS, John and Anita Alberding, by Daniel H. Mundt, applied to the board of zoning appeals for a variance to construct a single family dwelling on a parcel of land relaxing the requirements of a minimum lot size of two acres in unsewered areas to 1.77

acres on property located at 1405 Walnut Street (proposed) and legally described at Lots 6 and 7, Block 6, Century Acres; and

WHEREAS, the board of zoning appeals granted the variance to allow a parcel of property that is under two acres to be developed for a single family dwelling with the following condition: that before a building permit will be issued, the property must front on an approved street per city standards for the minimum lot frontage required by Code; and

WHEREAS, Clifford Lindberg, who resides at 1425 Walnut Street, has appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and hereby makes the following determinations pursuant to Section 50-47, paragraph (c)(3), of the Code:

(a) That the board of zoning appeals is empowered to permit variances to lot sizes in unsewered areas, regardless of the limitations established by Section 50-47, paragraph (b), provided there is presented a permit or letter of intent to issue a permit for on site sewerage treatment from the St. Louis County health department;

(b) That Lot 6, Block 6, Century Acres, is a lot of record which may be developed without regard to the current zoning requirements for minimum lot size, but the combination of Lots 6 and 7, Block 6, Century Acres, will create a property more in compliance with the St. Louis County health department's standards for septic systems and therefore will benefit the general population of the city of Duluth;

(c) That the applicant has presented a permit or letter of intent to issue a permit for on site sewerage treatment from the St. Louis County health department;

(d) That the granting of a variance is just one component of the process to obtain a building permit which would include, but is not limited to, final septic system approval, the extension of water service and the extension of an improved street per city standards for the minimum lot frontage required by Code.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth affirms the board of zoning appeals' decision of July 22, 2003.

Resolution 03-0592 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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Resolution 03-0593 failed upon a unanimous vote Public Document No. 03-0922-19).

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Councilor Ness moved to remove Resolution 03-0652, granting a special use permit to LHB Engineers and Architects for a low-density planned development consisting of 48 condominium units in nine buildings on 7.73 acres of land located above Grand Avenue Place between Traders Court and Gogebic Street, introduced by President Stenberg, from the table, which motion was seconded and unanimously carried.

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

Bonnie Bubas, expressed concerns that the blasting for this development will be affecting neighbors' houses, diverting streams will cause more harm than good and that houses in this area are constantly shifting already.

Bill Bennett, developer, stated that they have followed the process, including three Duluth economic development authority (DEDA) meetings, a public discussion at a planning commission meeting, a presentation at a neighborhood planning district meeting which created modifications to the plan and a meeting with the adjacent landowner to the east. He also noted that there is no public funding for this much needed housing.

Arno Kahn felt that the development should have the restrictions of being restricted to "owner-occupied," that architectural standards concerning the exterior and landscaping be identified in the development agreement, that the proposed density of nine buildings of 48 units be reduced, that additional parking and play areas for tenants be provided, that the Phase 1 work have a second exit for emergency vehicles and that a natural fence be installed to limit movement into the forest service parking lot.

David Chimieleski, LHB Engineering, stated that there should be no blasting in Phase 1, that approximately 12,000 cubic yards of material will be using to make the project work and that the numbers of buildings and units are needed to make the project work.

Resolution 03-0652 was adopted as follows:

BY COUNCILOR NESS (introduced by President Stenberg):

WHEREAS, LHB Engineers and Architects has submitted to the city council a request for a special use permit for a low-density planned development, consisting of 48 condominium units in nine buildings on 7.73 acres of land located above Grand Avenue Place between Traders Court and Gogebic Street (Reference File No. 03070) and described as: a parcel located in the SW 1/4 SW 1/4 of Sec. 23, T49N, R15W, and located within Blocks 26, 43, 44 and 45 Ironton Second Division; that portion of said Blocks 26 and 43 lying southeasterly of the southeasterly right-of-way line of the former Duluth Winnipeg and Pacific Railway, together with those portions of (to be) vacated Kinney Street, Traders Court, York Avenue and the alley adjoining Block 43; and all of said Block 44, together with those portions (to be) vacated Commonwealth Avenue, Traders Court, and the adjoining alley; and Lots 3-19 of said Block 45, together with those portions of (to be) vacated Commonwealth Avenue and the adjoining alley; 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 LHB Engineers and Architects to allow for the development of a low-density planned development, consisting of 48 condominium units in nine buildings on 7.73 acres of land located northwest of Grand Avenue Place between Trader's Court and Gogebic Street, on the condition that Riverside Hills be developed in accordance with plans identified as Public Document No. 03-0922-20 and the following terms and conditions:

(a) That prior to the issuance of any construction permits, the following must be approved in writing by the city engineer:

(1) A stormwater management plan;

(2) Traders Court be upgraded to city standards and a maintenance agreement be approved/accepted;

(b) That prior to issuance of any construction permits, the following must be approved in writing by the city fire marshal:

(1) Placement of fire hydrants;

(2) Fire lane access to all structures;

(c) That prior to the issuance of an construction permits, the following must be approved in writing by the Minnesota pollution control agency:

(1) Sedimentation and erosion control plans;

(2) A stormwater management plan;

(d) That a common interest community (CIC) plat be filed which provides for permanent public open space along the creek and that the northernmost portion of the site bounded by the railroad, Kinney Street, and a small drainage be dedicated as a permanent open space;

(e) That home owners association documents be filed which provide for perpetual maintenance of the trail systems and other open space documents. Said documents, and any amendments thereto, be filed with the planning department;

(f) That portions of Commonwealth Avenue, York Avenue alley, York Avenue and portions of Traders Court and Kinney Street within the plat be vacated;

(g) That portions of Traders Court and Kinney Street to be vacated will be required to retain 20 feet along the center lines for pedestrian rights-of-way to connect to the future trail along the Duluth Winnipeg and Pacific Railroad.

Resolution 03-0652 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the second time:

BY VICE PRESIDENT HOGG AND PRESIDENT STENBERG

03-0657 - RESOLUTION AMENDING RULE 7 OF THE STANDING RULES OF THE CITY COUNCIL TO ALLOW CITIZENS TO ADDRESS A MAXIMUM OF THREE AGENDA AND ONE NONAGENDA ITEMS.

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

Peggy Marrin felt that this rule would discourage citizens from participating, that this is not a great amount individuals to speak on nonagenda items and that having long meetings, if necessary because of the issues, goes with the job of city councilor.

Vice President Hogg moved to remove the resolution from the agenda, 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.)

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

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing license for the period ending August 31, 2004, subject to departmental approvals and the payment of sales and property taxes:

Ray Skelton (Bedrock Bar), 2023 West Superior Street, with Ray Skelton, 100 percent owner, transferred from Coughlin Tarvas, Inc. (Bedrock Bar), same address.

Resolution 03-0673 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>
National Multiple Sclerosis	Congress Bar Pioneer Bar Curly's Bar
Irving Community Association	Stadium Lanes Shotz Bar Mitch's Gopher Lounge Norman's Bar
Irving Youth Hockey	North Pole Bar

Resolution 03-0674 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the Duluth Superior Symphony Association and St. Mary's Medical Center have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Duluth Superior Symphony Association and St. Mary's Medical Center and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 03-0675 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the Memorial Blood Centers 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 Memorial Blood Centers 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 03-0698 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointments of Mark Haugen, Katie Krikorian and Dennis Lamkin to the Duluth public arts commission, by Mayor Doty, for terms expiring on September 30, 2006, are confirmed.

Resolution 03-0667 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into a limited license agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0922-21, with the state of Minnesota through its department of natural resources (DNR) to use certain natural heritage information at no cost to the city.

Resolution 03-0671 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the city council did, on June 10, 1996, approve Resolution 96-0489, granting a special use permit to Duluth Regional Care Center for a supervised living facility at 420 East McCuen Street, licensed pursuant to Minnesota Statutes Section 144.50, Subdivision 6; and

WHEREAS, Duluth Regional Care Center has submitted to the city council a request for an amendment to the special use permit due to changes in Minnesota Statutes related to the funding for supervised living facilities (Reference File No. 03096) and said permit amendment request 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 terms of Resolution 96-0486 are hereby amended to provide that the special use permit issued to Duluth Regional Care Center for operation of the supervised living facility at 420 East McCuen Street, licensed pursuant to Minnesota Statutes, is granted on the condition that the facility be operated in accordance with all applicable laws.

Resolution 03-0678 was unanimously adopted.

Approved September 22, 2003

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 the alleyway between Skyline Parkway and 69th Avenue West and 69th Avenue West between Rupley Street and Mineral Street, legally described as that portion of the alleyway lying in Block 1 of Mineral Addition to West Duluth and that portion of 69th Avenue West adjoining Block 1, Mineral Addition to West Duluth (Reference File No. 03098); and

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

WHEREAS, the city planning commission unanimously approved the street vacation petition at its September 9, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation the alley way and the portion of 69th Avenue West described above and as more particularly described on Public Document No. 03-0922-22.

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

Resolution 03-0679 was unanimously adopted.

Approved September 22, 2003

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 the north half of West Fourth Street extending 120 feet east of 134th Avenue West in Fond Du Lac, legally described as that portion of Fourth Street adjoining Lots 22, 24 and 26, Fourth Street, Fond Du Lac (Reference File No. 03102); and

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

WHEREAS, the city planning commission unanimously approved the street vacation petition at its September 9, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of West Fourth Street extending 120 feet east of 134th Avenue West

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

in Fond Du Lac described above and as more particularly described on Public Document No. 03-0922-23.

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

Resolution 03-0680 was unanimously adopted.

Approved September 22, 2003

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 Anson Avenue above Restormel Street, legally described as the easterly ten feet of Anson Avenue adjoining Lot 1, Block 2, Bryant Addition 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 unanimously approved the street vacation petition at its September 9, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easterly ten feet of Anson Avenue adjoining Lot 1, Block 2, Bryant Addition Third Division, described above, and as more particularly described on Public Document No. 03-0922-24.

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

Resolution 03-0681 was unanimously adopted.

Approved September 22, 2003

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 the portion of Fourth Avenue West from Skyline Parkway (West Seventh Street) northerly to the alley easement, legally described as that portion of Fourth Avenue West adjoining Lot 67, Block 93, and Lot 63, Block 93, except the westerly 12.5 feet and except the southerly 17 feet, Duluth Proper Third Division (Reference File No. 03108); and

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

WHEREAS, the city planning commission unanimously approved the street vacation petition at its September 9, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Fourth Avenue West, described above, and as more particularly described on Public Document No. 03-0922-25.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

resolution together with a plat showing the portion of the street to be vacated.

Resolution 03-0682 was unanimously adopted.

Approved September 22, 2003

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 the westerly 23 feet of the utility easement in the vacated 27th Avenue East above Second Street, legally described as the westerly 23 feet of the utility easement in the vacated 27th Avenue East adjoining Lot 9, Block 4, Harrison's Division of Duluth (Reference File No. 03112); and

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

WHEREAS, the city planning commission unanimously approved the utility easement vacation petition at its September 9, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the westerly 23 feet of the utility easement in the vacated 27th Avenue East adjoining Lot 9, Block 4, Harrison's Division of Duluth, described above, and as more particularly described on Public Document No. 03-0922-26.

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

Resolution 03-0685 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into a grant agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-0922-27(a), with The Nature Conservancy pursuant to which The Nature Conservancy agrees to grant the city \$20,000 to be used to conduct the first phase of a stream assessment, said funds to be deposited into Fund 0210.

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. 03-0922-27(b), in the amount of \$20,000, with the United States geological survey (USGS) pursuant to which USGS will conduct the first phase of the stream assessment and will match the \$20,000 being funded under this agreement, said city funding to be payable from Fund 0210.

Resolution 03-0686 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an assignment agreement, a copy of which is on file in the office of the city clerk as Public Document No. 03-0922-28, with Goodwill Industries Vocational Enterprises, Inc., assigning all

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

rights, duties and responsibilities of city under that certain construction contract between the city, Goodwill and Commercial Roofing Company for the re-roofing of the Goodwill Enterprises building to Goodwill and fulfilling all of the city's funding obligations thereunder.

Resolution 03-0693 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that file with the office of the city clerk as Public Document No. 03-0922-29, with, and accept funds from, Hennepin County for the provision of dislocated worker services to laid off airline industry workers pursuant to the Workforce Investment Act for the period of April 7, 2003, through March 31, 2004, in the amount of \$54,495. Funds will be accepted upon execution of the agreement and shall be deposited into Fund 0268.

Resolution 03-0654 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 03-0922-30, with job service for the provision of dislocated worker services pursuant to the Workforce Investment Act and Minnesota Statutes, Chapter 268 for the period of July 1, 2003, through June 30, 2004, at costs not to exceed \$95,000 for the federal program and \$188,000 for the state program which shall be payable from Fund 0268.

Resolution 03-0655 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which shall be on file with the city clerk's office as Public Document No. 03-0922-31 with St. Louis County to accept funds in order to provide Minnesota family investment program (MFIP) employment and training services, in the amount of \$1,293,236. Contract dates shall run from July 1, 2003, through June 30, 2004.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 0268, Budget Item 6263.

Resolution 03-0659 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are authorized to enter into an agreement with the state of Minnesota department of administration to sublease office space in the Minnesota workforce center - Duluth, located on the second floor of the Government Services Center, 320 West Second Street. Lease period runs from July 1, 2003, through July 31, 2005. Based on current square footage and rental rates, rent is expected to total \$41,436.50. In the event that

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

rental rates or square footage are increased, total costs are not to exceed \$50,000, payable from Fund 0268.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerks office as Public Document No. 03-0922-32.

Resolution 03-0668 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement substantially in the form of that which is on file in the office of the city clerk as Public Document No. 03-0922-33, with the Northeast Minnesota office of job training (NEMOJT) for the provision of services to assist parents of low income families to find work under the Minnesota family investment program in an amount not to exceed \$590,810 for the period July 1, 2003, through June 30, 2004, payable from Fund 0268, Budget Item 6263.

Resolution 03-0669 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to execute an agreement, substantially in the form of that which is filed in the office of the city clerk as Public Document No. 03-0922-34, with the Arrowhead Economic Opportunity Agency (AEOA) for the provision of services to assist parents of low income families to find work under the Minnesota family investment program in an amount not to exceed \$331,802 for the period July 1, 2003, through June 30, 2004, payable from Fund 0268, Budget Item 6263.

Resolution 03-0670 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Nelson Technologies, Inc., be and hereby is awarded a contract for furnishing and delivering an indirect fired water bath heater for the utility operation division in accordance with specifications on its low specification bid of \$52,159.44, terms net 30, FOB destination, payable out of Gas Construction Bond Fund 0521, Department/Agency 500, Object 5532.

Resolution 03-0618 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering a new traffic signal controller and cabinet to traffic operations for the engineering division in accordance with specifications on its low specification bid of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

\$14,537.25, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 500, Organization 1930, Object 5226.

Resolution 03-0658 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay \$9,587.63 to Russell Spurrier in full and final settlement of the claim which arose out of a sewer backup at 4734 Norwood Street on or about May 19, 2003; payment to be made from Self Insurance Fund 0610.

Resolution 03-0662 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay \$15,228.76 to Earl Richards in full and final settlement of the claim which arose out of a sewer backup at 1033 Lake Avenue South on or about February 26, 2003; payment to be made from Self Insurance Fund 0610.

Resolution 03-0663 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Church Mutual Insurance Company, as subrogee of North Shore Baptist Church, the amount of \$10,752.32 in full settlement of all claims for damage to their insured's property at 15 South Lakewood Road resulting from a watermain break which occurred on January 29, 2003; payment to be made from the Self Insurance Fund 0610.

Resolution 03-0664 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0352 to Letourneau and Sons for reconstruction of First Street between 27th Avenue West and Piedmont Avenue, be amended to increase the amount by \$188,983.27 for a new total of \$808,728.57, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2171, Object 5530.

Resolution 03-0676 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that API Electric be and hereby is awarded a contract for construction of traffic signal system at Tenth Avenue East and Superior Street for the engineering division in accordance with specifications on its low specification bid of \$169,970, terms net 30, FOB job

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2228, Object 5530.

Resolution 03-0683 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in Ninth Street Alley from 13th to 14th Avenue East (City Job No. 0363TR), and filed with the secretary of the special assessment board; proper notice has been sent to the benefiting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$28,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5386, Object 5530; \$35 per front foot by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a ten 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 03-0688 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in 102nd Avenue West Alley between Gary Street and McGonagle Street, including the segment from 101st Avenue West to 102nd Avenue West Alley (City Job No. 0362TR), and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$33,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5387, Object 5530; \$40 per front foot by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a ten 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 03-0689 was unanimously adopted.

Approved September 22, 2003

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 No. 03-0922-35, granting the city and the Miller Creek joint powers board a maintenance road easement across property of Lester B. and Robin A. Seebeck for the purpose of gaining access to and constructing and maintaining the Miller Creek sediment trap.

Resolution 03-0690 was unanimously adopted.

Approved September 22, 2003

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 No. 03-0922-04, granting the city and the Miller Creek joint powers board a maintenance road easement across property of Donald W. and Janet F. Wagner for the purpose of gaining access to and constructing and maintaining the Miller Creek sediment trap.

Resolution 03-0691 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that Access Cardio Systems be and hereby is awarded a contract for furnishing and delivering 15 defibrillators for the fire department in accordance with specifications on its low specification bid of \$27,210, terms net 30 days, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 010, Organization NR03, Object E308.

Resolution 03-0687 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that Ray Riihiluoma, Inc., be and hereby is awarded a construction contract of Bayfront Park warming shack in accordance with plans and specifications as prepared by URS and LHB on its low bid of \$418,880, payable out of Capital Fund 450 as follows:

Organization C223, Object 5520 - \$300,000;

Organization C921, Object 5530 - \$118,800.

Resolution 03-0677 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

The following resolutions were also considered:

Resolution 03-0651, by Vice President Hogg, of intent to modify the inflow and infiltration grant program and requesting the administration to recommend a program for reallocated funds, was introduced for discussion.

Vice President Hogg moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

- - -

BY VICE PRESIDENT HOGG:

WHEREAS, the Minnesota Legislature has passed and the governor has signed into law the Minnesota Personal Protection Act in which Minnesota residents, subject to qualification, shall be issued permits to carry concealed weapons, effective May 28, 2003; and

WHEREAS, the act provides that permittees shall, with very few exceptions, be permitted to carry concealed weapons on municipal property; and

WHEREAS, the act provides that owners of private properties may post and regulate the ability of permittees to carry concealed weapons; and

WHEREAS, the council is vitally concerned about the safety of its employees, and public safety of the users and visitors of city properties; and

WHEREAS, the council can find no rational justification to distinguish between a permissive provision for private properties and a non-discretionary mandate for public properties; and

WHEREAS, there will very likely be an increase in public costs from this mandate as, for example, the greater presence of weapons on city properties may increase insurance premiums, and the city would need to provide facilities for employees with permits to store weapons at city properties; and

WHEREAS, the council agrees in concept with the failed amendment to the house file that would have allowed public facilities, such as city halls, parks, and recreation centers, to prohibit concealed weapons on the premises; and

WHEREAS, time is of the essence for legislators to reconsider and amend the act for the public safety of public employees and users of public facilities;

NOW, THEREFORE, BE IT RESOLVED, by the council of the city of Duluth that it states its opposition to the sections of the Minnesota Personal Protection Act relating to rights to carry concealed weapons on public property.

BE IT FURTHER RESOLVED, that the council states its support for measures that will allow cities to post "no weapons in City Hall or on city-owned properties."

Resolution 03-0694 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the issue of peace embraces the deepest hopes of all people and remains humanity's guiding inspiration; and

WHEREAS, the United Nations asked that the international day of peace be observed as a day of global cease fire and nonviolence, and invited all nations and people to honor a cessation of hostilities for the duration of the day; and

WHEREAS, there is growing support within our city for the observance of the international day of peace, which affirms a vision of our world at peace, and fosters cooperation between individuals, organizations and nations; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, global crises impel all citizens to work toward converting humanity's noblest aspirations for world peace into a practical reality for future generations.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council does hereby recognize September 21, 2003, as the international day of peace in the city of Duluth.

BE IT FURTHER RESOLVED, that the Duluth City Council encourages all government departments and agencies, organizations, schools, places of worship and individuals in our city to commemorate the international day of peace.

Resolution 03-0684 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0692, by Councilor Ness, authorizing Amendment Agreement No. 18314 with Hermantown for the Miller Creek joint powers board, was introduced for discussion.

Councilor Ness moved to table the resolution, as per the request from the administration, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR NESS:

BE IT RESOLVED, that the Duluth city council requests that the CDC reexamine and consider removing the condition that public service programs "be limited to no more than one per geographic area" and that "a maximum grant amount of \$100/youth served."

Resolution 03-0700 was unanimously adopted.

Approved September 22, 2003

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR BERGSON

03-045 (9620) - AN ORDINANCE AMENDING SECTION 10-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; PROVIDING FOR A BUILDING PERMIT FEE SCHEDULE AS SPECIFIED IN THE CURRENT UNIFORM BUILDING CODE.

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

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

- - -

The following entitled ordinances were read for the first time:

BY VICE PRESIDENT HOGG

03-050 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$6,150,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR STOVER

03-051 - AN ORDINANCE PERTAINING TO THE PLANNING COMMISSION, REQUIRING ALL PLANNING COMMISSION MEETINGS TO START AFTER 5:00 P.M.; AMENDING SECTION 4 OF ORDINANCE NO. 1809.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR ATKINS

03-042 (9621) - AN ORDINANCE PERTAINING TO CHARITABLE GAMBLING PREMISES LEASES; ELIMINATING THE PROHIBITION ON PERCENTAGE OF THE GROSS PREMISES LEASES; ADDING NEW LIMITS ON LEASE PAYMENTS; AMENDING SECTION 8-24 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Atkins moved to amend the ordinance to provide higher rent limits for any charitable operation which uses only machines (pull-tab dispensing devices) in a bar so that Section 8-24 is consistent with state law, to read as follows:

"Sec. 8-24. Gambling devices, prostitution, etc., prohibited.

(a) Except as provided below, no licensee shall keep, possess, operate or permit the keeping, possession or operation of any roulette wheel, football boards or other sports score betting boards, slot machine, dice or other gambling device or apparatus designed to facilitate betting on the premises or in any room adjoining the licensed premises controlled by him, permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under his control, to be used as a resort for prostitutes or other disorderly persons;

(b) A charitable organization licensed by the state of Minnesota pursuant to Minnesota Statutes, Chapter 349, to conduct lawful gambling may conduct such gambling on premises for which an intoxicating or nonintoxicating liquor license has been issued. The operation of lawful gambling in establishments licensed to sell alcoholic beverages shall be subject to the regulations set forth herein and no licensee or other person shall violate any of said regulations. In addition to criminal penalties, the city council shall, pursuant to Minnesota Statutes, Section 349.213, disapprove of the issuance of any lawful gambling license or premises permit by the Minnesota gambling control board if the issuance of such license or permit would violate these regulations. The regulations are as follows:

(1) No organization, including its auxiliaries and subdivisions, shall operate lawful gambling in more than six establishments in the city which are licensed to sell alcoholic beverages, and only three of the establishments may have pull-tabs sold by jar operators or pull-tab dispensing devices, with the remaining establishments served by pull-tab dispensing devices only;

(2) Only one organization may operate lawful gambling on each premises licensed to sell alcoholic beverages;

(3) No organization shall pay lease payments in excess of \$1,000 per month to any establishment in the city licensed to sell alcoholic beverages ~~and no lease shall be based on a percentage of gross receipts or profits for leases entered into prior to May 31, 2003. For booth operation leases negotiated after May 31, 2003, no organization shall pay lease payments in excess of ten percent of gross profits or a maximum of \$1,750 per month. For booth operation leases negotiated after May 31, 2003, the maximum lease payment allowed for sites with less than \$4,000 gross profit per month shall be \$400 per month. For bar operation leases in an establishment that has no booth operation, which are negotiated after May 31, 2003, if the organization only operates pull-tab dispensing devices at an establishment where redemption is made by an employee of the lessor, the organization shall not pay lease payments in excess of 20 percent of gross profits or a maximum of \$2,000 per month, with a maximum of \$200 per month on the first \$1,000 of gross profits.~~ For the purpose of this Section, any money or other thing of value given by an organization directly or indirectly to the liquor establishment or to any other entity in furtherance of the liquor establishment's interests shall be considered a "lease payment," regardless of the stated purpose of the

transaction. No liquor establishment shall accept lease payments in excess of any lawful limit;

(4) The area where pull-tabs are sold or other lawful gambling is operated shall be separate and away from the bar and liquor dispensing service areas of any establishment licensed to sell alcoholic beverages;

(5) No pull-tabs shall be sold by any employee of the establishment licensed to sell alcoholic beverages;

(c) The provisions of regulations (4) and (5) above shall not apply to any situation where the same organization holds both the alcoholic beverage license and the lawful gambling license;

(d) The provisions of regulation (2) shall not apply to the Duluth Entertainment Convention Center;

(e) Minnesota state lottery tickets authorized by Minnesota Statutes, Chapter 349A, may be sold on premises licensed to sell alcoholic beverages;

(f) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by:

(1) A tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497; or

(2) A tribal-state compact authorized under Minnesota Statutes, Section 3.9221," which motion was seconded and unanimously carried.

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

- - -

BY COUNCILOR NESS (INTRODUCED BY PRESIDENT STENBERG)

03-047 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-1, COMMERCIAL, AND R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF WATER STREET BETWEEN 20TH AND 22ND AVENUES EAST (NORTHLINE GROUP).

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

- - -

BY COUNCILOR NESS (INTRODUCED BY PRESIDENT STENBERG)

03-048 (9622) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 20 AND 21 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, SINGLE FAMILY RESIDENTIAL, TO R-2, TWO FAMILY RESIDENTIAL, PROPERTY LOCATED NORTH OF WEST SECOND STREET BETWEEN 34TH AND 35TH AVENUES WEST (KOSKI).

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

- - -

BY COUNCILOR NESS (INTRODUCED BY PRESIDENT STENBERG)

03-049 (9623) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO C-2, PLANNED COMMERCIAL, PROPERTY LOCATED WEST OF ARLINGTON AVENUE AND SOUTH OF ARROWHEAD ROAD (MESSINA/LASAVAGE).

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

Greg Follmer expressed support for the ordinance and noted that it should state "C-5" in the title of the ordinance, to be consistent with the body of the ordinance.

Councilor Ness moved to amend the title of the ordinance from "C-2" to "C-5," which motion was seconded and unanimously carried.

Councilor Stewart felt that council should address traffic patterns in a comprehensive plan first before approving zoning changes that will affect other neighborhoods.

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

Yeas: Councilors Atkins, Bergson, Gilbert, Ness, Stauber, Stover and Vice President Hogg -- 7

Nays: Councilor Stewart --1

Absent: President Stenberg -- 1

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

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9620

BY COUNCILOR BERGSON:

AN ORDINANCE AMENDING SECTION 10-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; PROVIDING FOR A BUILDING PERMIT FEE SCHEDULE AS SPECIFIED IN THE CURRENT UNIFORM BUILDING CODE.

The city of Duluth does ordain:

Section 1. That Section 10-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10-2. Building permit fee schedule.

(a) Building permit fees. Fees for building permits and building inspections shall be as set forth in Table 1A and Section 107 of the Uniform Building Code, 1997 edition;

(b) Special permits and fees. Special permits shall be obtained and special fees paid in all cases for items included in the following schedule whether said items are installed in new buildings or in existing buildings, unless otherwise herein provided, but the value of such items need not be included in the valuation upon which the main building permit is estimated as before provided in Subdivision (a) herein.

All of the provisions of the State Building Code pertaining to permits shall apply to such special permits as well as to the main building permit, excepting only the schedule for original fees.

For moving over public property any building which has an area of 1,000 square feet or less on the first floor -- \$30.

For moving over public property any building which has an area of over 1,000 square feet on the first floor -- \$60.

For moving any building or structure not on public property -- \$5.

Sidewalk vaults for each lineal foot or fractional part thereof -- \$4.

For razing or demolishing any building or structure 25¢ for every 100 cubic feet of volume of such building -- minimum fee -- \$15.

For the installation of a mobile home -- \$50;

(c) Special permits shall also be taken out and fees paid for the installation or alteration of electrical wiring, plumbing, heating plants, fireplaces or any other construction or accessory to a building or structure, the use of which is regulated by the provisions of the State Building Code and which for any reason is not included in the permit for general construction; and the fees for same shall be ascertained in the same manner as for the construction of new buildings;

(d) The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance, for the temporary occupation of public property, for inspections, certificates, sewer connections, water connections, gas connections or other privileges or requirements;

(e) When work for which a permit is required by this Code is started or proceeded with before said permit is obtained, the fee specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the State Building Code in the execution of the work, nor from any other standards or penalties prescribed by law;

(f) No permit to erect, repair or alter any building or structure shall authorize the use of any part of any public thoroughfare, or other public ground or easement.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: November 2, 2003)

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

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

Nays: None -- 0

Absent: President Stenberg -- 1

Passed September 22, 2003

Approved September 22, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9621

BY COUNCILOR ATKINS:

AN ORDINANCE PERTAINING TO CHARITABLE GAMBLING PREMISES LEASES; ELIMINATING THE PROHIBITION ON PERCENTAGE OF THE GROSS PREMISES LEASES; ADDING NEW LIMITS ON LEASE PAYMENTS; AMENDING SECTION 8-24 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-24 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 8-24. Gambling devices, prostitution, etc., prohibited.

(a) Except as provided below, no licensee shall keep, possess,

operate or permit the keeping, possession or operation of any roulette wheel, football boards or other sports score betting boards, slot machine, dice or other gambling device or apparatus designed to facilitate betting on the premises or in any room adjoining the licensed premises controlled by him, permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under his control, to be used as a resort for prostitutes or other disorderly persons;

(b) A charitable organization licensed by the state of Minnesota pursuant to Minnesota Statutes, Chapter 349, to conduct lawful gambling may conduct such gambling on premises for which an intoxicating or nonintoxicating liquor license has been issued. The operation of lawful gambling in establishments licensed to sell alcoholic beverages shall be subject to the regulations set forth herein and no licensee or other person shall violate any of said regulations. In addition to criminal penalties, the city council shall, pursuant to Minnesota Statutes, Section 349.213, disapprove of the issuance of any lawful gambling license or premises permit by the Minnesota gambling control board if the issuance of such license or permit would violate these regulations. The regulations are as follows:

(1) No organization, including its auxiliaries and subdivisions, shall operate lawful gambling in more than six establishments in the city which are licensed to sell alcoholic beverages, and only three of the establishments may have pull-tabs sold by jar operators or pull-tab dispensing devices, with the remaining establishments served by pull-tab dispensing devices only;

(2) Only one organization may operate lawful gambling on each premises licensed to sell alcoholic beverages;

(3) No organization shall pay lease payments in excess of \$1,000 per month to any establishment in the city licensed to sell alcoholic beverages for leases entered into prior to May 31, 2003. For booth operation leases negotiated after May 31, 2003, no organization shall pay lease payments in excess of ten percent of gross profits or a maximum of \$1,750 per month. For booth operation leases negotiated after May 31, 2003, the maximum lease payment allowed for sites with less than \$4,000 gross profit per month shall be \$400 per month. For bar operation leases in an establishment that has no booth operation, which are negotiated after May 31, 2003, if the organization only operates pull-tab dispensing devices at an establishment where redemption is made by an employee of the lessor, the organization shall not pay lease payments in excess of 20 percent of gross profits or a maximum of \$2,000 per month, with a maximum of \$200 per month on the first \$1,000 of gross profits. For the purpose of this Section, any money or other thing of value given by an organization directly or indirectly to the liquor establishment or to any other entity in furtherance of the liquor establishment's interests shall be considered a lease payment, regardless of the stated purpose of the transaction. No liquor establishment shall accept lease payments in excess of any lawful limit;

(4) The area where pull-tabs are sold or other lawful gambling is operated shall be separate and away from the bar and liquor dispensing service areas of any establishment licensed to sell alcoholic beverages;

(5) No pull-tabs shall be sold by any employee of the

establishment licensed to sell alcoholic beverages;

(c) The provisions of regulations (4) and (5) above shall not apply to any situation where the same organization holds both the alcoholic beverage license and the lawful gambling license;

(d) The provisions of regulation (2) shall not apply to the Duluth Entertainment Convention Center;

(e) Minnesota state lottery tickets authorized by Minnesota Statutes, Chapter 349A, may be sold on premises licensed to sell alcoholic beverages;

(f) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by:

(1) A tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497; or

(2) A tribal-state compact authorized under Minnesota Statutes, Section 3.9221.

Section 2. That this ordinance take effect and be in force 30 days from and after its passage and publication. (Effective date: November 2, 2003)

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

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

Nays: None -- 0

Absent: President Stenberg -- 1

Passed September 22, 2003
Approved September 22, 2003
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9622

BY COUNCILOR NESS (introduced by President Stenberg):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 20 AND 21 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, SINGLE FAMILY RESIDENTIAL, TO R-2, TWO FAMILY RESIDENTIAL, PROPERTY LOCATED NORTH OF WEST SECOND STREET BETWEEN 34TH AND 35TH AVENUES WEST (KOSKI).

The city of Duluth does ordain:

Section 1. That Plate Nos. 20 and 21 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 Map Nos. 20 and 21 at end of meeting)

(Reference File No. 03046)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 2, 2003)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

Nays: None -- 0

Absent: President Stenberg -- 1

Passed September 22, 2003

Approved September 22, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9623

BY COUNCILOR NESS (introduced by President Stenberg):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO C-5, PLANNED COMMERCIAL, PROPERTY LOCATED WEST OF ARLINGTON AVENUE AND SOUTH OF ARROWHEAD ROAD (MESSINA/LASAVAGE).

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 Map No. 33 at end of meeting)

(Reference File. No. 03091)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 2, 2003)

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

Yeas: Councilors Atkins, Bergson, Gilbert, Ness, Stauber, Stover and Vice President Hogg -- 7

Nays: Councilor Stewart -- 1

Absent: President Stenberg -- 1

Passed September 22, 2003

Approved September 22, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 14, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Stauber and President Stenberg -- 2

- - -

The minutes of the city council meetings held on July 10, 14 and 28, 2003, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-1014-02 Clayton J. B. Cich, et al. (five signatures), submitting petition to vacate the utility easement which extends from Hutchinson Road to Riva Road, adjacent to Lots 1 and 2, Block 3, in the plat of Mont Du Vue. -- Assessor

03-1014-03 Thomas A. and Patricia A. Clure submitting petition to vacate a portion of Seventh Avenue West lying between the northerly line of West Third Street and southerly of the extended centerline of Blocks 34 and 35, Duluth Proper, Third Addition. -- Assessor

03-1014-04 Nicholas T. Hill, et al. (four signatures), submitting petition to vacate the platted but unbuilt part of St. Paul Avenue, lying between Block 3 and Block 4, Woodland Park, Sixth Division Duluth. -- Assessor

03-1014-05 Robert Marnich and Galen Karlson submitting petition to vacate the NW1/4 of the SW1/4 of Section 11-49-15, Outlot A, Lots 9, 10, 11, 12, 13 and 14. -- Assessor

03-1014-06 Minnesota state auditor submitting:

(a) Management and compliance report for the city of Duluth for the year ended December 31, 2002;

(b) Spirit Mountain recreation area authority audit report for the years ended April 30, 2003 and 2002. -- Received

03-1014-25 Easy Housing, by William M. Burns, attorney, submitting communication regarding the proposed reclassification from S, suburban, to R-1-b, single family residential, property located between Peary Street and Heard Street west of 105th Alley West (city of Duluth/Easy Housing of Duluth, Inc.) (03-053-O). -- Received

03-1014-26 The following submitting communications regarding the proposed ordinance requiring planning commission meetings to start after 5:00 p.m. (03-051-O): (a) Pat Castellano; (b) Mary Catherine LaFond. -- Received

03-1014-07 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Crystal Bodell on October 4, 2003. -- Received

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REPORTS OF OFFICERS

03-1014-08 Assessor submitting:

(a) For confirmation the assessment roll levied to defray the assessable portion of 85th Avenue West land development (total assessable - \$41,113.22);

(b) Letters of sufficiency of petitions to vacate:

(1) Part of Sumac and Cottonwood Avenues;

(2) Street or alley in Lots 9-14, Block 3, Outlot A, Steel Plant

Terminal Addition;

(3) Unused utility easement from Hutchinson Road to Riva Road in the Plat of Mont Du Vue and to vacate Riva Road in its entirety. -- Received

03-1014-09 Building official submitting appeal of the board of zoning appeals' decision to deny a request to divide a property which contains a three unit building into two buildable lots, relaxing the minimum frontage requirement from 50 feet to 37.5 feet at 916 East Sixth Street (Nelson, by Architectural Associates). -- Committee 2 (physical development)

03-1014-10 Community development and housing division manager submitting 2004 CDBG funding requests. -- Received

03-1014-11 Engineering division monthly project status report of September 1, 2003. -- Received

03-1014-12 Purchasing agent submitting emergency orders awarded to: (a) Motorola Modems for police vehicles; (b) Superior Ford, Inc. for three police vehicles. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-1014-13 Civil service board minutes of: (a) July 1; (b) August 5, 2003, meetings. -- Received

03-1014-14 Duluth airport authority unaudited balance sheet of July 31, 2003. -- Received

03-1014-15 Duluth/North Shore Sanitary District board minutes of September 9, 2003, meeting. -- Received

03-1014-16 Duluth transit authority: (a) Financial statement summary for July 2003; (b) Minutes of July 23, 2003, meeting. -- Received

03-1014-17 Parks and recreation commission minutes of August 20, 2003, meeting. -- Received

03-1014-01 Planning commission minutes of July 8, 2003, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis voiced concern that the fire escapes do not exist on the buildings in the Lake Avenue and First Street area and urged the city do something to have the landlords take care of this issue.

- - -

Bob Greenberg, director of the Northland Youth Music Program, and Myrna Matheson requested the financial support of \$3,600 from the city for music camps for students in the sixth through 12th grade which provides a positive youth experience.

- - -

Greg Price submitted his suggestion for converting Enger Golf Course into an upscale private housing development.

- - -

RESOLUTION RECONSIDERED

Councilor Stewart moved to reconsider Resolution 03-0649, approving the prioritization of projects to receive 2004 low income housing tax credits, at this time, which motion was seconded and unanimously carried.

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

Keith Hamre requested the council to reconsider this resolution to change the priority order of the housing tax credit projects so that Village at Matterhorn is the first priority and San Marco Apartments is the second priority, and also declare an intention for funding San Marco Apartments in 2005 and Hope VI projects in 2006 through 2007. He continued saying that the

Minnesota finance housing agency found the San Marco application to be incomplete because of the lack of details of construction costs.

Councilor Ness moved to amend the priority of Village at Matterhorn to first priority and San Marco Apartments to second priority, which motion was seconded and unanimously carried.

Resolution 03-0649, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the act), the city of Duluth, Minnesota (the city) is a suballocator of low income housing tax credits (LIHTCs); and

WHEREAS, the city's 2004 allocation of LIHTCs is estimated at \$227,989; 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 2004 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city received three applications for projects requesting allocation of 2004 LIHTCs (the projects); and

WHEREAS, the applications for the projects have been scored in accordance with the plan; and

WHEREAS, the Duluth housing commission, at its August 28, 2003, meeting, recommended LIHTCs be allocated to the projects on a priority basis.

BE IT FURTHER RESOLVED, that the city of Duluth supports the Pennel Park Commons project and intends to submit a bond authority application to the State of Minnesota on behalf of the developer Duluth Leased Housing Associates 1, LLL.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the city hereby approves the Duluth housing commission's prioritization of projects to receive 2004 low income housing tax credits as forth below:

First priority	The Village at Matterhorn
Second priority	New San Marco Apartments
Third priority	Pennel Park Commons

RESOLVED FURTHER, that the city council declares its intention to approve a qualified allocation plan for the awarding of 2006 housing tax credits that would select the New San Marco Apartments project unless another viable funding source has been identified and secured prior to the deadline for submitting the 2005 housing tax credit application.

Resolution 03-0649, as amended, was unanimously adopted.

Approved October 14, 2003

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.)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY VICE PRESIDENT HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following land development contract: 85th Avenue West (Contract No. 9901320, assessable amount - \$41,113.22); is hereby confirmed.

Resolution 03-0715 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, Animal Allies has applied to the Minnesota gambling control board for a lawful gambling exemption (raffles); and

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

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

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

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

Resolution 03-0718 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, Pawn America Minnesota, LLC, has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 339 East Central Entrance; and

WHEREAS, the Duluth City Council has received a copy of the license application from the director of licensing of the department of commerce and can object to the 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 03-0726 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, Cash Station LLC, dba MoneyXchange, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 MoneyXchange.

Resolution 03-0727 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointments by Mayor Doty to the tree commission of R. Bruce Burton (professional), for a term expiring on August 31, 2006, Stephen Khalar, for a term expiring on August 31, 2005, and Therese Vaughn, for a term expiring on August 31, 2006, are confirmed.

Resolution 03-0707 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT HOGG:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation status and to release from the withheld from sale category the following tax forfeited parcel for inclusion with other property in the area to be dedicated and preserved in a conservation easement.

File No.	Applicant	Legal description	Location
03106	John Hovland	NW1/4 of NW1/4 Sec.9, T50N, R14W Parcel ID#: 010-2710-2600	south of property fronting on Norton Road and northwest of the Northridge Estates development (recently approved)

Resolution 03-0710 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT HOGG:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation status and to release from the withheld from sale category the following tax forfeited parcel for a new housing development.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

File No.	Applicant	Legal Description	Location
03117	Housing and redevelopment authority David Peterson (development coordinator)	Crosley Park Addition Block 159: Lots 2250 and 2251 Block 160: Lots 2264 and 1165 Parcel ID#s: 010-0790-23040; 010-0790-23180	south of Lester Street, between 52nd and 54th avenues East in Lakeside

Resolution 03-0711 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, the proper city officers are hereby authorized and directed to execute an amendment to an agreement between the city of Duluth and the St. Louis County board for the furnishing of home delivered meals for senior citizens for the period of July 1, 2003, through December 31, 2003, to decrease the payment for elderly waiver meals from \$4.49 to \$4.45 and to add the Woodland Gardens meal site as an additional location for reimbursement for elderly waiver meals. Said agreement is filed as Document No. 19322. Monies collected under said agreement shall be deposited in Federal Program Fund 0272, Department 031, Organization 6303, Revenue Source 4654.

Resolution 03-0699 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form of the contract on file with the clerk as Public Document No. 03-1014-18, with Elizabeth Fena, independent licensed teacher, to serve as a .75 FTE contract teacher to provide basic education instructional services to Workforce Investment Act program participants at the Duluth Workforce Center for the period October 1, 2003, through June 30, 2004, at a cost of \$23,400; payment to be made from Fund 0268.

Resolution 03-0708 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form of the contract on file with the clerk or Public Document No. 03-1014-19, with St. Louis County to provide services under food support employment and training (FSET) services at costs not to exceed \$400 per participant, with total costs not to exceed \$40,435, for the period July 1, 2003, through September 30, 2003.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 0268.

Resolution 03-0713 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the state of Minnesota, through the Minnesota department of natural resources, division of waters, administers financial assistance for coastal management purposes through Minnesota's Lake Superior coastal program; and

WHEREAS, the city of Duluth desires financial assistance from the coastal management assistance program for the purpose of developing a regional education outreach program in conjunction with the cities of Hermantown and Proctor in Minnesota and Superior in Wisconsin, Duluth Township, Rice Lake Township, Midway Township, University of Minnesota Duluth, Minnesota Sea Grant, University of Minnesota Duluth, St. Louis County and the Minnesota department of transportation.

RESOLVED, that the proper city officials are hereby authorized to accept a grant in the amount of \$27,650 to assist in funding the regional educational outreach program to help educate the public regarding the need to protect the St. Louis River and Lake Superior from degraded stormwater runoff.

FURTHER RESOLVED, that the proper city officers are authorized to execute all documents necessary for the implementation of said grant and to provide local matching funds in the form of in-kind services in the amount of \$16,224 and cash match in the amount of \$11,446, 1/2 of which shall be payable from Fund 0535, Organization 1945, Object 5439 and 1/2 of which shall be payable from Fund 0530, Organization 1915, Object 5441.

Resolution 03-0719 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized and directed to enter into a joint powers agreement with St. Louis County, Lake County, Cook County, 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 through June 30, 2004; said agreement to be substantially in the form of Public Document No. 03-1014-20 on file in the office of the city clerk.

Resolution 03-0722 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the rehabilitation of Bridge No. 88552 over Miller Creek on Grand Avenue, S.A.P. 118-126-12; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$72,223.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

said grant and affirms that any rehabilitation costs that qualify for Minnesota state transportation funds in access of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the rehabilitation costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

RESOLVED FURTHER, that grant monies received hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Organization 2178.

Resolution 03-0702 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to expand watermain service from Uniprise to the Airpark; 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 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 to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$48,000, will be payable from the Water Construction Bond Fund 0511, Department/Agency 500, Object 5532.

Resolution 03-0703 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 03-0184 to Progressive Consulting Engineers for furnishing cost of service study for lower papermill demands, be amended to increase the amount by \$3,720 for a new total of \$9,770, payable out of Water Fund 0510, Department/Agency 500, Organization 1915, Object 5310.

Resolution 03-0706 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Pitney Bowes be and hereby is awarded a contract for lease/purchase of a mail inserter/postage meter for the utility operations division in accordance with specifications on its low specification bid of \$85,269.44, terms Net 30, FOB Destination, \$25,580.83 payable out of Water Fund 0510, Department/Agency 0500, Organization 2400, Object 5418; \$37,518.56 payable out of Gas Fund 0520, Department/Agency 0500, Organization 2400, Object 5418; \$15,348.50 payable out of Sewer Fund 0530, Department/Agency 0500, Organization 2400, Object 5418; \$6,821.55 payable out of Stormwater Utility Fund 0535, Department/Agency 0500, Organization 2400, Object 5418.

Resolution 03-0716 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Stack Brothers Mechanical Contractors, Inc., be and hereby is awarded a contract for installing supply and return chilled water links to the St. Louis County Courthouse and St. Louis County Government Services Center for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$228,000, terms net, FOB job site, payable out of Steam District #1 Fund 0540, Department/Agency 920, Organization 1490, Object 5530.

Resolution 03-0720 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that proper city officials are hereby authorized to submit an application, substantially in the form of that filed with the office of the city clerk as Public Document No. 03-1014-21, requesting assistance from the Minnesota pollution control agency (MPCA) in the voluntary investigation and cleanup (VIC) program pursuant to Minn. Stat. 115B.17, subd. 14, relative to the construction of street improvements to be known as the Arthur Avenue project. Costs associated with this program, including MPCA staff costs of providing VIC program assistance and possible future costs associated with environmental site remediation, would be payable from federal surface transportation project funds or from Permanent Improvement Fund 0411, to be reimbursed from the city's municipal state aid fund.

Resolution 03-0724 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to an agreement approved in Resolution 02-0511 and amended in Resolution 02-0822, City Contract No. 19303, between the city of Duluth and the Duluth Seaway Port authority for the construction of street improvements to be known as the Arthur Avenue project to add \$61,000 to the amended contract amount so that the maximum consideration to be paid by the city under this agreement will be \$161,500; payable from the Permanent Improvement Fund 0411, to be reimbursed from the MSA fund.

Resolution 03-0725 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: front of 819 West Third Street.

Resolution 03-0697 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 03-0717, by Councilor Atkins, approving the 2:00 a.m. closing license for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

various alcoholic beverage licensees, was introduced for discussion.

Councilor Stewart moved to split the resolution so that off sale beer licenses could be dealt with separately, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Stewart, Stover and Vice President Hogg -- 5

Nays: Councilors Gilbert and Ness -- 2

Absent: Councilor Stauber and President Stenberg -- 2

Vice President Hogg stated that he was unaware that the new 2:00 a.m. closing law included 3.2 nonintoxicating malt liquor, and there is nothing in state law that prevents the city from excluding off sale 3.2 beer in the ordinance. He continued by saying that people do not need an extra hour to buy beer to take home.

Resolution 03-0717(a), pertaining to on sale liquor, wine and on sale beer, was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the 2:00 a.m. closing license for the following alcoholic beverage licenses for the period ending April 30, 2004, as listed on Public Document No. 03-1014-23.

Resolution 03-0717(a) was unanimously adopted.

Approved October 14, 2003, pursuant to Section 12 of the Duluth City Charter.

- - -

Vice President Hogg moved to table Resolution 03-0717(b), but it failed for a lack of a second.

Resolution 03-0717(b), pertaining to off sale beer, was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the 2:00 a.m. closing license for the following alcoholic beverage licenses for the period ending August 31, 2004, as listed on Public Document No. 03-1014-24.

Resolution 03-0717(b) was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Ness and Stewart -- 5

Nays: Councilor Stover and Vice President Hogg -- 2

Absent: Councilor Stauber and President Stenberg -- 2

Approved October 14, 2003, pursuant to Section 12 of the Duluth City Charter.

- - -

Resolution 03-0734, by Councilor Stewart, endorsing take back your time day, was introduced for discussion.

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

Sharla Gardner explained that Take Back your Time Day is part of a new national conscience raising event and that workers in the United States work nine more weeks a year than the European worker. She continued by saying that workers need at least two weeks of vacation each year and requested the council join the Central Labor Body in endorsing this concept.

Resolution 03-0734 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, the United States Senate has declared October National Work and Family Month by unanimous consent [Resolution 210, submitted by Senators Hatch and Alexander (R) and Kennedy and Dodd (D)], with the goal of reducing the conflict between work and family; and

WHEREAS, the senate has called upon Americans to take part in activities and

celebrations appropriate to the theme; and

WHEREAS, Take Back Your Time Day, a nonpartisan national dialogue about overwork, over-scheduling, and time poverty, and what we can do to solve these problems, is scheduled for October 24, 2003; and

WHEREAS, many Americans are working extremely long hours, taking shorter vacations and suffering from stress and burnout in the workplace; and

WHEREAS, time pressure, overwork and over-scheduling have a negative impact on family life, community and civic participation, health, economic productivity and environmental stewardship.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth endorses Take Back Your Time Day as an appropriate observance of National Work and Family Month and encourages the citizens of Duluth to:

(a) Find out more about Take Back Your Time Day by visiting the web site: www.timeday.org;

(b) Participate in or create local Take Back Your Time Day events to make your own views and ideas known, and to join with others in seeking solutions to time poverty;

(c) Discuss the issues with your employers, employees, coworkers, clergy and family.

Resolution 03-0734 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0660, by Vice President Hogg, accepting donation of lands adjacent to Chester Bowl from George and Jane C. Hovland, was introduced for discussion.

Vice President Hogg thanked the Hovland's for donating the land to the city.

Resolution 03-0660 was adopted as follows:

BY VICE PRESIDENT HOGG:

RESOLVED, that the city of Duluth does hereby accept the donation of the following-described property in St. Louis County, Minnesota, from George and Jane C. Hovland:

all of LAKEVIEW DIVISION FIRST ADDITION, EXCEPT Block One (1), Block Two (2), Outlot A and Outlot B, according to the recorded plat thereof, on file and of record in the office of the registrar of titles, St. Louis County, Minnesota.

EXCEPT all mineral and mineral rights.

RESOLVED FURTHER, that the city council hereby expresses the appreciation of the city for said donation.

Resolution 03-0660 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

Resolutions 03-0704 and 03-0705, by Vice President Hogg, affirming and reversing, respectively, a decision of the board of zoning appeals to deny a variance to structurally alter a building that has a nonconforming use by constructing an 11 foot by 11 foot addition with loading dock on property located at 1202 Maple Grove Road (Barbara Koralia), were introduced for discussion.

Councilor Bergson moved to table the resolutions for further information, which motion

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Stewart, Stover and Vice President Hogg -- 5

Nays: Councilors Gilbert and Ness -- 2

Absent: Councilor Stauber and President Stenberg -- 2

- - -

BY VICE PRESIDENT HOGG:

WHEREAS, job creation, business development and individual wealth growth in North-eastern Minnesota job zone have been less than the national and state averages; and

WHEREAS, the resulting affects of such lagging job creation, business development, and individual wealth growth have harmed and are forecasted to continue to harm the economy of the city of Duluth; and

WHEREAS, the job opportunity building zone (JOBZ) program created in Minnesota Session Laws 2003, First Special Session, Chapter 21, Article 1, allows for the formation of tax free zones;

NOW, THEREFORE, BE IT RESOLVED, that Arrowhead Regional Development Commission shall act as the legal sponsor and zone administrator for the zone proposed in the application submitted to the department of employment and economic development on October 15, 2003.

BE IT FURTHER RESOLVED, that upon zone designation by the state, the Arrowhead Regional Development Commission is authorized to enter into, on behalf of the city along with other subzone participants, necessary agreements with the state of Minnesota, and to commit itself, on behalf of the city, to comply with all applicable laws and regulations as stated in all contract agreements, including the business subsidy law under Sections 116J.993-116J.995.

BE IT FURTHER RESOLVED, that Arrowhead Regional Development Commission is authorized to commit the city to provide all of the local tax exemptions required by the job opportunity building zones (JOBZ) legislation and to agree, on behalf of the city, to forego the tax benefits resulting from the local and state tax exemptions and credits.

BE IT FURTHER RESOLVED, that the executive director of the Arrowhead Regional Development Commission is hereby authorized to execute such agreements as are necessary to implement zone designation on behalf of itself and the city, along with other subzone participants.

Resolution 03-0731 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0732, by Vice President Hogg, approving use of tax exemptions and credits within designated zones pursuant to the JOBZ program and committing to provide local exemptions and credits, was introduced for discussion.

Councilor Stewart expressed concern that while this program will encourage developers and create jobs, this tax free zone is shifting the tax burden from the large business owner to the taxpayers.

Resolution 03-0732 was adopted as follows:

BY VICE PRESIDENT HOGG:

WHEREAS, job creation, business development and individual wealth growth in the city of Duluth, Minnesota, have been less than the national and state averages; and

WHEREAS, the resulting affects of such lagging job creation, business development and individual wealth growth have harmed and are forecasted to continue to harm the economy of the city of Duluth; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the job opportunity building zone (JOBZ) program created in Minnesota Session Laws 2003, First Special Session, Chapter 21, Article 1, allows for the formation of tax free zones; and

WHEREAS, an application for tax free zone designation in the city of Duluth along with other jurisdictions in the area is being prepared for submission to the Minnesota department of employment and economic development by the Arrowhead Regional Development Commission.

RESOLVED, that the city of Duluth hereby approves of the use of tax exemptions and tax credits within the designated zones (subject to proper review and approval by the other appropriate taxing authorities within the zones), and encourages the Minnesota department of employment and economic development to approve the tax free zone application being submitted by the Arrowhead Regional Development Commission.

FURTHER RESOLVED, that the city of Duluth agrees to provide all of the local tax exemptions and credits required and provided for under the job opportunity building zones (JOBZ) legislation and agrees to forego the tax benefits resulting from the local and state tax exemptions and credits provided under the job opportunity building zones (JOBZ) legislation.

Resolution 03-0732 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a grant amendment between city of Duluth and the Minnesota DNR for the remediation of the dump site at Sargent Creek to increase the grant funding to the city by \$104,230; said amendment on file with the clerk as Public Document No. 03-1014-22; said money to be deposited in self insurance fund.

Resolution 03-0714 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0728, adopting amended guidelines for the inflow and infiltration program; Resolution 03-0729, of intent to request legislation to require certificate of noncontribution in order to file conveyances; and Resolution 03-0730, setting amount of surcharge for noninspection or noncompliance under Section 43-12.1 of the Duluth City Code, by Councilor Stover, were introduced for discussion.

Councilor Stover moved to table the resolutions were further information, which motion was seconded and unanimously carried.

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Resolution 03-0701, by Councilor Ness, supporting continuing operations of the 148th Fighter Wing, ANG, was introduced for discussion.

Councilor Ness moved to table the resolution until Councilor Stauber and President Stenberg, the original sponsors of the resolution, could be present, which motion was seconded and unanimously carried.

- - -

Resolution 03-0721, by Councilor Bergson, authorizing acceptance of up to \$2,400 from East Hillside Patch under the Minnesota Join Together Coalition grant program for overtime expenses incurred by the Duluth police department, was introduced for discussion.

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

resolution.

Myrna Matheson thanked the councilors for accepting the grant which will allow extra police patrol from August through September in the neighborhoods that have large number of college students.

Resolution 03-0721 was adopted as follows:

BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to accept from East Hillside Patch under the Minnesota Join Together Coalition grant program reimbursement of overtime expenses incurred by the police department in the East Hillside/Endion neighborhood.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any agreements necessary to implement the project on behalf of the police department. All monies from this grant will be deposited into Fund 0100, Agency 200, Organization 1620.

Resolution 03-0721 was unanimously adopted.

Approved October 14, 2003

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY VICE PRESIDENT HOGG

03-054 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,179,115 GENERAL OBLIGATION REVENUE BONDS OR NOTE 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 VICE PRESIDENT HOGG

03-055 - 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 \$430,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY VICE PRESIDENT HOGG

03-052 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTY LOCATED EAST OF SUNDBY ROAD, SOUTH OF PAGE STREET AND NORTH OF MAPLE GROVE ROAD (INDEPENDENT APOSTOLIC LUTHERAN CHURCH).

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BY VICE PRESIDENT HOGG

03-053 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 3 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED BETWEEN PEARY STREET AND HEARD STREET WEST OF 105TH ALLEY WEST (CITY OF DULUTH/EASY HOUSING OF DULUTH, INC.).

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BY COUNCILOR STOVER

03-056 - AN ORDINANCE TO REDUCE INFLOW AND INFILTRATION INTO THE SANITARY SEWER SYSTEM, PROVIDING FOR INSPECTIONS, A SURCHARGE FOR NONCOMPLIANCE AND APPEALS, AMENDING CHAPTERS 10, 29A AND 43 OF THE CODE.

- - -

BY COUNCILORS STOVER AND STEWART

03-058 - AN ORDINANCE ALLOWING AIRGUNS AND PAINTBALL GUNS IN THE CITY AND REGULATING THEIR USE AND POSSESSION; AMENDING ARTICLE I OF CHAPTER 49 OF THE CODE.

- - -

The following entitled ordinances were read for the second time:

BY VICE PRESIDENT HOGG

03-050 (9624) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$6,150,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

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BY COUNCILOR STOVER

03-051 (9625) - AN ORDINANCE PERTAINING TO THE PLANNING COMMISSION, REQUIRING ALL PLANNING COMMISSION MEETINGS TO START AFTER 5:00 P.M.; AMENDING SECTION 4 OF ORDINANCE NO. 1809.

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

Alison Clarke stated her appreciation of the support of the planning commission and staff, but the Lakewalk Townhome issue was an issue that should have been held at their night meeting.

Nancy Nelson, Peggy Marin, Jan Karon of Duluth Public Policy Alliance, and Vickie Sanville urged support of the proposed change to the planning commission meeting time as it would be better for the working people; allow more people to serve on the planning commission; not all decisions by the planning commission are reviewed by the council; commissioners should not be deciding what issues are controversial and this would be a significant step towards open government.

Councilor Ness voiced concern that the planning commission's working sessions and site visits should be allowed to continue during the day and moved to amend the ordinance to add the phrase, "at which items are voted upon starting" after the phrase, "with all meetings," which motion was seconded for discussion.

Councilor Stover expressed concern that decisions could be made at the working sessions and therefore those meetings should also be held at 5:00 p.m.

Councilor Ness' amendment unanimously carried.

Councilor Stover 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 9:30 p.m.

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

- - -

ORDINANCE NO. 9624

BY VICE PRESIDENT HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$6,150,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal gas utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal gas utility pledged for their payment.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal gas utility, and determines it is necessary to issue general obligation gas utility revenue bonds in the maximum amount of \$6,150,000 for the purpose of paying costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold the following: general obligation gas and sewer utilities revenue bonds dated December 1, 2001, the gas utility portion of such bonds now outstanding in the amount of \$5,065,000; general obligation utilities facility bonds dated September 1, 2002, the gas utility portion of such bonds now outstanding in the amount of \$2,132,000; and general obligation utilities revenue bonds dated December 1, 2002, the gas utility portion of such bonds now outstanding in the amount of \$1,425,000. Under the provisions of the ordinance authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated December 1, 2001, September 1, 2002, and December 1, 2002.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation gas utility revenue bonds of the city of Duluth in the maximum amount of \$6,150,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal gas utility. Net revenues are defined as sums from time to time within the gas utility operating account within the gas utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal gas utility and to maintain such reasonable

reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

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

Section 2. TERMS OF BONDS.

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

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal gas utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

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

Section 4. CERTIFICATION OF PROCEEDINGS.

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

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

Section 5. EFFECTIVE DATE.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 16, 2003)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Nays: None -- 0

Absent: Councilor Stauber and President Stenberg -- 2

Passed October 14, 2003
Approved October 14, 2003
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9625

BY COUNCILOR STOVER:

AN ORDINANCE PERTAINING TO THE PLANNING COMMISSION, REQUIRING ALL PLANNING COMMISSION MEETINGS TO START AFTER 5:00 P.M.; AMENDING SECTION 4 OF ORDINANCE NO. 1809.

The city of Duluth does ordain:

Section 1. That Section 4 of Ordinance No. 1809, which was passed on March 13, 1922, be amended to read as follows:

Sec. 4. The commission may make and alter rules and regulations for its government and procedure, consistent with the Charter and ordinances of the city of Duluth. It shall meet, at least once each month, with all meetings at which items are voted upon starting after 5:00 p.m., in quarters provided by the city, keep an accurate record of all of its proceedings, which shall always be open to public inspection, and shall on the first day of January and the first day of July, of each and every year, make and file a report of all its transactions with the city council.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 30, 2003)

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

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

Nays: None -- 0

Absent: Councilor Stauber and President Stenberg -- 2

Passed October 14, 2003
Approved October 14, 2003
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 27, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the city council meetings held on August 11 and 21, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-1027-01 Jerry Butchart, et al. (22 signatures), submitting petition for the bituminous surfacing of Superior Street Alley between 41st and 42nd avenues West. -- Assessor

03-1027-02 Church of St. Benedict of Duluth, by Father Richard B. Kunst, submitting petition to vacate a majority of St. Benedict's Street located between Lots 1-4, Block One, and Lots 5-8, Block Two, Johnson's Addition to the City of Duluth. -- Assessor

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REPORTS OF OFFICERS

03-1027-03 Assessor submitting letters of sufficiency of petitions to vacate:

(a) A portion of Seventh Avenue West between the northerly line of West Third Street and southerly of the extended centerline of Blocks 34 and 35, Duluth Proper, Third Addition;

(b) The platted but unbuilt part of St. Paul Avenue, lying between Blocks 3 and 4, Woodland Park Sixth Division. -- Received

03-1027-04 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from:

(a) Lincoln Park Business Group on November 20, 2003 (bingo);

(b) Rotary Club of Duluth on February 26, 2004 (raffle). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-1027-10 Alcohol, gambling and tobacco commission minutes of September 9, 2003, meeting. -- Received

03-1027-05 Duluth airport authority submitting:

(a) Unaudited balance sheet for the month ending August 31, 2003;

(b) Minutes of: (1) September 16; (2) September 24, 2003, meetings. -- Received

03-1027-06 Duluth state convention center administrative board minutes of August 25, 2003, meeting. -- Received

03-1027-07 Human rights commission minutes of September 10, 2003, meeting. -- Received

03-1027-08 Parking commission minutes of September 9, 2003, meeting. -- Received

03-1027-09 Special assessment board minutes of September 9, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis commented on various issues.

- - -

Dave Barschdorf commented on the parking and speeding issues on Central Entrance.

- - -

RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 03-0312, terminating the inflow and infiltration grant program and requesting the administration to recommend a program closure plan, from the table, which motion was seconded and unanimously carried.

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

- - -

Councilor Hogg moved to remove Resolution 03-0651, of intent to modify the inflow and infiltration grant program and requesting the administration to recommend a program for reallocated funds, from the table, which motion was seconded and unanimously carried.

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

- - -

Councilor Stauber moved to remove Resolution 03-0701, supporting continuing operations of the 148th Fighter Wing, ANG, by councilors Stauber, Hogg and President Stenberg, from the table, which motion was seconded and unanimously carried.

Councilor Stewart thought that the base realignment and closure program, was intended to be a nonpolitical process whereby objective standards would be used to determine what bases were not really necessary for national security and therefore would not support this resolution.

Resolution 03-0701 was adopted as follows:

BY COUNCILORS STAUBER, HOGG & PRESIDENT STENBERG (introduced by Councilor Ness):

WHEREAS, the 148th Fighter Wing is currently on air defense alert protecting the air sovereignty of the United States and performing an essential mission in the war on terrorism. Since 9/11, they have flown 1,500 missions and logged more than 4,800 hours of flying time in support of Operation Noble Eagle. These missions have included escorts for Air Force One and air defense missions over the White House, Camp David, Crawford, Texas, and other major cities in the United States; and

WHEREAS, this installation provides critical support and assistance to local Naval Reserve, Coast Guard, Army Reserve, Army National Guard, active duty military personnel and military retirees; and

WHEREAS, the Guard provides 400 full-time and 700 part-time living wage jobs in an economically depressed area that has already suffered closures and workforce reductions in the iron ore mines and industrial manufacturing industries. Members of this unit come from all over Northern Minnesota, Northwestern Wisconsin and the Upper Peninsula of Michigan. These jobs provide a tremendous economic impact to local communities; and

WHEREAS, the 148th Fighter Wing is one of the top ten employers in the city of Duluth. The loss of these jobs would increase unemployment in a city which has recently experienced the downsizing and loss of many significant employers; and

WHEREAS, the base averages \$56.4 million annually in economic impact on the local economy. In 2002, the economic impact was over \$80 million. The 148th supports 100 local and regional vendors with contracted and direct purchase services and goods; and

WHEREAS, the Duluth International Airport is the only substantial airport in Northern Minnesota/Northwestern Wisconsin for over 150 miles. The Air National Guard provides critical services to the Duluth International Airport, such as first responder, aircraft rescue and

the firefighting and airfield security. Loss of the base will degrade services offered at the airport, thus increasing costs to airport tenants, airlines servicing Duluth and those travelers utilizing the Duluth International Airport; and

WHEREAS, the Air National Guard and its facilities are a major presence in the aviation industry. Aviation is one of the newest and most rapidly growing sectors in our economy, as evidenced by the number of spin-off businesses located in the airport/airpark area. Loss of the base would remove an anchor from this initiative to revitalize and realign our economic base.

NOW, THEREFORE, BE IT RESOLVED, that given the importance of this unit to our national security, combined with the devastating impact the loss of this facility would have on the regional economy and economic development, we strongly urge the governor of Minnesota and the commander of the Minnesota Air National Guard, Minnesota's senators and Congressman Oberstar to use all the influence of their offices to provide support for the community effort to keep this installation off the closure list and continuing to protect American and Americans.

BE IT FURTHER RESOLVED, that the clerk shall provide a copy of this resolution to the offices named above.

Resolution 03-0701 was adopted upon the following vote:

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

Nays: Councilor Stewart -- 1

Approved October 27, 2003

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

BY COUNCILOR ATKINS:

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

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

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

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

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

Licensee	Gambling site
American Red Cross	T-Bonz
	Player's Sports Bar

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Licensee	Gambling site
MLBA Children's Fund	VFW #6320
Northland Vietnam Veterans Association	Kom On Inn
Climb Theatre	Rustic Bar
	Country Lanes North

Resolution 03-0739 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Fraternal Order of Police #9 and the Greater Twin Cities Area Muscular Dystrophy Association have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Fraternal Order of Police #9 and the Greater Twin Cities Area Muscular Dystrophy 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 03-0740 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Hovland, Inc., be and hereby is awarded a contract for construction of retaining wall at City Hall for the engineering division in accordance with specifications on its low specification bid of \$39,432, terms net 30, FOB job sites, payable out of General Fund 0100, Department/Agency 700, Organization 2725, Object I307.

Resolution 03-0751 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials be and hereby authorized to sell two 1996 Caterpillar motor grades Model 163H, serial numbers 5AK00089 and 5AK00080, to Construction Service Company in accordance with its high bid of \$260,000, revenue to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

General Fund 0100, Department/Agency 700, Organization 1448, Revenue Source 4639.
Resolution 03-0761 was unanimously adopted.
Approved October 27, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments by Mayor Doty to the animal humane board of Joan Eastman and Lynn Landstrom for terms expiring on October 31, 2008, are confirmed.
Resolution 03-0736 was unanimously adopted.
Approved October 27, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointment by Mayor Doty to the commission on disabilities of Bridget Riversmith for a term expiring on November 1, 2006, is confirmed.
Resolution 03-0737 was unanimously adopted.
Approved October 27, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain HOME accounts; and
WHEREAS, the community development committee (CD committee) for the HOME investment partnerships program established the following housing programs.
NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following transfer in the Federal Program Fund 260-2003 HUD-funded community development as set forth below:

2003 HOME Transfers

Project #	Project	Budget Amount	New Amount	Amount of Increase or Decrease
2631 h003	Duluth property rehabilitation	\$317,900.00	\$373,101.50	\$55,201.50
4706	Revenue source	\$55,201.50	-0-	(\$55,201.50)

Resolution 03-0712 was unanimously adopted.
Approved October 27, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.
NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increase in the Federal Fund 0262, Agency 020, 2002 HUD-funded community development accounts as set forth below:

2002 CDBG transfers account revised - 2002

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Project #	Project	Budget amount	New amount	Amount of increase or decrease
6520	Acquisition/demolition	\$156,376.00	\$210,779.96	+\$54,403.96
4706	Revenue source	\$ 54,403.96	-0-	(\$54,403.96)

Resolution 03-0747 was unanimously adopted.
 Approved October 27, 2003
 GARY L. DOTY, Mayor

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2003 CDBG accounts; and
 WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increase in the Federal Program Fund 0262, Agency 020, 2002 HUD-funded community development accounts as set forth below:

2003 CDBG transfers account revised - 2003

Project #	Project	Budget amount	New amount	Amount of Increase or Decrease
6637	Program administration	\$340,824.00	\$356,728.35	\$15,304.35
4706	Revenue source	\$ 15,304.35	-0-	(\$15,304.35)

Resolution 03-0748 was unanimously adopted.
 Approved October 27, 2003
 GARY L. DOTY, Mayor

BY PRESIDENT STENBERG:

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 passed Resolution 00-0522 on July 31, 2000, exempting from the requirements of the above-referenced resolution federal community development block grant program assistance until the assistance has been repaid to, and reinvested by, the city; and

WHEREAS, the Duluth City Council passed Resolution 00-0731 on October 23, 2000, exempting from the requirements of the above-referenced resolution federal emergency shelter grant (ESG) and HOME investment partnerships program assistance until the assistance has been repaid to, and reinvested by, the city; and Minnesota housing finance agency - community revitalization fund and innovative housing loan program (Resolution 00-0333(a), Resolution 00-0522, and 00-0731, hereinafter referred to as the business subsidy resolution); and

WHEREAS, the Duluth City Council passed Resolution 01-0241 on March 19, 2001, exempting from the requirements of the above-referenced resolution assistance for housing in

the form of a loan at an interest rate not generally available to the borrower in the commercial lending market for the extension of streets and utilities received by the borrower pursuant to authorization under Chapter IX of the Duluth City Charter, Resolution 00-0333(a), Resolution 00-0522, Resolution 00-0731, Resolution 01-0241, and Resolution 01-0860, hereinafter referred to as the business subsidy resolution; and

WHEREAS, the Duluth City Council passed Resolution 01-0860 on December 3, 2001, exempting from the requirements of the above-referenced resolution affordable housing projects that comply with the housing policy of the Duluth economic development authority (DEDA); and

WHEREAS, the Duluth City Council desires to further amend the business subsidy resolution in order to exempt assistance for housing.

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 partnerships 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;
- (d) Assistance for housing in the form of a loan at an interest rate not generally available to the borrower in the commercial lending market for the extension of street and utilities received by the borrower pursuant to authorization under Chapter IX of the Duluth City Charter;
- (e) All affordable housing projects that comply with DEDA's housing policy;
- (f) Assistance for housing.

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 life in the city."

Resolution 03-0735 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the westerly seven feet of 57th Avenue West between Kinnear Place and Elinor Street, legally described as the westerly seven feet of 57th Avenue West adjoining Block 80 of West Duluth, 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 unanimously approved the partial street vacation petition, File No. 03119, at its October 14, 2003, meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the westerly seven feet of 57th Avenue West adjoining Block 80 of West Duluth, Sixth Division, described above, and as more particularly described on Public Document No. 03-1027-12.

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

Resolution 03-0742 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley at the rear of 9136 Park Street, legally described as the alleyway adjoining Outlots A and B and Lots 9-14, Block 3, Steel Plant Terminal 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 unanimously approved the alley vacation petition, File No. 03124, at its October 14, 2003, 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. 03 1027 13.

RESOLVED FURTHER, that the full right-of-way being vacated be retained as a utility easement.

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

Resolution 03-0743 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 99-0239, the Duluth economic development authority's (DEDA) agreement with Neighborhood Housing Services, Inc. (NHS), to fund the Hillside area restoration program V (HARP V) approved at DEDA's meeting of October 21, 2003, pursuant to DEDA Resolution No. 03D-66, a copy of which is on file in the office of the city clerk as Public Document No. 03-1027-14, is hereby approved.

Resolution 03-0758 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0327 to Short Elliot Hendrickson, Inc., for the consulting services required for the wastewater rate study for the sanitary sewer utility

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

customers, be amended to increase the amount by \$9,270 for a new total of \$17,270, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1915, Object 5310.

Resolution 03-0749 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Fluid Conservation System be and hereby is awarded a contract for furnishing and delivering a digital leak correlator system for the utility operation division in accordance with specifications on its low specification bid of \$52,250, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0750 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0653 to Short Elliot Hendrickson, Inc., for the improvement of Marshall Street, Hartley Estates third addition, be amended to increase the amount by \$34,792.50 for a new total of \$89,792.50, payable out of Special Assessment Fund 0410, Department/Agency 038, Organization 5356, Object 5530.

Resolution 03-0752 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Equipment Rental Company be and hereby is awarded a contract for furnishing and delivering miscellaneous interior shelving for the utility operation division in accordance with specifications on its low specification bid of \$11,352.99, terms net 30, FOB destination, \$5,676.50 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580 and \$5,676.49 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0754 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the city of Duluth accepts the dedication of the following street and utility easement from J&S Partnership, LLP, and Scott Vesterstein and Lori Vesterstein:

A 66 foot road and utility easement over, under and across part of Lots 6 and 7, Block 1, Village Mall First Addition and that part of the North Half of North Half of Southwest Quarter of Northwest Quarter (N $\frac{1}{2}$ of N $\frac{1}{2}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$), Section Nineteen (19), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian. Said easement being 22.00 feet to the right and 44.00 feet to the left of the following described line:

Beginning at the northeast corner of said Lot 6, thence south 00°-22'-57" east, along the east line of said Lot 6 and the southerly extension of said east line, a distance of 183.00 feet, and said line there terminating.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Together with a 66.00 foot easement over, under and across that part of said Lot 6 and that part of said North Half of North Half of Southwest Quarter of Northwest Quarter (N½ of N½ of SW¼ of NW¼), the centerline of said easement is described as follows:

Commencing at the southeast corner of said Lot 6, thence south 89°-37'-03" west along the south line of said Lot 6, a distance of 22.00 feet to the beginning of said centerline to be described; thence continue south 89°-37'-03" west, along said south line of Lot 6, a distance of 118.76 feet, and said line there terminating.

Together with an easement for road and utility purposes over, under and across that part of said Lot 6 and that part of said North Half of North Half of Southwest Quarter of Northwest Quarter (N½ of N½ of SW¼ of NW¼) which lies within the circumference of a circle having a radius of 66.00 feet. The center of said circle is at the terminus of the above-described centerline;

said easement being more particularly described as follows, to wit:

Matterhorn Circle, Duluth, Minnesota.

Resolution 03-0757 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: front of 2911 West First Street.

Resolution 03-0733 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0741, by Councilor Atkins, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license from the Duluth airport authority (Afterburner Lounge), 4701 Grinden Avenue to Pedro & Kerv, Inc. (Afterburner Lounge), same address, was introduced for discussion.

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

Marguerette Clev, Tammy McDonald and Linda McDonald, airport employees, Carol Carlson, president of Hotel & Restaurant Employees Local 99,. Todd Erickson, secretary-treasurer of Hotel and Restaurant Employee Local 99, Eric Lehto, director of AFSCME Council 96 and Alan Netland, president of the Central Labor Body opposed the resolution because: long standing airport employees have been terminated; this termination was done in an unfair manner; the union was denied a "successorship" clause into the operators contract; the union/employees had not been informed of this new operator and this contradicts the goal of creating good sustainable jobs.

The council discussed at great length the history of the liquor license at the airport, the issues raised by the speakers and options the council could take.

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

Yeas: Councilors Atkins, Stauber and President Stenberg -- 3

Nays: Councilors Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Resolution 03-0741 failed upon a unanimous vote (Public Document No. 03-1027-16).

[Editor's Note: Resolution 03-0741 was reconsidered and failed on November 10, 2003.]

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At this time, 8:05 p.m., the public hearing regarding I&I guidelines (03-0728R) began.

Administrative Assistant Winson reviewed the background on this issue and the current resolutions before the council.

Dick Larson, public works and utilities department director, answered questions on aspects of compliance by households and landlords.

Kurt Soderberg, Western Lake Superior Sanitary District executive director, reviewed the need for this compliance.

At this time, 8:14 p.m., no one appeared who wished to be heard, the hearing was declared closed and the regular order of business resumed.

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RESOLUTIONS TABLED

Councilor Stover moved to remove at this time Resolution 03-0728, adopting amended guidelines for the inflow and infiltration program; Resolution 03-0729, of intent to request legislation to require certificate of noncontribution in order to file conveyances; and Resolution 03-0730, setting amount of surcharge for noninspection or noncompliance under Section 43-12.1 of the Duluth City Code, from the table, which motion was seconded and unanimously carried.

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Councilor Hogg moved to suspend the rules to consider Ordinance 03-056 at this time, which motion was seconded and unanimously carried.

INTRODUCTION AND CONSIDERATION OF ORDINANCES

BY COUNCILOR STOVER

03-056 (9629) - AN ORDINANCE TO REDUCE INFLOW AND INFILTRATION INTO THE SANITARY SEWER SYSTEM, PROVIDING FOR INSPECTIONS, A SURCHARGE FOR NONCOMPLIANCE AND APPEALS, AMENDING CHAPTERS 10, 29A AND 43 OF THE CODE.

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Resolution 03-0728 was adopted as follows:

BY COUNCILOR STOVER:

WHEREAS, pursuant to Minnesota Statutes Section 471.342, the city is authorized to establish an inflow and infiltration (I&I) program to reduce inflow and infiltration of unpolluted waters into its sanitary sewer system; and

WHEREAS, pursuant to subdivision 4 of said statute, the city is required to adopt program guidelines to establish program eligibility and program standards for compliance; and

WHEREAS, on June 25, 2001, the city council approved Resolution 01-0481 approving those revised I&I grant program guidelines on file in the office of the city clerk as Public Document No. 01-0625-31 (the 2001 guidelines); and

WHEREAS, the I&I problems from roof and foundation drains of almost 2,500 homes have been corrected through the receipt and use of grants made under the I&I program; and

WHEREAS, it has now been determined that there is a need to reallocate available resources to address other causes of the I&I problem and to find alternative ways of incentivizing property owners to fully cooperate with the objective of eliminating I&I from the city's sanitary sewer system; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, it is necessary and appropriate to amend the 2001 guidelines to reflect the reallocation of resources and the restructuring of the I&I program.

NOW, THEREFORE, BE IT RESOLVED, that the revised I&I grant program guidelines on file in the office of the city clerk as Public Document No. 01-0625-31 are hereby rescinded and the amended I&I grant program guidelines dated October 2, 2003 (Public Document No. 03-1027-11, are hereby adopted pursuant to the requirements of Minnesota Statutes, Section 471.342, subd. 4.

Resolution 03-0728 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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Councilor Hogg reviewed how the replacement ordinance addresses the concerns of Resolution 03-0729, which the administration concurred with.

President Stenberg moved that Resolution 03-0729 be removed from the agenda, which motion was seconded and unanimously carried.

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Resolution 03-0730 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that the surcharge for refusing to allow inspection of property or for failure to bring property into compliance as provided for in Section 43-12.2 of the Duluth City Code, 1959, as amended, is hereby established as being \$50 per month for each month of such noninspection or noncompliance; said surcharge amount to be deposited in Sewer Utility Fund 0530, Agency 500, Revenue Source 4840.

Resolution 03-0730 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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Councilor Hogg moved to amend the ordinance as follows:

(a) By adding, following Section 8, a new Section 9 to read as follows:

"Section 9. That the Duluth City Code, 1959, as amended, is amended by the addition of a new Section 43-33.3 which reads as follows:

Sec. 43-33.3. Notification to buyers and mortgagees.

(a) This Section 43-33.3 applies to the transfer or encumbrance of interests in property, which is required to be served by the city sewer, as set out in Section 43-16, or its successor, for which property no valid certificate of non-contribution has been issued and is in force;

(b) Within 30 days before, or at the time of, a transfer of title, or an encumbrance by mortgage, or a transfer of an interest in, or the entering into of a contract for deed for, or contract for sale of, or a real estate transaction closing set by provisions of a previous purchase agreement of a property described in (a), above, a written notice must be given;

(c) The notice referred to in (b), above, must be given by the owner, or seller, or agent of owner or seller, or personal representative of the owner or seller, or each mortgagor, or an agent of a mortgagor, and it must be given to each buyer, each mortgagee, each recipient of an interest in the property, and the building official of the city of Duluth, or the building official's designee;

(d) The notice referred to in (b) and (c) above shall be written, in a form acceptable for recording by the St. Louis County recorder of deeds, and in the form of a sworn affidavit. It shall contain the following information:

(1) Identify the property;

(2) The fact that there may be no valid certificate of noncontribution, issued under this ordinance, in force for the property;

(3) The fact that the property may not be in compliance with this

Chapter 43;

(4) That under this ordinance the city has the authority to require inspection of the property by the city and remediation actions by the owner, which can include disconnection and repair of drains, so that the property comes into compliance;

(5) That, in addition to costs of remediation, and the monthly surcharge for noncompliance, as set in accordance with Section 31-6(a) of this code, the maximum penalty for non-compliance is that set out in D.C.C. 1-7, currently \$1,000 each day of noncompliance";

(b) By adding a new Section 10 to read as follows:

"Section 10. That Section 43-24 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 43-24. Permits required.

There shall be three classes of building sewer connection permits:

(a) For users discharging domestic strength wastewater to sanitary sewers;

(b) For users discharging nondomestic strength wastewater to sanitary sewers;

(c) For discharge of stormwater or other unpolluted drainage to storm sewers.

In all cases, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. For new construction, no permit shall issue unless a valid certificate of noncontribution, issued pursuant to this ordinance, is in force for the premises. A permit and inspection fee sufficient to defray the cost incidental to the processing of such connection permit, including the cost of inspection of connection for each such class, shall be established by resolution of the city council and shall be paid to the city at the time the application is filed";

(c) By changing "Section 9" to "Section 11;" changing "Section 10" to "Section 12;" and changing "Section 11" to "Section 13";

(d) To correct a typographical error in Section 8 by changing the word "nonconformance" to "noncontribution" in Sec. 43-33.2(c), line 12, which motion was seconded and unanimously carried.

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

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Resolutions 03-0744 and 03-0745, by President Stenberg, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to divide a property (75 feet by 140 feet) which contains a three unit building into two buildable lots relaxing the minimum lot frontage requirement from 50 feet to 37.5 feet; to reduce the minimum side yard

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

setback from eight feet to five feet and the aggregate side yard from 15 feet to 12 feet for the construction of another three unit building on property located at 918 East Sixth Street (Chris Nelson, by Architectural Associates), were introduced for discussion.

Resolution 03-0745 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Chris Nelson, by Ryan Mears of Architectural Associates, has appealed the board of zoning appeals denial of a variance request to reduce the minimum frontage requirement from 50 feet to 37.5 feet; to reduce the minimum side yard setback from eight feet to five feet and the aggregate side yard from 15 feet to 12 feet for the construction of a second three unit building on property located at 918 East Sixth Street; and

WHEREAS, the property is located within an R-3, Apartment Residential, zoning district; and

WHEREAS, Chapter 50-20.2 requires a minimum lot frontage of 50 feet, a minimum side yard setback of seven feet and an aggregate side yard setback of 15 feet for dwellings in an R-3 zoning district; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed because no special circumstances or conditions applying to the building or land in question were peculiar to such property and did not apply generally to other land or buildings in the vicinity; and because a variance was not necessary for the preservation and enjoyment of a substantial property right; and it is merely a convenience for the applicant; and

WHEREAS, the granting of this variance was not justified under the existing language of the Zoning Code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to make the following findings:

(a) That by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship, upon the owner of such property;

(b) That such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code;

(c) There exist special circumstances or conditions applying to the building or land in question, which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;

(d) That the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;

(e) That authorizing of the variance will not impair an adequate supply of light and air to adjacent property, nor unreasonably increase the congestion in public streets, nor increase the danger of fire, nor imperil the public safety, nor unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of the condition of the land, described below, and _____, strict application of the Zoning Code to this property would result in _____ (practical difficulty or undue hardship) _____ to the owner, that relief therefrom may be granted without substantial

detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code; because _____; that the following special circumstances or conditions apply to the building or land in question and are peculiar to such property or immediately adjoining property, and also do not apply generally to other land or buildings in the vicinity: _____; that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of _____; that granting the variance is not merely a convenience to the applicant; that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city; because _____, (or) as described in the staff report; and that _____.

FURTHER RESOLVED, that the board of zoning appeals' decision of September 23, 2003, is hereby reversed by the city council and the appeal is granted so that the variance shall now issue.

Resolution 03-0745 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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Resolution 03-0744 unanimously failed (Public Document No. 03-1027-17).

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Resolution 03-0755, by President Stenberg, denying a petition to vacate a portion of 20th Street South between Minnesota Avenue and St. Louis Avenue (Larson), was introduced for discussion.

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Councilor Ness moved to suspend the rules to consider Resolution 03-0763 at this time, which motion was seconded and unanimously carried.

Resolution 03-0763, by Councilor Ness, approving a petition to vacate a portion of 20th Street South between Minnesota Avenue and St. Louis Avenue (Larson), was introduced for discussion.

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

Jessica Durbin, attorney for Tom Larson, voiced support for Resolution 03-0763.

Resolution 03-0763 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of 20th Street South between Minnesota Avenue and St. Louis Avenue (the bay), legally described as 20th Street on Park Point, adjoining Lots 19 and 21, Minnesota Avenue, Lower 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 unanimously denied the street vacation petition at its October 14, 2003, meeting, citing the following findings:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(a) The vacation would be inconsistent with the historic purposes of the concurrent use permit, the past practice and policies of the planning commission, and of Resolution No. 90-0191;

(b) With the garage located wholly within the south 1/2 of the street easement, there is no cloud on the title; and

WHEREAS, the staff report to the planning commission informed the commission that the entire easement was not needed for public purposes and that a sufficient easement would remain for needed public purposes if only a portion of the easement was vacated; and

WHEREAS, partial vacation would resolve outstanding property title issues without negatively impacting the public interest.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of the 20th Street South between Minnesota Avenue and St. Louis Avenue (the bay) as follows: that portion of the easement upon which there exists on this date a garage constructed pursuant to Ordinance No. 8533 plus an additional one foot in each outside dimension. But in no event to intrude into the northerly 12 feet of the remaining public easement of 20th Street South RESOLVED FURTHER, that this resolution shall take effect and be implemented only after the director of planning and development certifies that he has received from the applicant a reports of survey and legal description which in his opinion accurately describes the exact location and dimension of the garage and area to be vacated, and authorizes the vacation. Such authorization shall not be given after December 31, 2003.

Resolution 03-0763 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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Resolution 03-0755 unanimously failed (Public Document No. 03-1027-18).

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Resolution 03-0759, by President Stenberg, approving the transfer of funds to the city of Duluth for certain improvements to a garage structure relating to future skywalk construction pursuant to DEDA Resolution 03D-68, was introduced for discussion.

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

KL Lewis expressed her concerns that there has not been any published information relative to this as to where this will be located.

Resolution 03-0759 was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 99-0239, the Duluth economic development authority's (DEDA) authorization to transfer funds to the city of Duluth, subject to approval of a skywalk easement agreement between the city and Vonjaro Company, LLC, approved at DEDA's meeting of October 21, 2003, pursuant to DEDA Resolution No. 03D-68, a copy of which is on file in the office of the city clerk as Public Document No. 03-1027-15, is hereby approved.

Resolution 03-0759 was unanimously adopted.

Approved October 27, 2003

GARY L. DOTY, Mayor

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Resolution 03-0760, by Councilor Stover, authorizing a contract with Allco Finance Corporation for exclusive rights to finalize a lease of city-owned infrastructure and expressing city's intent to do so, was introduced for discussion.

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

KL Lewis commented that there needs to be more information available on this before a decision can be made.

The council discussed at length aspects of the resolution and felt the need for more information.

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

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT STENBERG

03-047 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-1, COMMERCIAL, AND R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF WATER STREET BETWEEN 20TH AND 22ND AVENUES EAST (NORTHLINE GROUP).

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

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

Alison Clarke, speaking on behalf of Neighborhood Planning District No. 7, supported this ordinance because it was consistent with the long-range land use plan.

Councilor Stewart moved to retable the ordinance, which motion was seconded and unanimously carried

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The following entitled ordinances were read for the first time:

BY COUNCILOR ATKINS

03-061 - AN ORDINANCE AMENDING REGULATIONS PERTAINING TO THE LICENSING OF PAWNBROKERS; AMENDING SECTIONS 36-1, 36-2, 36-3, 36-6, 36-7, 36-9, 36-12, AND 36-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR STEWART

03-060 - AN ORDINANCE AMENDING DULUTH CITY CODE SECTION 50-1.38 PROVIDING FOR HOME OCCUPATIONS.

Councilor Stewart moved remove the ordinance from the agenda and refer it to the planning commission, which motion was seconded and unanimously carried.

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BY PRESIDENT STENBERG

03-059 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MILLER AND HOLMS, INC., FOR A GAS ISLAND CANOPY TO PROJECT FIVE FEET INTO AND OVER THE RIGHT-OF-WAY OF WEST MICHIGAN STREET LOCATED AT 1320 WEST MICHIGAN STREET.

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The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

03-054 (9626) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY

OF \$1,179,115 GENERAL OBLIGATION REVENUE BONDS OR NOTE 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.

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BY COUNCILOR HOGG

03-055 (9627) - 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 \$430,000 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.

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BY PRESIDENT STENBERG (INTRODUCED BY COUNCILOR HOGG)

03-052 (9628) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTY LOCATED EAST OF SUNDBY ROAD, SOUTH OF PAGE STREET AND NORTH OF MAPLE GROVE ROAD (INDEPENDENT APOSTOLIC LUTHERAN CHURCH).

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

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BY PRESIDENT STENBERG (INTRODUCED BY COUNCILOR HOGG)

03-053 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 3 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED BETWEEN PEARY STREET AND HEARD STREET WEST OF 105TH ALLEY WEST (CITY OF DULUTH/EASY HOUSING OF DULUTH, INC.).

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

Jacob Fosle spoke in opposition to the ordinance.

Councilor Hogg noted that the planning commission unanimously voted against this because the attorney for the applicant stated that there was a problem with the title to the property.

The councilors felt reasons for not approving the ordinance were: the state's concerns relative to the wetland delineation; the need to access the impact of the firing range and not having clear title to the property.

Ordinance 03-053 unanimously failed (Public Document No. 03-1027-19).

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BY COUNCILORS STOVER AND STEWART

03-058 (9630) - AN ORDINANCE ALLOWING AIRGUNS AND PAINTBALL GUNS IN THE CITY AND REGULATING THEIR USE AND POSSESSION; AMENDING ARTICLE I OF CHAPTER 49 OF THE CODE.

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

Robert Wolfe and William Procopis spoke in support of the ordinance.

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 9:38 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9629

BY COUNCILOR STOVER:

AN ORDINANCE TO REDUCE INFLOW AND INFILTRATION INTO THE SANITARY SEWER SYSTEM, PROVIDING FOR INSPECTIONS, A SURCHARGE FOR NONCOMPLIANCE AND APPEALS, AMENDING CHAPTERS 10, 29A AND 43 OF THE CODE.

The city of Duluth does ordain:

Section 1. That Section 10-5 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 10-5. Building appeal board.

(a) There is hereby established a building appeal board, which shall hear and determine appeals under the state building and fire codes and Duluth Housing Code. Such board shall consist of 12 members who shall be appointed by the mayor, subject to the approval of the city council and who shall serve without compensation. The Duluth fire chief and building official shall be appointed as ex officio members of the board. The building official shall act as secretary of the board. One member of the board shall work in the area of finance; one member shall be a registered architect; one member shall be a registered engineer working in the area of building construction design; one member shall be engaged in the business of residential building construction; one member shall be engaged in the business of commercial building construction; one member shall work in the area of building materials supply; one member shall be a member of a building trade union; one member shall be a realtor or real estate manager; and two members shall be appointed from the general citizenry of the city of Duluth. Of the first persons appointed for membership on the board, four shall be appointed for three years, four shall be appointed for two years, and three shall be appointed for one year. Thereafter, all appointments shall be for a term of three years, except that vacancies caused by death, resignation or otherwise may be filled for the remaining unexpired term;

(b) Within 30 days after the initial appointments, the board shall meet and elect a chairman and vice chairman. Thereafter, the board shall meet at stated intervals fixed by resolution of the board, or at the call of the chairman or of any three members of the board. The board may adopt reasonable rules and regulations for conducting its investigations and hearings;

(c) The board shall have jurisdiction to perform the following functions:

(1) To hear appeals from decisions made by the building official interpreting the State Building Code where such interpretation involves points not

clearly covered by said Code, the appropriateness of alternate methods of construction, or the appropriateness of the use of alternate materials;

(2) To hear appeals from decisions made by the building official in enforcing or interpreting the Duluth Housing Code, Chapter 29A, of the Duluth City Code;

(3) To hear appeals from decisions of the fire chief which arise under Chapter 21 of the Duluth City Code;

(4) To hear appeals from the decision of the director of public works and utilities to revoke any certificate of noncontribution issued pursuant to Chapter 43 of this Code;

(d) Any person who wishes to appeal a decision of the building official or fire marshal shall serve written notice of appeal upon the building official within 15 days after receiving notice of such decision, which appeal shall be accompanied by a fee of \$120. The notice of appeal shall contain a complete statement of the matter in controversy and relief requested. If the appeal is from a refusal to grant a permit authorizing the use of an alternate material or method of construction, the notice of appeal shall contain a guarantee of payment of all expenses of any tests made or ordered by the board. If the appeal is from a decision of the fire chief, the building official shall forward a copy of the notice of appeal to the fire chief. The building official shall notify the appellant of the time and place of the hearing. If the appellant withdraws his or her appeal in writing prior to the date and time set therefore, the building official shall refund the aforesaid fee. At the hearing, the board shall hear all relevant evidence and arguments. After due deliberation, the board shall render its decision in writing and notify the appellant of its decision by certified mail or personal service. Decisions involving the State Building Code shall be mailed to the state building inspector within 15 days after they are rendered. The building official shall keep an indexed record of decisions of the board;

(e) In making its decisions, the board shall use the following criteria:

(1) Building code appeals. The board shall approve alternate materials or methods of construction only if reasonable proof is presented that such material or method is at least equivalent to State Building Code standards in quality, strength, effectiveness, durability, fire resistance and safety;

(2) Housing code appeals. The board may remedy any error it has found the building official has made in the interpretation of the housing code. The board may also grant such relief as it deems reasonable from strict compliance with each provision of the housing code, but no relief shall be granted unless it is found that:

(A) There is substantial compliance with the provisions of the housing code;

(B) No detriment to public health or safety will result from granting such relief;

(C) The intent of the housing code is not compromised;

(3) Variances from the minimum requirements of the fire code may be recommended to the state fire marshal only if:

(A) There is substantial compliance with the provisions of the fire code;

(B) The safety of the building occupants and general public will not be jeopardized;

(C) Undue hardship will result to the applicant if relief is not granted;

(f) Any person aggrieved by a decision of the board which involves a housing code matter may appeal such decision to the city council by filing a notice of appeal with the building official within 15 days after receiving notice of the board's decision. Such notice of appeal shall be addressed to the city council and shall state the grounds upon which the appeal is taken. The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. The building official shall file all appeal notices with the city council. The city council shall hear the appeal within 30 days after the notice of appeal is filed and shall affirm, modify or reverse the decision of the board.

Section 2. 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;

(c) In addition to the requirements set forth above, no rental license, except a temporary rental license, shall be issues for any dwelling unless a certificate of noncontribution as provided for in Section 43-33.2 has been issued for that dwelling.

Section 3. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-3.7.1 which reads as follows:

43-3.7.1. Director. The director of public works and utilities or his or her designee.

Section 4. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-12.1 which reads as follows:

Sec. 43-12.1. Surcharge for noncompliance.

In the event that the director is denied or refused access to any building in violation of Section 43-33.1 below or that any building is found to be in violation of Section 43-31 below for more than 90 days, a surcharge in an amount established by the city council by resolution or in an amount calculated in accordance with a methodology approved by the city council by resolution shall be added to the wastewater facilities user charge otherwise established pursuant to this Article and billed to said property each month until such refusal, denial or noncompliance has been cured.

Section 5. That Section 43-31 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-31. Connection of collectors of unpolluted water prohibited.

(a) No connection of area way drains, perimeter foundation drains, rain leaders, down spouts or rain connector or other sources of unpolluted waters such as storm water, ground water, roof runoff, subsurface drainage, unpolluted industrial water or cooling water to a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer shall be made or allowed to exist unless the director has issued certificate of noncontribution for such building as provided for in Section 43-33.2 below;

(b) No person owning or controlling, in whole or in part, any building shall allow any connection prohibited in Subsection (a) above to be made or to exist or shall fail to cause any such connection existing to be disconnected within 90 days of being ordered to make such disconnection by director unless the director has issued certificate of noncontribution for such building as provided for in Section 43-33.2 below;

(c) No person shall tamper with, modify or make any change to any plumbing materials or equipment necessary to prevent non-compliance with the requirements of Subsection (a) above. Nor shall any owner or person owning or controlling any building permit any person to so tamper with, modify or make any changes to such materials or equipment in such building or fail to maintain in fully functional condition such materials and equipment.

Section 6. That Section 43-33 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-33. Designation of district for inspection; notice of disconnect requirement.

Upon recommendation of the director, the council shall designate the district or districts in the city wherein the city can best utilize its available resources to reduce the amount of unpolluted water entering or infiltrating the city's wastewater collection system. Such resolution shall direct the director to notify, in writing, the owners and persons in control of premises connected with the sanitary sewer within such district to disconnect prohibited drain or device within 90 days after the date of such notice. Such notice shall be directed by the director to the owner or person in control of the affected property at the post office address of the person applying for or paying for sewer service for such premises. When so deposited in the post office of the United States, or an adjunct thereof, such deposit shall constitute due service of the notice upon the owner or controlling person therein named.

Section 7. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-33.1 which read as follows:

Sec. 43-33.1. Inspections; Refusal to allow.

(a) Upon designation of any district pursuant to Section 43-33 above, the director shall cause all buildings within said district not previously inspected or for which a certificate of noncontribution has not been issued, to be inspected for compliance with Section 43-31 above. Upon determination that any building does not comply with Section 43-31 above and does not qualify for a certificate of noncontribution, the director shall issue an order to disconnect any portion of the plumbing of such building in violation of said Section 43-31;

(b) No person shall fail or refuse to allow the director to inspect any building to determine whether the plumbing of such building complies with the requirements of Section 43-31 above after having been given reasonable advance notice of the director's intent to do so; such notice may be given by mail as provided for in Section 43-33 above or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building shall deny or refuse to allow the Director to inspect any such building after such notice has been given, the director shall use such other means as are authorized by law, including but not limited to securing a search warrant for such building or a court order requiring that access be granted in order to gain access to conduct such inspection.

Section 8. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 43-33.2 which read as follows:

Sec. 43-33.2. Certificate of noncontribution.

(a) Upon inspection of any building by the director for compliance with the requirements of Section 43-31 above and based on that inspection, the director is authorized to issue a certificate of noncontribution in a form suitable for recording among the property records of St. Louis County recorder if he or she determines either that:

(1) The plumbing materials and equipment as installed and operating in that building are in compliance with the requirements of Section 43-31 above;

(2) The plumbing and equipment in said building is not in compliance with the requirements of Section 43-31 above but the director determines that the building is not contributing any material or observable

amounts of unpolluted water to the public wastewater collection system and is not likely to do so in the future;

(b) Certificates of noncontribution shall only be issued by the director and persons designated by him or her to issue such certificates. The director shall establish standards and procedures for certifying persons authorized to issue certificates of noncontribution on his or her behalf;

(c) In the event that the director determines after reasonable investigation that any building for which a certificate of noncontribution has been issued is now contributing a material or observable amount of unpolluted water to the public wastewater collection system, the director may give notice in the manner provided for in Section 43-33 above of his or her intention to revoke such certificate of noncontribution and that such revocation shall become final 15 days of the date of giving such notice unless the affected owner or person in control of the affected building files a written appeal of that decision with the city clerk prior to the revocation of the certificate. Any such appeal shall be heard by the building appeals board in accordance with the procedures established under Section 10-5 of this Code. When the revocation of any certificate of noncontribution has become final, the director shall cause notice there to be filed in the office of the St. Louis County recorder.

Section 9. That the Duluth City Code, 1959, as amended, is amended by the addition of a new Section 43-33.3 which reads as follows:

Sec. 43-33.3. Notification to buyers and mortgagees.

(a) This Section 43-33.3 applies to the transfer or encumbrance of interests in property, which is required to be served by the city sewer, as set out in Section 43-16, or its successor, for which property no valid certificate of noncontribution has been issued and is in force;

(b) Within 30 days before, or at the time of, a transfer of title, or an encumbrance by mortgage, or a transfer of an interest in, or the entering into of a contract for deed for, or contract for sale of, or a real estate transaction closing set by provisions of a previous purchase agreement of a property described in (a), above, a written notice must be given;

(c) The notice referred to in (b), above, must be given by the owner, or seller, or agent of owner or seller, or personal representative of the owner or seller, or each mortgagor, or an agent of a mortgagor, and it must be given to each buyer, each mortgagee, each recipient of an interest in the property, and the building official of the city of Duluth or the building official's designee;

(d) The notice referred to in (b) and (c) above shall be written, in a form acceptable for recording by the St. Louis County recorder of deeds and in the form of a sworn affidavit. It shall contain the following information:

(1) Identify the property;

(2) The fact that there may be no valid certificate of noncontribution, issued under this ordinance, in force for the property;

(3) The fact that the property may not be in compliance with this Chapter 43;

(4) That under this ordinance the city has the authority to require inspection of the property by the city and remediation actions by the owner, which can include disconnection and repair of drains, so that the property comes into compliance;

(5) That, in addition to costs of remediation, and the monthly surcharge for noncompliance, as set in accordance with Section 31-6(a) of this Code, the maximum penalty for noncompliance is that set out in D.C.C. 1-7, currently \$1,000 each day of non-compliance.

Section 10. That Section 43-24 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 43-24. Permits required.

There shall be three classes of building sewer connection permits:

- (a) For users discharging domestic strength wastewater to sanitary sewers;
- (b) For users discharging nondomestic strength wastewater to sanitary sewers;
- (c) For discharge of stormwater or other unpolluted drainage to storm sewers.

In all cases, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. For new construction, no permit shall issue unless a valid certificate of noncontribution, issued pursuant to this ordinance, is in force for the premises. A permit and inspection fee sufficient to defray the cost incidental to the processing of such connection permit, including the cost of inspection of connection for each such class, shall be established by resolution of the city council and shall be paid to the city at the time the application is filed.

Section 11. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by deleting the word "superintendent" wherever it appears and by substituting the word "director" therefore.

Section 12. That Chapter 43 of the Duluth City Code, 1959, as amended, is hereby amended by repealing sections 43-3.35 and 43-32 in their entirety.

Section 13. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 7, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 27, 2003
Approved October 27, 2003
GARY L. DOTY, Mayor

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ORDINANCE NO. 9626

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,179,115 GENERAL OBLIGATION REVENUE BONDS OR NOTE 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, 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 sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment. The city has applied for and received a commitment from the Minnesota public facilities authority (the authority) for a loan to install sewer mains and related improvements to the sewer system in portions of the Morgan Park neighborhood (the project) as identified in the city's application to the authority.

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 for the project, and determines that it is necessary to issue general obligation sewer utility revenue bonds or a note in the amount of \$1,179,115 for the purpose of paying costs of the project.

1.03 The city has heretofore issued and sold the following: general obligation water and sewer refunding bonds dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$350,000; general obligation sewer and steam utility revenue bonds dated December 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$705,000; general obligation sewer utility revenue bonds dated December 1, 1999, now outstanding in the amount of \$1,500,000; general obligation water and sewer utilities revenue bonds dated December 1, 2000, the sewer utility portion of such bonds now outstanding in the amount of \$520,000; general obligation gas and sewer utilities revenue bonds dated December 1, 2001, the sewer utility portion of such bonds now outstanding in the amount of \$1,270,000; general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$2,003,000; general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,825,000; and general obligation water and sewer utilities revenue refunding bonds dated March 1, 2003, the sewer utility portion of such bonds now outstanding in the amount of \$1,240,000. 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 May 1, 1998, December 1, 1998, December 1, 1999, December 1, 2000, December 1, 2001, September 1, 2002, December 1, 2002, and March 1, 2003.

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 or a note of the city of Duluth in the amount of \$1,179,115, 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 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 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 sewer utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal sewer 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 30, 2003)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 27, 2003

Approved October 27, 2003

GARY L. DOTY, Mayor

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ORDINANCE NO. 9627

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 \$430,000 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 by constructing a warming facility (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 percent of the total project cost where such contribution is used to match state or federal grants, or 70 percent where it is used to match government and private grants, or 80 percent where it is used to match private grants alone. The project is of the nature contemplated by said law. The city has received a grant agreement for a private donation 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 \$430,000, 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 \$430,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

2.01. The city council shall by resolution or resolutions provide for the issuance and

sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and sell such bonds, in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of 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 for the project, 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.

4.01. There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate 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 February 1, 2004, 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.

6.01. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 30, 2003)

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

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

Nays: None -- 0

Passed October 27, 2003
Approved October 27, 2003
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9628

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTY LOCATED EAST OF SUNDBY ROAD, SOUTH OF PAGE STREET AND NORTH OF MAPLE GROVE ROAD (INDEPENDENT APOSTOLIC LUTHERAN CHURCH).

The city of Duluth does ordain:

Section 1. That Plate No. 22 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(See Map No. 22 at end of meeting)

(Reference File No. 03092)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 7, 2003)

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

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

Nays: None -- 0

Passed October 27, 2003
Approved October 27, 2003
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9630

BY COUNCILORS STOVER & STEWART:

AN ORDINANCE ALLOWING AIRGUNS AND PAINTBALL GUNS IN THE CITY AND REGULATING THEIR USE AND POSSESSION; AMENDING ARTICLE I OF CHAPTER 49 OF THE CODE.

The city of Duluth does ordain:

Section 1. That Section 49-1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 49-1. Discharge of firearms and throwing of deadly missiles prohibited.

No person shall wilfully discharge any firearm or other weapon or throw any deadly missile in a public place or in any place where there is any person to be endangered, although no injury actually results.

The provisions of this Section shall not prohibit the discharge of firearms in shooting ranges licensed pursuant to Article V of Chapter 5 of this Code.

Section 2. That Section 49-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 49-2. Manufacture, possession, etc., of slingshots.

No person shall manufacture, sell, dispose of, use or have in possession any slingshot within the city, unless the person so desiring to manufacture, sell, dispose of, use or have in possession any slingshot has first applied to and received from the chief of police a permit for such purpose.

The word, slingshot, as used in this Section, shall be considered to include any instrumentality or device to which there is attached directly or indirectly, a rubber band or any other elastic, which instrumentality or device is capable of being used or employed in shooting or propelling a bullet, shot, stone or other hard missile.

Section 3. That Section 49-3 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 49-3. Aiming firearms at humans prohibited.

No person shall, within the city, aim any firearm, whether loaded or not, at or toward any human being.

Section 4. That Section 49-5 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 49-5. Carrying concealed weapons prohibited.

No person shall carry concealed in any manner on his person any weapon of the kind commonly known as a slung shot, sandclub, metal knuckles, dagger, dirk, firearm or other dangerous weapon.

Section 5. That Chapter 49 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 49-8.2 which reads as follows:

Sec. 49-8.2. Airguns, paintball guns.

(a) Possession of airguns.

No person shall possess or have in his or her control any airgun in the city except:

(1) Within the home or other residence, or another building accessory thereto as defined in Section 50-1.1 of this Code, of the person possessing such airgun;

(2) Within any commercial or manufacturing establishment manufacturing, repairing, altering, modifying or offering for sale in the stream of commerce such airgun;

(3) Within an area zoned as suburban under Chapter 50 of this Code;

(4) On premises for which the chief of police has issued a permit for such purpose under subsection (c) below;

(5) In areas of the city not described in sub-subsections (1) through (4) above if all projectiles have been removed from such airgun and if the airgun is fully enclosed in a case made expressly to contain an airgun or firearm which fastens in a manner which fully encloses said airgun and all such fasteners are appropriately fastened;

(b) Discharge of airguns.

No person shall discharge any airgun except in areas described in sub-subsections (1) through (4) of subsection (a) above or in a place or manner which creates a substantial risk of injuring any other person;

(c) Premises permits.

Upon the written application therefore in a form acceptable to the chief of police, he or she may issue a permit to discharge airguns on specified premises in the city which do not fall within areas described in sub-subsections (1) through (4) of subsection (a) above for the purposes of allowing the establishment of shooting ranges, paintball gaming facilities and other similar uses under such terms and conditions as, in the exercise of his or her discretion the chief determines reasonably necessary or advisable to protect the safety of the participants therein and the general public.

Section 6. That Chapter 49 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 49-8.3 which reads as follows:

Sec. 49-8.3. Definitions.

For the purposes of this Article the following terms and phrases shall have the meanings hereinafter ascribed to them:

(a) Airgun. Shall mean an instrumentality designed for and used to fire or eject one or more projectiles by means of a spring or by compressed air or other gas or vapor. The term, airgun, shall not include instrumentalities designed and intended to fire or eject a projectile under water in conjunction with scuba diving, instrumentalities designed and intended to fire or eject a fastener as part of the construction trades or children's toys; an airgun of the type commonly referred to as a BB gun is not a children's toy for the purposes of this subsection;

(b) Firearm. Shall mean an instrumentality designed for and intended to fire or eject one or more projectiles by means of an explosive charge or by the ignition of one or more flammable or explosive substances. The term, firearm, shall include those instrumentalities commonly referred to as rifles, shotguns, revolvers, handguns and pistols, but shall not include instrumentalities designed and intended to fire or eject a fastener as part of the construction trades;

(c) Paintball gun. Shall mean an airgun designed and used to fire or eject a hollow, plastic-like frangible pellet containing nontoxic, paint-like marking fluid.

Section 7. That Section 49-9 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 49-9. Applicability of article.

The provisions of this Article shall not apply to any of the armed forces of the United States of America or to any member thereof while engaged in the performance of duty in compliance with any of the Articles of War of the United States, a statute of the United States or any regulation, rule or order duly promulgated and issued under authority of the United States, to the militia of the state or any member thereof, while in the performance of duty prescribed by law, to any sheriff, policeman, constable, marshal, highway patrol officer or any other person authorized by law to possess and carry firearms, to any gun club or shooting gallery duly licensed as such by the city council or to the holding of exhibitions of sportsmanship or other contests involving the use of firearms where such exhibitions or contests are held in and upon public grounds owned by the city under such regulations, restrictions and safeguards as the city council may provide.

Section 8. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 7, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 27, 2003
Approved October 27, 2003
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 10, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the city council meetings held on August 25 and September 4, 2003, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-1110-01 DEDA and the city of Duluth submitting petition to vacate the alley between and adjacent to Lots 6 through 13, Block 6 through 14, Block 7, Harrington's Addition, St. Louis County, Minnesota. -- Assessor

03-1110-02 Robert Finnegan, et al. (two signatures) submitting petition to reclassify from R-2 to R-3 Duluth Proper Third Division, Block 79, Lots 10, 11, 12; Block 55, Lots 7, 8, 9. -- Assessor

03-1110-03 Phillip M. Rust, et al. (two signatures) submitting petition to construct 380 lineal feet of low pressure sanitary sewer within Swenson Avenue beginning at the intersection of 90th Avenue West and extending westerly. -- Assessor

03-1110-05 Sand Point Yacht Club, Inc., submitting petition to vacate a portion of the open easement on Park Point lying between the southwesterly line of Lots 7 through 21, odd numbered lots, St. Louis Avenue, lower Duluth and the official harbor line of Superior Bay. -- Assessor

03-1110-04 Barton Sutter, et al. (13 signatures), submitting remonstrance petition opposing the proposed construction of a permanent alley in Ninth Street Alley from 13th to 14th avenues East (City Job No. 0363TR). -- Assessor

03-1110-27 Minnesota state auditor submitting Lake Superior Center authority audit report for the year ended December 31, 2002. -- Received

03-1110-25 Brian Fuxa submitting communication regarding the proposed contract with Allco Finance Corporation for exclusive rights to finalize a lease of city-owned infrastructure (03-0760R). -- Received

03-1110-06 The following submitting communications regarding the transfer of the on sale intoxicating liquor license and on sale Sunday license from the Duluth airport authority (Afterburner Lounge) (03-0741R): (a) Duluth airport authority; (b) Twin Ports Amusement. -- Received

03-1110-26 The following submitting communications regarding the proposed ordinance relating to rental licensing (03-063-O): (a) Gary Eckenberg; (b) Peter Handberg; (c) Housing and redevelopment authority; (d) Myrna I. Matheson; (e) Neighborhood Housing Services of Duluth; (f) Tracy Ramsay. -- Received

- - -

REPORTS OF OFFICERS

03-1110-07 Assessor submitting:

(a) For confirmation the assessment roll levied to defray the assessable portion of Morgan Street sanitary sewer extension (total assessable - \$17,198.26);

(b) Letters of sufficiency of petitions for:

(1) Bituminous surfacing of Superior Street concrete alley between 41st and 42nd avenues East;

(2) Remonstrance petition to stop the construction of a permanent improvement in Ninth Street Alley from 13th to 14th avenues East;

(3) Vacating a majority of St. Benedict's Street located between Lots 1 through 4, Block 1 and Lots 5 through 8, Block 2, Johnson's Addition. -- Received

03-1110-08 Building official submitting appeal of the building appeal board's denial to reduce the minimum lot size requirement from 7,000 square feet to 4,100 square feet and to reduce the minimum rear yard setback from 25 feet to 15 feet for the construction of a single family dwelling on property located at 1001 West Sixth Street (Filby). -- Committee 3 (public safety)

03-1110-09 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from:

(a) Rotary Club of Duluth Harbortown, MN, USA on April 7, 2004 (raffle);

(b) St. Mary Star of the Sea Catholic Church on November 23, 2003 (bingo). -

- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

03-1110-10 Building appeal board minutes of June 11, 2003, meeting. -- Received

03-1110-11 Civil service board minutes of September 2, 2003, meeting. -- Received

03-1110-12 Duluth/North Shore sanitary district minutes of October 7, 2003, meeting. -
- Received

03-1110-13 Duluth transit authority minutes of August 27, 2003, meeting. -- Received

03-1110-14 Planning commission minutes of July 23, 2003, meeting. -- Received

- - -

RESOLUTION FOR RECONSIDERATION

President Stenberg moved to reconsider Resolution 03-0741, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license from the Duluth airport authority (Afterburner Lounge), 4 Grinden Avenue, to Pedro and Kerv, Inc. (Afterburner Lounge), same address, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Stauber and President Stenberg -- 3

Nays: Councilors Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 6

- - -

At this time, 7:30 p.m., President Stenberg announced that the public hearing regarding alcoholic beverage license fees would begin.

Jenny Townsend, Mike Ronning and Mark Mitchell opposed the proposed fee increases for reasons of: property taxes are increased due to the school referendum; increased liquor liability insurance costs; state statute changes will allow more liquor licenses so any equity in current licenses is lost; the increase is close to a \$1,000; the smoking ban is hurting business; because of the economy, business is down and bar owners cannot raise drink prices to keep the business going.

At this time, 7:50 p.m., President Stenberg closed the public hearing and the regular order of business was resumed.

- - -

RESOLUTION TABLED

Councilor Hogg moved to remove Resolution 03-0656, adopting license, permit and fee charges for 2004, from the table, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilors discussed and expressed concern about: the effects that cuts in local government aid by the state have caused for the city; local governments have to reduce the level of services provided; local governments must now look at ways to increase revenue; fees for city services should be looked at more closely versus increasing fees for local and small businesses; the liquor industry has been looked at to provide more revenue and issuing more liquor licenses will provide revenue.

Councilor Gilbert felt that the cost for providing police services for the liquor industry should be looked at closer.

Councilor Hogg moved to split the resolution into 03-0656(a), fees for all but alcoholic beverages; and 03-0656(b), fees for alcoholic beverages, which motion was seconded and unanimously carried.

Councilor Stewart felt that the fees listed from the building safety division are policy related and need further discussion before any fees are changed. He moved to further split the building safety fees from Resolution 03-0656(a) and put them into Resolution 03-0656(c), which motion was seconded and unanimously carried.

City Clerk Cox explained that historically for the last 20 years, fee changes have only been reviewed every ten years or so, and that businesses, the council and the administration wanted them to be reviewed and changed more regularly so that increases will not be so large at one time. The process of establishing an annual fee schedule was planned for last year, but with all the extra details associated with the special legislative election, it was delayed until this year.

Councilor Hogg moved to table Resolution 03-0656(b) so that different alternatives to the proposal can be looked at, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bergson, Hogg and Stover -- 3

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

Resolution 03-0656(b) failed upon a unanimous vote (Public Document No. 03-1110-23).

Resolution 03-0656(c) failed upon a unanimous vote (Public Document No. 03-1110-24).

Resolution 03-0656(a) was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that pursuant to sections 2-15, 2-16, 2-17, 6-3, 6-12, 6-14, 6-39, 6-82, 18-4, 24-22, 31-6(a), 33-126, 35-9.1, 43-12.1, 48-3, 48-14, 48-207, 48-210 and 49-2, Duluth City Code, 1959, as amended, the following license, permit and fee charges for 2004 shall be adopted:

Assessor	
License, Permit, Fee Name	2004 Fee
Abatement processing fee	
Homestead	\$25.00
Valuation	\$50.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Assessor	
License, Permit, Fee Name	2004 Fee
Certificate of real estate value (CRV) duplicate	\$1.00
CD data	\$155.00
EOY microfiche	\$155.00
Map	
11 x 17	\$1.00
28 x 41	\$2.00
Member access to internet website	\$240.00
*Ownership search	
Notification	\$25.00
Rezoning	\$25.00
Property record - full page (free to property owner)	\$2.00
* New license, permit or fee	

Attorney	
License, Permit, Fee Name	2004 Fee
Research - after first 1/4 hour (per hour)	\$50.00

Citywide	
License, Permit, Fee Name	2004 Fee
Audio tape/CD-ROM copies (per tape/CD-ROM)	\$7.00
Microfilm copies - 18"x24" (per page)	\$3.00
Microfilm copies - 8"x12" (per page)	\$2.00
Photocopies (per page)	\$.25
Research - per hour (first 1/4 hour free) [excluding attorney and library]	\$15.00
NSF checks	\$25.00
Special assessment incidental fee (per parcel)	\$122.75

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Citywide	
License, Permit, Fee Name	2004 Fee
Zoning booklets	\$10.75

Clerk	
License, permit, fee name	2004 Fee
Adult bookstore - annual	\$30.00
Banner license	
Non-skywalk	\$75.00
Skywalk	\$50.00
Bowling alley - annual	
First lane	\$60.00
Each additional lane	\$20.00
C-3 shopping center district revision	\$160.00
Certified copies	\$10.00
Cigarette license - annual	\$120.00
Coin operated device - annual	
Card	\$15.00
Location	\$15.00
Prorated monthly fee	\$1.50
Supplier license	\$10.00
Concurrent use permit	\$200.00
Council minutes - per meeting	\$5.00
Council proceedings - annual	\$60.00
Dance hall	
Annual	\$200.00
One dance event	\$50.00
Emergency wrecker service	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Clerk		
License, permit, fee name		2004 Fee
	Annual	\$375.00
	Vehicle replacement	\$5.00
Gambling manager - annual		\$50.00
Garbage collector license - annual		\$250.00
Gasoline filling station		
	First hose - annual	\$60.00
	Each additional hose - annual	\$15.00
	Initial service inspection fee	\$100.00
	New construction during license year	\$70.00
Grooming shop - annual		\$70.00
Horse and carriage livery service		
	Annual	\$130.00
	Per carriage/per year	\$20.00
	Per horse/per year	\$10.00
Hotel/motel/motor court - annual		
	First 25 rooms	\$70.00
	Each additional room	\$2.00
Jar operator - annual		\$20.00
Kennel - annual		
Boarding		
	3-11 animals	\$70.00
	12 or more animals	\$110.00
Breeding		
	2-5 animals	\$70.00
	6-11 animals	\$110.00
	12 or more animals	\$250.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Clerk	
License, permit, fee name	2004 Fee
Legislative Code	
CD-ROM	\$125.00
Hard copy	\$250.00
Supplement (changes only)	
CD-ROM	\$60.00
Hard copy	\$125.00
Massage establishment - annual	\$100.00
Massage therapist - annual	\$20.00
Motor vehicle dealer - annual	
Main lot	\$325.00
Each additional lot	\$100.00
Motor vehicle rental - annual	\$225.00
Nuisance wildlife removal business - annual	\$70.00
Parade, race, community/special event	\$75.00
Pawnbroker - annual	\$325.00
Peddler	\$30.00
Pedestrian transit zone	
Initial fee	\$100.00
Annual renewal fee	\$25.00
Pet license - annual	
Altered	\$8.00
Animal shelter license	\$2.50
Duplicate tag	\$3.00
Maximum exception	\$8.00
Unaltered	\$8.00
Pet shop - annual	\$70.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Clerk	
License, permit, fee name	2004 Fee
Pool, billiard snooker & bumper pool - annual	
First table	\$60.00
Each additional table	\$20.00
Precinct finder	\$5.00
Precinct map	\$5.00
Precious metal dealer - annual	\$325.00
Recreation/sightseeing rides	
Annual	\$120.00
Per vehicle/per year	\$40.00
Vehicle(s) added during current license year inspection fee (per vehicle)	\$30.00
Resident permit parking - annual	
Resident	\$5.00
Visitor	
Regular	\$2.00
Special	\$1.00
Rezoning petition	\$300.00
Shooting range	
Annual	\$100.00
Initial or new construction fees	\$275.00
Special use permit	
Filing fee	\$200.00
Low density planned developments and community unit plans	
Initial fee	\$300.00
Plan alteration review	\$150.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Clerk	
License, permit, fee name	2004 Fee
Taxicab	
Annual	\$130.00
Per vehicle - annual	\$15.00
*Transfer	\$5.00
*Vehicle permit transfer	\$5.00
Vacation petition filing fee	
Easement	\$400.00
Vacation - street	
Less than or equal to 200 feet	\$400.00
Greater than 200 feet	\$700.00
Veterinary hospital - annual	\$70.00
* New license, permit or fee	

Fire	
License, Permit, Fee Name	2004 Fee
Blasting permit	
Late fee	\$300.00
Regular	\$200.00
Bon fire permit	\$125.00
Burning permit	\$50.00
Christmas trees/wreaths permit deposit	\$100.00
Fireworks/pyrotechnics display	\$150.00
Fuel tank inspection permit (per tank)	\$50.00
Sale of fireworks permit - annual	\$100.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Library		
License, Permit, Fee Name		2004 Fee
Barcode/security label destruction service charge		\$3.00
Billing service charge		\$2.00
Card replacement		\$2.00
Conference room rental		
	Commercial (per day)	\$100.00
	Noncommercial	
	Four hours or less	\$45.00
	Per day	\$55.00
Deposit card fee		\$50.00
Extended use fines (per day)		
	Adult items	\$.25
	Art prints	\$1.00
	Civil service books	\$1.00
	Juvenile items	\$.10
	Toys	\$.50
	Videos, software, story kits	\$2.00
Fax service		
	Three pages or less	\$10.00
	More than three pages (per page)	\$3.00
Final notice service charge		\$3.00
Gold room rental		
	Commercial (per day)	\$150.00
	Noncommercial	
	*Two hours or less	\$25.00
	Two to four hours	\$55.00
	Per day	\$70.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Library	
License, Permit, Fee Name	2004 Fee
Green room rental	
Commercial (per day)	\$250.00
Noncommercial	
Four hours or less	\$95.00
Per day	\$120.00
Lost/damaged materials fee	cost of replacement and processing
Non-Minnesota resident borrower's card	
First family member - annual	\$43.50
Each additional family member - annual	\$5.00
Photocopies/printing (coin-operated machines) - per page	
Photocopy	\$.10
Reader/printer photocopy	\$.25
Research	
After first 1/2 hour (per hour)	\$15.00
*Mailed photocopies (per page)	\$1.00
Sale of used adult books - minimum	\$.50
Sale of used children's books - minimum	\$.50
Sale of used magazines - minimum	\$.50
*Space/room rental equipment fee	\$10.00
* New license, permit or fee	

MIS	
License, Permit, Fee Name	2004 Fee
*Aerial photo data GIS mapping products	
Up to 11"x17" map products	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

MIS		
License, Permit, Fee Name		2004 Fee
	Contours - Ortho photo with ten foot contours (scale 1:1200 or 1:2400)	\$20.00
	Unrectified aerial photo (black and white 1995)	\$4.00
Up to 22"x34" standard map products		
	Contours - Ortho photo with ten foot contours (scale 1:1200 or 1:2400)	\$25.00
	Unrectified aerial photo (black and white 1995)	\$10.00
34"x44" standard map products		
	Contours - Ortho photo with ten foot contours (scale 1:1200 or 1:2400)	\$30.00
	Unrectified aerial photo (black and white 1995)	\$15.00
Custom mapping		
	Minimum charge	\$50.00
	Per hour	\$50.00
Standard map products and additional copies: available maps (scale 1:1200 or 1:2400)		
	Up to 11"x17"	\$10.00
	14"x22" utility map (scale: 1:3600 only)	\$4.00
	17"x22"	\$15.00
	22"x34"	\$15.00
	34"x44"	\$20.00
	35"x90" city map	\$30.00
Digital rectified aerial photo, predefined 1/2 Sec. (1/2 mile x 1 mile)		
	Black and white or color, PLUS elevation model	\$365.00
	Black and white	\$315.00
	Color	\$315.00
	Elevation model - all derived products, predefined 1/2 Sec. (1/2 mile x 1 mile)	\$220.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

MIS	
License, Permit, Fee Name	2004 Fee
Labels - selecting/printing	
Quantity of 500	\$170.00
Quantity of 1,900	\$218.35
Raw Imagery - Without Rectification, PLSS Sec. (1 mile x 1 mile)	\$110.00
Reproducible Mylar - Predefined 1/2 Sec. (1/2 mile x 1 mile)	\$315.00
Specialized computer information	
Custom query	
Minimum	\$200.00
CD-ROM media (minimum fee plus \$20)	\$220.00
Label request fee (minimum fee plus \$10)	\$210.00
Repeat query	\$25.00
Standard query	\$50.00
Web-based Query	
Annual maintenance and subscription	\$240.00
Set up and handling	\$25.00
* New license, permit or fee	

Parks and Recreation	
License, Permit, Fee Name	2004 Fee
*Adult special league - annual	
*Adult softball (per team)	\$350.00
*Basketball (per team)	\$285.00
*Bocce (per team)	\$30.00
*Broomball (per team)	\$580.00
*Classic softball (per team)	\$700.00
*Flag football (per person)	\$55.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Parks and Recreation	
License, Permit, Fee Name	2004 Fee
*No check hockey (per team)	\$970.00
*Touch football (per team)	\$285.00
*Volleyball (per team)	\$280.00
Athletic field rental	
Lights (per hour/per field)	\$40.00
Per field/per day	\$40.00
Banner permit	\$10.00
Bayfront Festival Park	
Use of entire park	
Damage/cleanup deposit (refundable if park left in acceptable condition)	\$1,000.00
Per paid admission on each ticket sold in excess of total daily rental payment (Payment due seven days after event)	\$.50
Set up/take down fee (advance payment required)	\$500.00
Usage fee, per day (advance payment required)	\$1,000.00
Vendor space, per day (based on 10'x10' minimum size space) (payment due seven days after event)	\$10.00
Use of Lois M. Paulucci Music Pavilion	
Alcohol consumption permit	\$25.00
Damage deposit (refundable)	\$50.00
Per hour	\$35.00
*Warming shack kitchenette rental (per day)	\$15.00
Building rental	
Alcohol permit	\$80.00
City Center West kitchen use	\$50.00
Evenings/weekends	
First hour	\$55.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Parks and Recreation	
License, Permit, Fee Name	2004 Fee
Per hour, after first	\$25.00
Late Fee	\$25.00
Weekdays	
First hour	\$55.00
Per hour, after first	\$25.00
Duluth Logo Souvenirs	
Baseball cap	\$12.00
Can cooler	\$4.00
Ceramic mug	\$5.00
Ceramic mug with coffee package	\$8.00
Clear footed glass	\$7.00
Golf balls (pkg of 3)	\$5.00
Golf shirt	\$20.00
Grey fleece	\$33.00
Grey sweatshirt	\$35.00
Key tag	\$3.00
Knit cap	\$10.00
T-shirt	\$10.00
Watch	\$24.00
White sweatshirt	\$20.00
*General recreation	
3 on 3 basketball (per team) - annual	\$25.00
Chester Bowl	
Daily pass	\$4.00
Family season pass	\$75.00
Single season pass	\$45.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Parks and Recreation	
License, Permit, Fee Name	2004 Fee
Ski rental	\$50.00
Cooking class (per person/per day)	\$2.00
Pizza parties (per person/per day)	\$3.00
Youth dances (per person/per day)	\$5.00
Northland Senior Games - annual/per person	
Banquet	
Guest	\$17.00
Participant	\$12.00
Bowling	\$6.00
Cards only	\$6.00
Early entry fee	
*Non-residents	\$30.00
Residents	\$25.00
Entry fee	
*Non-residents	\$35.00
Residents	\$35.00
T-shirts (non-participants)	\$10.00
Picnic - alcohol consumption	\$30.00
Picnic permit	
40 to 199 persons (up to five hours)	\$40.00
200 to 499 persons (up to five hours)	\$75.00
500+ persons	fee varies
Recreational fire	\$10.00
*Senior programs (per person)	
Billiards tournament	\$8.00
Citywide picnic	\$10.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Parks and Recreation	
License, Permit, Fee Name	2004 Fee
Educational seminars	\$7.00
Holiday banquet	\$14.00
Special parties	\$4.00
Sound amplification	\$10.00
Stage rental	\$350.00
Van rides - one way	\$1.00
Vendor space - parks (per day)	\$10.00
*Washington Center	
Gym rental (per hour)	\$30.00
Pool rental	
Per hour/per group	\$45.00
Per hour/per person	\$3.00
Towel rental	\$2.00
* New license, permit or fee	

Planning and Development	
License, Permit, Fee Name	2004 Fee
*C-5 plan review	\$125.00
*Grant intermediary fee	
DTED/contamination clean-up	\$250.00
DTED/MIF - city	\$150.00
Platting	
Final review	
Five or less lots	\$100.00
Six to 70 lots	\$175.00
Over 70 lots (per lot)	\$2.50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Planning and Development	
License, Permit, Fee Name	2004 Fee
Preliminary review	\$100.00
*Tax forfeit reclassification	\$150.00
* New license, permit or fee	

Police	
License, Permit, Fee Name	2004 Fee
Animal shelter	
Daily board fee	\$25.00
Impound fee	\$35.00
Nonresident owner surrender	\$85.00
Quarantine fee	\$150.00
Rabies deposit	\$25.00
Resident owner surrender	\$75.00
Animals sold to institutions	\$200.00
Background investigation fee	\$8.00
*Closed investigative product/data	
Per CD-ROM	\$1.00
Per image	\$1.50
Per page	\$2.00
*Crime scene unit audio and video recordings	
Per tape or CD	\$2.00
Staff time (per hour)	\$50.00
*Criminal history	\$25.00
Fingerprinting	
First card	\$10.00
Each additional card	\$5.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Police	
License, Permit, Fee Name	2004 Fee
Intrusion detection device permit	\$25.00
No parking signs - for construction sites (per sign)	\$2.00
Pawnbroker transaction surcharge (per transaction)	\$1.00
* New license, permit or fee	

Public Works and Utilities	
License, Permit, Fee Name	2004 Fee
Aerial photo	
2002	\$5.00
Pre-2002	\$3.00
Building moving permit	
Over private property	\$5.00
Over public property	
1,000 square feet or under of area on first floor	\$30.00
Over 1,000 square feet of area on first floor	\$60.00
Certificate of unpaid bills	\$15.00
Driveway crossing (miscellaneous permit)	
Base fee	\$20.00
Inspection fee	\$15.00
Excavation permit	\$55.00
Fire service application	varies from \$642- \$1,533
Gas furnace comfort policy fee - annual	
Electronic ignition	\$110.00
Standing pilot	\$99.00
Gas furnace/appliance service	
Midnight - 8:00 a.m.	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Public Works and Utilities	
License, Permit, Fee Name	2004 Fee
First hour OR no show fee	\$90.00
Each additional 15 minutes	\$22.50
Week days	
First 1/2 hour OR no show fee	\$30.00
Each additional 15 minutes	\$15.00
Week nights	
First 1/2 hour OR no show fee	\$45.00
Each additional 15 minutes	\$22.50
Inflow and infiltration noninspection/noncompliance surcharge (per month)	\$50.00
Land disturbance permit	
Accessory building with footprint of 1,000 square feet or less where erosion control permit is required	\$50.00
Commercial, industrial, multi family construction or demolition on parcels of 10,000 square feet or greater	\$200.00
Grading permit where no structure is being built	\$50.00
Plan review on parcels greater than 10,000 square feet but less than one acre where the engineer waives the permit	\$50.00
Reinspection (<i>note: permit fee includes one inspection</i>)	\$30.00
Single family dwelling construction	
On parcels less than 10,000 square feet where no permit is required by engineer	-0-
On parcels less than 10,000 square feet where permit is required due to special conditions	
First 3,000 square feet	\$75.00
Each additional 1,000 square feet	\$25.00
Maximum charge	\$250.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Public Works and Utilities	
License, Permit, Fee Name	2004 Fee
On parcels equal to or greater than 10,000 square feet	
First 3,000 square feet	\$75.00
Each additional 1,000 square feet	\$25.00
Maximum charge	\$250.00
Occupy or obstruct street	
Base fee	\$15.00
Per \$.05 increment of hourly charge per parking meter	
Per day	\$0.25
Per month	\$5.00
Per week	\$1.25
Per month, per square feet of area	\$0.07
Minimum fee	\$10.00
Yearly	\$200.00
Sewer connection - property not previously assessed (per foot of frontage; varies depending on lot size)	\$44.50
Sidewalk repair or replacement (private construction) - base fee	\$15.00
Transportation permit	
Regular	\$10.00
Seasonal contractor	\$50.00
Violations/noncompliance service charge	
Dispatch of service vehicle	\$35.00
Restoration of service	
Between 12:00 a.m.-8:00 a.m.	\$60.00
Between 4:30 a.m.-12:00 a.m.	\$45.00
Between 8:00 a.m.-4:30 p.m.	\$35.00
Water connection - property not previously assessed (per foot of frontage; varies depending on lot size)	\$36.50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Public Works and Utilities	
License, Permit, Fee Name	2004 Fee
Water hydrant, use of	\$90.00
Water service tapping fee	\$250.00
Watercourse obstruction	\$50.00

Treasurer	
License, Permit, Fee Name	2004 Fee
Assessment search/certificate	
First description	\$12.50
Each additional description	\$12.50
Delinquent garbage accounts collection fee	\$25.00
*Vehicle excise tax	\$20.00
* New license, permit or fee	

RESOLVED FURTHER, that the following fees are hereby eliminated:

Eliminated Fees		
Dept./Div.	License, Permit, Fee Name	Current Fee
Clerk	Clerk fee	\$2.50
	Duluth women's directory	\$1.00
Library	Research - first 30 minutes or less	\$10.00
Parks and recreation	Park special use/event (per day)	
	No alcohol	\$25.00
	With alcohol	\$50.00
Police	Fingerprinting - per 15-20 minute session	\$8.00
	Handgun permit - to acquire	\$10.00

RESOLVED FURTHER, that any prior resolutions inconsistent or conflicting with this resolution are hereby rescinded.

RESOLVED FURTHER, that these fees shall become effective on January 1, 2004.

Resolution 03-0656(a) was unanimously adopted.

Approved November 10, 2003

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 Stenberg 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 sanitary sewer extension: Morgan Street (Contract No. 53670, assessable amount - \$17,198.26); is hereby confirmed.

Resolution 03-0766 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Premier Lawn Service/Painting be and hereby is awarded a contract for snow plowing of municipal parking lots and ramps as needed during the winter season year 2003/2004 for the facilities management division in accordance with specifications on its low specification bid at an estimated amount of \$25,000, terms net 30, FOB job sites, payable out of General Fund 0100, Department/Agency 015, Organization 2500, Object 5402.

Resolution 03-0777 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the Lincoln Park Business Group has applied to the Minnesota gambling control board for a lawful gambling exemption (bingo); 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 Lincoln Park Business Group and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 03-0787 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the reappointments by Mayor Doty to the Duluth housing commission of Debra Branley (CDBG neighborhood), Ann Marie Elstad (lending institution) and Robert Reichert (at large) for terms expiring on September 30, 2006, are confirmed.

Resolution 03-0738 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, by the governing body of the city of Duluth, St. Louis County, Minnesota (the municipality), as follows:

Section 1. Recitals.

1.01 The city of Duluth, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, in 1999, submitted a petition to the Minnesota pollution control agency (the MPCA) requesting creation of the Duluth/North Shore Sanitary District (the sanitary district) pursuant to Minnesota Statutes, Sections 115.18 through 115.37 (the act). (The city of Duluth, the town of Duluth and the town of Lakewood are herein referred to collectively as the municipalities.)

1.02 On January 25, 2000, the MPCA issued an order approving creation of the sanitary district (the order). The order was published in the State Register on January 31, 2000.

1.03 On March 1, 2000, the time for appeal of the order having expired, a certified copy of the order was duly filed with the Minnesota secretary of state, and creation of the sanitary district was thereupon deemed complete under the act.

1.04 The act requires that the municipalities elect a board of managers for the sanitary district (the board of managers) as soon as practicable after creation of the sanitary district.

1.05 Pursuant to Section 115.23, Subdivision 7 of the act, the municipalities may elect a board member or members by resolutions adopted by all of them separately, concurring in the election of the same person or persons.

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following persons, each of whom is a registered voter residing in the area of the sanitary district, be nominated for election to the board of managers for the terms indicated:

Kevin Bovee of the city of Duluth whose term shall expire on the first business day of January 2007;

Section 3. Election of board of managers. Election of the above named persons to the board of managers of the sanitary district is hereby approved and such persons are hereby elected for the terms indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions from the town of Duluth and the town of Lakewood, the clerk is directed to certify the results of this election to the secretary of the MPCA and to the auditor of St. Louis County and make and transmit to each board member elected a certificate of the board member's election.

Resolution 03-0773 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment substantially in the form on file in the office of the city clerk as Public Document No. 03-1110-15 to City Contract No. 19311 with HRA increasing the amount payable thereunder by \$18,000 payable from 2002 Federal Program Fund 262 - community development - Agency 625, Project Account Number 6520.

Resolution 03-0781 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Riva Road and the utility easement between Hutchinson and Riva roads, legally described as Riva Road adjoining Blocks 1 and 3 and the 20 foot wide utility easement common to Lots 4, 5, and 6, Block 1, Mont Du Vue.; and

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

WHEREAS, the city planning commission unanimously approved the street and utility easement vacation petition, File No. 03125, at its October 22, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street and utility easement, described above, and as more particularly described on Public Document No. 03-1110-16.

RESOLVED FURTHER, that the westerly 20 feet of the Riva Road right-of-way being vacated be retained as a utility easement.

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

Resolution 03-0769 was unanimously adopted.

Approved November 10, 2003

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 \$246,000 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. 03-1110-17, which funds shall be deposited in General Fund 0100, Agency 400, Organization 1814, Revenue Source 4230. These grant dollars are for a two year period beginning July 1, 2003, and ending June 30, 2005.

Resolution 03-0746 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to amend Contract No. 13458, in substantially the form of the amendment on file with the clerk as Public Document No. 03-1110-18, with St. Louis County to provide services under food support employment and training (FSET) services at costs not to exceed \$400 per participant, with total costs not to exceed \$96,199, for the period October 1, 2003, through September 30, 2004.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 0268.

Resolution 03-0756 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept from Earl Richards the dedication of a 20 foot wide utility easement in he following described parcel of land located within the city of Duluth, county of St. Louis, state of Minnesota:

Lot 11, Block 2, Richards First Addition;

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

the westerly 20 feet of Lot 11, Block 2, Richards First Addition.

Resolution 03-0696 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-1110-19, with the Seaway Port authority of Duluth for the construction of streets and utilities in the Airpark Phase II development, said construction to be funded in part by a grant from the economic development administration and the remainder to be assessed against the benefitted property, along with a watermain extension in Rice Lake Road to help serve the development and repairs to existing sewer mains in Airpark Boulevard.

Resolution 03-0770 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it was deemed necessary for the public convenience and safety that the Duluth Aerial Lift Bridge over the Duluth Ship Canal, City Project No. 8988MA97, be rehabilitated; and

WHEREAS, this project will not be eligible for municipal state aid funds unless it is constructed to state aid rules or unless a variance is granted; and

WHEREAS, project development and construction engineering costs are eligible for reimbursement from state aid funds and are limited to 25 percent of the eligible construction costs; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the sum of the project development and construction engineering costs exceeded the 25 percent limit which requires a variance from the commissioner of transportation in accordance with the Minnesota Rules Chapter 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules Chapter 8820, whereby the urban state aid standards be reduced for this project allowing for reimbursement of project development and construction engineering costs in excess of the 25 percent limitation, and further provides that if the commissioner of transportation grants the variance that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands actions, or cause of action arising out of or by reason of the rehabilitation of the Duluth Aerial Lift Bridge in the city of Duluth in any manner than in accordance with the Minnesota Rule 8820.1500 and further agrees to defend at its sole cost and expense any action of proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of granting of the variance.

Resolution 03-0774 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Mike Motors Chevrolet be and hereby is awarded a contract for furnishing and delivering two Chevrolet pickup trucks for the utility operations division in accordance with specifications on its low specification bid of \$62,502.63, terms net 30, FOB destination, \$46,876.97 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580 and \$15,625.66 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 03-0775 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0150 to L.H.B. Architects and Engineers, for the engineering services required for the rehabilitation of Bridge No. L8506 over Amity Creek on Seven Bridges Road, be amended to increase the amount by \$48,569 for a new total of \$86,537, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2175, Object 5530.

Resolution 03-0776 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

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

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design phase of the replacement of Bridge No. 89451 over Amity Creek on Seven Bridges Road; and

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 \$41,474, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Organization 2197, Object 5530.

Resolution 03-0778 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

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

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design phase of the replacement of Bridge No. L8501 over Amity Creek on Seven Bridges Road; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$40,679, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Organization 2196, Object 5530.

Resolution 03-0779 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0151 to L.H.B. Architects and Engineers, for the engineering services required for the replacement of Bridge No. L8504 over Amity Creek on Seven Bridges Road, be amended to increase the amount by \$47,323 for a new total of \$89,627, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Organization 2174, Object 5530.

Resolution 03-0780 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 380 feet of sanitary sewer in Swenson Avenue beginning at the intersection of 90th Avenue West and extending westerly.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 03-0782 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

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 for the appraisal of railroad property within the Grassy Point area;

(b) That the director of administrative services is 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 director of administrative services has signatory authority; and

(d) That the city of Duluth does agree to act as legal sponsor and to obligate funds required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms and conditions of Minnesota's Lake Superior coastal program matching funds to come from the city's Capital Improvement Fund 0450, Object 5530.

Resolution 03-0783 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the United States environmental protection agency to design and build the urban stormwater sedimentation demonstration project in the St. Louis River near Minnesota Slip in the amount of \$170,000; said sum to be deposited into Fund 0210, Agency 030, Organization 2143, Revenue Source 4210.

Resolution 03-0790 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

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 the following streets:

both sides of Matterhorn Drive from Maple Grove Road to Burning Tree Road;

both sides of Burning Tree Road from Maple Grove Road to Mountain Shadow Drive;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

both sides of Mountain Shadow Drive from Burning Tree Road to Mall Drive.
Resolution 03-0764 was unanimously adopted.
Approved November 10, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are authorized to execute the amendment to City Contract No. 18279 filed in the office of the city clerk, as Public Document No. 03-1110-20, between the city and Independent School District No. 709 which extends the period for commencement and 50 percent completion of improvements to Central Field/Grant Recreation Area property from five years to eight years.

Resolution 03-0762 was unanimously adopted.
Approved November 10, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to accept an environmental education grant from the United States environmental protection agency to design and build an energy resource center kiosk at the Duluth public library in the amount of \$23,250; said sum to be deposited into the Energy Management Fund 0257.

Resolution 03-0765 was unanimously adopted.
Approved November 10, 2003
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

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

(a) Authorization of bonds and certificates. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its general obligation bonds and general obligation equipment certificates of indebtedness for the following purposes:

(1) \$425,000 general obligation Bayfront Festival Park improvement bonds, Series 2003F, pursuant to Laws of Minnesota 1974, Chapter 130, Minnesota Statutes, Chapter 475, and Ordinance No. 9627 adopted October 27, 2003, for the purpose of providing funds to provide the local match of grant funds from a private donation to pay part of the costs associated with the design and construction of the warming facility at Bayfront Festival Park;

(2) \$6,090,000 general obligation gas utility revenue bonds, Series 2003G, are hereby authorized and shall be issued pursuant to Ordinance No. 9624, adopted October 14, 2003, Minnesota Statutes, Chapter 475, and Section 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal gas utility;

(3) \$2,010,000 general obligation improvement bonds, Series 2003H, are hereby authorized and shall be issued pursuant to Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of financing local public improvements; and

(4) \$1,200,000 general obligation equipment certificates of indebtedness, Series 2003I (the certificates), are hereby authorized and shall be issued pursuant to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Minnesota Statutes, Sections 410.32 and 412.301 (the act), and Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing funds to purchase capital equipment, as permitted by the act, having an expected useful life at least as long as the term of the certificates.

The \$6,090,000 general obligation gas utility revenue bonds, Series 2003G, the \$425,000 general obligation Bayfront Festival Park improvement bonds, Series 2003F, and the \$2,010,000 general obligation improvement bonds, Series 2003H, are hereinafter referred to as the bonds;

(b) Issuance and sale of bonds and certificates. The terms and conditions of the bonds and certificates and the sales thereof are set forth in the official terms of offerings on file with the city clerk as Public Document No. 03-1110-22. Each and all of the terms and provisions set forth in the official terms of offerings are adopted and confirmed as the terms and conditions of the Bonds and Certificates and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds and certificates;

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

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

Resolution 03-0771 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, on November 4, 2003, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a general municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election precincts in the city have made their returns of said election, and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 03-1110-21) at 7:00 p.m., November 10, 2003, and ascertained the number of ballots cast at said election and thereby declared that at said election there were cast 29,444 votes, said votes having been cast in the following manner:

THAT for the office of mayor, Charlie Bell received 12,290 votes, Herb W. Bergson - received 16,608 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the offices of councilor at large, Garry Krause received 11,214 votes, Tim Little received 12,809 votes, Peggy Marrin received 6,263 votes, Donny Ness received 19,019 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, first district, Todd Fedora received 3,479 votes, Laurie Johnson received 3,956 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, third district, Eldon "Donny" Krosch, Jr. received 1,021 votes, Russ Stewart received 3,044 votes and candidates receiving write-in votes as indicated on the canvassing board report;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

THAT for the office of councilor, fifth district, Maryellen F. Kervina received 2,806 votes, Russell W. Stover received 3,205 votes and candidates receiving write-in votes as indicated on the canvassing board report;

NOW, THEREFORE, BE IT RESOLVED, that Herb W. Bergson, having received the majority of all votes cast at said election for the office of mayor is hereby declared duly elected for terms of four years.

FURTHER RESOLVED, that Tim Little and Donny Ness, having received the highest numbers of the votes cast at said election for the offices of councilor at large, are hereby duly elected for a term of four years.

FURTHER RESOLVED, that Laurie Johnson, having received the majority of all votes cast at said election for the office of councilor, first district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Russ Stewart, having received the majority of all votes cast at said election for the office of councilor, third district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Russell W. Stover, having received the majority of all votes cast at said election for the office of councilor, fifth district, is hereby duly elected for a term of four years.

Resolution 03-0788 was unanimously adopted.

Approved November 10, 2003

GARY L. DOTY, Mayor

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Resolution 03-0789, by Councilor Gilbert, expressing support of Lakewalk Townhomes project subject to certain conditions, was introduced for discussion.

The resolution was withdrawn from the agenda at Councilor Gilbert's request.

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Resolution 03-0772, by President Stenberg, of intent to hold a public hearing and consider approving a TIF district contingent upon approval of a TIF district plan by the Duluth economic development authority (DEDA), creation of a tax abatement policy and provide tax abatement assistance, or approve a special assessment development agreement all relating to the Suites of Miller Hill low income senior housing project, was introduced for discussion.

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

Mike Saxton spoke in support of the resolution and noted that a private purchaser has been secured for the housing revenue bond and that all approvals have been secured.

Councilor Gilbert expressed concern that a dangerous precedent is being set in that this project is very under capitalized and that the city is committing itself to an open ended public subsidy at any cost by approving this district.

Resolution 03-0772 was adopted as follows:

BY PRESIDENT STENBERG:

BE IT RESOLVED, that the city council of the city of Duluth does hereby declare its intent to hold a public hearing and either approve a TIF district contingent upon approval of a TIF district plan by DEDA or create a tax abatement policy and provide tax abatement

assistance all related to the Suites of Miller Hill low-income senior housing project located on Sundby Road.

Resolution 03-0772 was adopted upon the following vote:

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

Nays: Councilor Gilbert -- 1

Approved November 10, 2003

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT STENBERG

03-047 (9631) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-1, COMMERCIAL, AND R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF WATER STREET BETWEEN 20TH AND 22ND AVENUES EAST (NORTHLINE GROUP).

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

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

- - -

The following entitled ordinances were read for the first time:

BY COUNCILORS ATKINS, NESS, STEWART AND PRESIDENT STENBERG

03-064 - AN ORDINANCE PROVIDING FOR CHANGES IN HOURS OF CONSUMPTION OF ALCOHOLIC BEVERAGES FOR ON SALE INTOXICATING LIQUOR LICENSES; AMENDING SECTION 8-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY PRESIDENT STENBERG

03-062 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15, PAGES 4 AND 15, ENTITLED RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION.

- - -

BY COUNCILOR STAUBER

03-063 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

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

Donny Kroch, Drew Sundquist, Sunley Beede and Greg Schmaedeke expressed concerns that: this ordinance will adversely affect renters; there is a need for student housing; that this ordinance does not really address any problems that might be occurring in student rental housing; that students living in the community bring dollars to the community; small landlords are an asset to a city; rental non-homesteaded property brings more dollars to the city and there needs to more enforcement with tickets issued for inappropriate behavior.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR ATKINS

03-061 (9632) - AN ORDINANCE AMENDING REGULATIONS PERTAINING TO THE LICENSING OF PAWNBROKERS; AMENDING SECTIONS 36-1, 36-2, 36-3, 36-6, 36-7, 36-9, 36-12, AND 36-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY PRESIDENT STENBERG

03-059 (9633) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MILLER AND HOLMES, INC., FOR A GAS ISLAND CANOPY TO PROJECT FIVE FEET INTO AND OVER THE RIGHT-OF-WAY OF WEST MICHIGAN STREET LOCATED AT 1230 WEST MICHIGAN STREET.

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

- - -

The meeting was adjourned at 8:28 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9631

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 38 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-1, COMMERCIAL, AND R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF WATER STREET BETWEEN 20TH AND 22ND AVENUES EAST (NORTHLINE GROUP).

The city of Duluth does ordain:

Section 1. That Plate No. 38 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(see Map No. 38 at end of meeting)

(File No. 03076)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 21, 2003)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed November 10, 2003

Approved November 10, 2003

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9632

BY COUNCILOR ATKINS:

AN ORDINANCE AMENDING REGULATIONS PERTAINING TO THE LICENSING OF PAWNBROKERS; AMENDING SECTIONS 36-1, 36-2, 36-3, 36-6, 36-7, 36-9, 36-12, AND 36-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 36-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Pawnbroker. Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this Chapter shall be applicable.

Reportable transaction. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

(a) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record;

(b) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Billable transaction. Every reportable transaction conducted by a pawnbroker is a billable transaction, except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.

Section 2. That Section 36-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-2. License--required.

No person shall engage in the business of pawnbroking or act as a pawnbroker within the city without first having obtained a license to do so. Such license shall authorize the licensee to engage in the pawnbroking business at the premises named on the license. Each premises shall require a separate license. No person shall be eligible for a license unless such person meets the eligibility standards set forth in Minnesota Statutes Section 325J.03(a) or its successor. Licenses shall be nontransferable and any change in the direct or beneficial ownership of a pawnbroking business shall be reported by the licensee to the clerk and shall require a new license.

Section 3. That Section 36-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-3. Same--Fees.

(a) The applicant for a license under this Chapter shall accompany the application to the city clerk with a license fee, which shall be set in accordance with Section 31-6(a) of this Code;

(b) If the license period is for less than one year, the fee to be paid by the applicant shall be a pro rata portion of the amount required for the entire year; provided that the minimum fee shall be not less than that set in accordance with Section 31-6(a) of this Code;

(c) During any month, or part thereof, when the city or the chief of police requires computerized recordkeeping of pawnbrokers, each licensee shall also pay a monthly license fee to the city treasurer on a per transaction basis. The fee shall be equal to the amount of city's per transaction cost of participating in computer interchange file specification format mandated by Minnesota statutes Section 325J.05, or its successor, together with a fee per billable transaction, the amount of which is set in accordance with Section 31-6(a) of this code, which amount will cover the city's costs in processing the data. The licensee shall pay this transaction fee to the city within 30 days of the date of the billable transaction. A licensee may pass this fee through to their customers by imposing a per transaction fee to persons pawning goods that is equal to the per transaction license fee paid to the city by the licensee. This customer per transaction fee shall not be considered as a fee or interest for purposes of determining compliance with maximum permitted charges by pawnbrokers under Minnesota Statutes Section 325J.07.

Section 4. That Section 36-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-6. Records to be kept; right of inspection; pawn tickets.

(a) Each person licensed hereunder shall keep a record of each reportable transaction made in the course of his business. Such record shall

include all outright purchases of property made on the premises, even though the seller has no right of repurchase, and shall also include pledges or purchases of property made off the licensed premises but stored or held for sale on the licensed premises. Such records shall be in a form prescribed by the chief of police and shall, in all instances, be legibly made in ink and be in the English language. The record so kept shall include the following information about each transaction:

- (1) The name, address, telephone number and date of birth of the person pledging or selling the item;
- (2) The time and date of the transaction;
- (3) A complete and accurate description of the item pledged or sold, including all identifying numbers and identifying marks;
- (4) The identification presented as required by Section 36-13 of this Chapter;
- (5) A description of the person pledging or selling the item;
- (6) The amount of money paid or loaned for the item;
- (7) The signature of the person pledging or selling the item;
- (8) Any other information the chief of police shall require;
- (9) The maturity date of the pawn transaction and the amount due;

(10) The monthly and annual interest rates, including all pawn fees and charges;

(b) The records required herein shall be kept available for police inspection at any reasonable time at the licensee's place of business and shall be kept for at least three years after any transaction;

(c) The chief of police may require that all records and information required to be kept by this Section be kept by computer or other electronic format, or that video or photographic records be kept. The chief of police may also require that the computerized or electronic records of the pawnbrokers be electronically transmitted to police headquarters on a periodic basis. The format for computerized pawnbroker records shall be the "interchange file specification format" specified in Minnesota Statutes Section 325J.05(b) and (c) or its successor;

(d) The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket. The following shall be printed on all pawn tickets:

(1) The statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for the period of not less than 90 days past the day of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods.";

(2) The statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item.";

(3) The statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record.”; and

(4) A blank line for the pledgor’s signature.

Section 5. That Section 36-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-7. Daily reports to chief of police.

Every pawnbroker shall make available to the chief of police every day, before the hour of 12:00 noon, a complete, legible and correct copy of the records required by Section 36-6 for all transactions occurring on the previous day, provided that if the chief of police requires computerized recordkeeping for pawnbroker records, the chief shall also set and enforce specifications for each licensee’s transmittal of those records to local and statewide authorities or data systems.

Section 6. That Section 36-9 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-9. Property not to be sold within 14 days after filing reports.

No personal property deposited with or purchased by any licensee, including outright purchases of property with no right of repurchase, shall be sold or permitted to be redeemed from such licensee until 14 days after the copy of the records required by Section 36-7 to be made available to the chief of police shall have been delivered, the chief of police or any member of the police force designated by him shall notify any licensee not to sell or permit to be redeemed any property so purchased, received or deposited, such property shall not be sold or permitted to be redeemed, except with the written consent of the chief of police.

Section 7. That Section 36-12 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-12. Prohibited conduct.

A pawnbroker, and any clerk, agent, or employee of a pawnbroker, shall not:

- (a) Make any false entry in the records of pawn transactions;
- (b) Falsify, obliterate, destroy or remove from the place of business the records, books or accounts relating to the licensee’s pawn transactions;
- (c) Refuse to allow the Duluth police, the attorney general or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person’s actual or constructive possession during the ordinary hours of business or at other reasonable times;
- (d) Fail to maintain a record of each pawn transaction for three years;
- (e) Accept a pledge, or purchase property from, a person under the age of 18 years, nor from an intoxicated person;
- (f) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Chapter;
- (g) Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in Minnesota Statutes Section 325J.09, or its successor, upon payment of the full amount due the pawnbroker unless either

the date of redemption is more than 90 days past the date of the pawn transaction, renewal or extension and the pawnbroker has sold the pledged goods pursuant to Minnesota Statutes Section 325J.06, or its successor, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;

(h) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or in a related, transaction;

(i) Remove pledged goods from the pawnshop premises or other storage place approved by the chief of police at any time before unredeemed, pledged goods are sold pursuant to Minnesota Statutes Section 325J.06 or its successor.

Section 8. That Section 36-13 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-13. Identification requirements.

(a) Each person pawning, pledging or selling items in an establishment licensed pursuant to this Chapter shall identify himself, as provided herein, to the licensee or licensee's agent accepting such pawn, pledge or sale and shall present himself for taking of a photo or video picture, and, if requested, a fingerprint. Neither the licensee nor any of his agents shall transact any business with any person who fails to identify himself as provided herein. Identification shall be made as follows:

(1) By a showing of a Minnesota driver's license or nonqualification certificate which was duly issued to the person presenting it by the state of Minnesota. The licensee or agent shall stamp or record the information contained on face of said drivers license or nonqualification certificate on the record required by Section 36-6 of this Chapter;

or, if the person has no Minnesota driver's license or nonqualification certificate, then:

(2) By a showing of a form of identification sufficient to establish proof of age as set out in Minnesota Statutes Section 340A.503, subd. 6, as it may be amended or succeeded. The licensee or agent shall record the type of identification, any identifying number on the identification, and the name and physical description on the identification in the record required by Section 36-6 of this Chapter;

(b) The licensee or licensee's agent transacting the pawn, pledge or sale shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification presented with the physical features and signature of the person presenting such identification and shall not transact any business with any person who appears to be presenting false identification.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 21, 2003)

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

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

Nays: None -- 0

Passed November 10, 2003
Approved November 10, 2003
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9633

BY PRESIDENT STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MILLER AND HOLMES, INC., FOR A GAS ISLAND CANOPY TO PROJECT FIVE FEET INTO AND OVER THE RIGHT-OF-WAY OF WEST MICHIGAN STREET LOCATED AT 1230 WEST MICHIGAN STREET.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Miller and Holmes, Inc., their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a gas island canopy in that part of West Michigan Street as the same was dedicated to the use of the public and the plat of Duluth Proper Second Division, on file and of record in the office of the registrar of deeds in and for the St. Louis County, Minnesota, described as follows: that part of the West Michigan Street right-of-way lying within five feet of the northerly right-of-way line adjoining the westerly 20 feet of Lot 204 and all of Lot 206, Block 23, Duluth Proper Second Division.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk; a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 canopy and all fixtures and appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such canopy shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such canopy while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, watermains, pipes, conduits or other public utilities made necessary by the presence of such canopy in said West Michigan Street.

Section 6. That the permittee shall further observe the following condition: that there be no signage (excluding logos) on that portion of the canopy which encroaches into the right-of-way of West Michigan Street.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 21, 2003)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 10, 2003
Approved November 10, 2003
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 24, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meetings held on September 8 and 15, 2003, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-1124-01 Sixth Judicial District Chief Judge Gary J. Pagliaccetti submitting order appointing Richard Abram replacing Douglas Nelson to the Charter Commission for an unexpired term ending June 1, 2006. -- Received

03-1124-21 Builders Association of Minnesota submitting communication regarding the proposed use of increased revenues in the fire department (03-0814R). -- Received

03-1124-02 Mediacom, LLC, submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9609 on July 14, 2003. -- Received

03-1124-03 The following submitting communications regarding the proposed ordinance relating to rental licensing (03-063-O): (a) Ruth Anderson; (b) Mike Bergh; (c) Roberta and Len Edwards; (d) Dave Stinson; (e) Jeff and Cindy Storlie; (f) University of Minnesota - Duluth. -- Received

03-1124-22 The following submitting communications regarding the proposed Lakewalk Townhomes project (03-0789R): (a) Alison J. Clarke; (b) Anne Roeser (supported by 20 signatures); (c) Larry Sundberg. -- Received

03-1124-23 The following submitting communications regarding proposed amendments to smoking in public places (03-070-O and 03-071-O): (a) Lori and Glenn Albin; (b) Ruth Anderson; (c) Dan Hass; (d) Steve Townsend. -- Received

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REPORTS OF OFFICERS

03-1124-04 Assessor submitting letters of sufficiency of petitions to:

(a) Construct 380 lineal feet of low pressure sanitary sewer within Swenson Avenue beginning at the intersection of 90th Avenue West and extending westerly;

(b) Reclassify from R-2 to R-3, Lots 10, 11, 12; Block 79, and Lots 7, 8, 9, Block 55, Duluth Proper Third Division;

(c) Vacate:

(1) A portion of the open easement on Park Point lying between the southwesterly line of Lots 7 through 21, odd numbered lots, St. Louis Avenue, Lower Duluth and the official harbor line of Superior Bay;

(2) The alley between and adjacent to Lots 6 through 13, Block 6, and Lots 6 through 14, Block 7, Harrington's Addition. -- Received

03-1124-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from Duluth Lighthouse for the Blind and Visually Impaired on February 21, 2004 (raffle). -- Received

03-1124-06 Purchasing agent submitting emergency purchase orders awarded to: (a) A.W. Kuettel and Sons for roofing of Washington Center gymnasium; (b) Commercial Roofing Company for roofing of the Lake Superior Zoo main building. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-1124-24 Alcohol, gambling and tobacco commission minutes of: (a) October 14; (b) November 5, 2003, meetings. -- Received

03-1124-25 Board of zoning appeals minutes of October 28, 2003, meeting. -- Received

03-1124-07 Duluth state convention center administrative board minutes of September 29, 2003, meeting. -- Received

03-1124-08 Parking commission minutes of October 21, 2003, meeting. -- Received

03-1124-09 Parks and recreation commission minutes of September 10, 2003, meeting. -- Received

03-1124-10 Planning commission minutes of: (a) August 27; (b) September 9, 2003, meetings. -- Received

03-1124-11 Special assessment board minutes of October 14, 2003, meeting. -- Received

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RESOLUTIONS TABLED

President Stenberg moved to remove Resolutions 03-0704 and 03-0705, affirming and reversing, respectively, a decision of the board of zoning appeals to deny a variance to structurally alter a building that has a nonconforming use by constructing an 11 feet by 11 feet addition with loading dock on property located at 1202 Maple Grove Road (Barbara Koralia), from the table, which motion was seconded and unanimously carried.

President Stenberg reviewed that the city attorney has opined that the council does not have the power to reverse the decision of the board of zoning appeals and moved passage of Resolution 03-0704.

Resolution 03-0704 was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Barbara Koralia has applied to the board of zoning appeals for a variance to structurally alter a building in a residential zone that has a nonconforming use by constructing an 11 foot by 11 foot addition with loading dock, allowing a business to expand, on property located at 1202 Maple Grove Road and legally described as Lot 5 and Lot 6, except the southerly 50 feet, Block 2, Handy Garden Tracts; and

WHEREAS, the board of zoning appeals denied the variance to allow construction of said addition to applicant's building which is located in a residential zoning district based upon the provisions of the Section 50-47(b) of the Code; and

WHEREAS, the board determined no hardship to the property exists which would justify the granting of a variance under Section 50-47 of the Code; and

WHEREAS, neither the board nor the city council has the authority under Section 50-47 of the Code or M.S.A. 462.357 to grant use variances; and

WHEREAS, Barbara Koralia has appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and hereby agrees with the decision made by the board of zoning appeals pursuant to Sections 50-47(b);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth finds that there is no 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 or which would result in particular and exceptional practical difficulties thereto.

FURTHER RESOLVED, the council finds that the property owner does not have a substantial property right to construct the proposed addition to her commercial building on her property which is located in an R-2 zone.

FURTHER RESOLVED, that the city council of Duluth affirms the board of zoning appeals' decision of August 28, 2003, and the appeal is denied.

Resolution 03-0704 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0705 failed upon a unanimous vote (Public Document No. 03-1124-12).

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

BY COUNCILOR HOGG:

RESOLVED, that the 2004 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3% hotel-motel	1% hotel-motel	1.5% food & beverage	Additional 2.5% hotel-motel	TOTAL
Duluth public arts commission			20,000	10,000	30,000
Sister cities			22,000	13,600	35,600
DECC	759,500				
Convention and Visitors Bureau	409,000	136,300	435,900	165,700	1,146,900
Historical Union depot		83,200	44,600	8,000	135,800
Donations			30,000		30,000
To general fund	61,500	190,500	559,000	178,700	989,700
To debt service			321,800	376,000	697,800
DECC debt service			716,700	188,000	904,700

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

	3% hotel- motel	1% hotel- motel	1.5% food & beverage	Additional 2.5% hotel- motel	TOTAL
TOTALS	1,230,000	410,000	2,150,000	940,000	4,730,000

Resolution 03-0800 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2004, to December 31, 2004, in the amount of \$9,645,085 for the Duluth transit authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 03-0801 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2004, to December 31, 2004, for Duluth Steam District No. 2 in the amount of \$6,114,073 is hereby approved.

Resolution 03-0803 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>
National Multiple Sclerosis Society Minnesota Chapter	Club Saratoga

Resolution 03-0798 was unanimously adopted.

Approved November 24, 2003

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, ARC Northland 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 ARC Northland 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 03-0799 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 2004, subject to departmental approvals, the payment of sales and property taxes: Renegade Comedy Theatre, 404 West Superior Street, with Brian Matuszak, manager.

Resolution 03-0807 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and on approves the issuance of the following sale wine license for the period ending April 30, 2004, and August 31, 2004, respectively, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner: Lakeview Coffee House (Lakeview Coffee House), 600 East Superior Street, with Lindzi Campbell, 100 percent stockholder.

Resolution 03-0808 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of engineering technician, which were approved by the civil service board on November 4, 2003, and which are filed with the city clerk as Public Document No. 03-1124-13, are approved. This classification shall remain subject to the city's collective bargaining

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

agreement with its basic unit employees and compensated at Pay Range 28, \$2,902 to \$3,435 per month.

Resolution 03-0786 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of Joan Morrison to the planning commission for a term expiring on December 31, 2006, replacing Robert Heimbach who resigned, is confirmed.

Resolution 03-0792 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the appointment by Mayor Doty of John M. Eagleton to the Duluth airport authority for a term expiring on July 1, 2004, replacing John deGrood who resigned, is confirmed.

Resolution 03-0829 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that Keith J. Stauber is hereby reappointed to the civil service board for a term expiring May 1, 2009.

Resolution 03-0836 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the unnamed right-of-way east of St. Paul Avenue, 100 feet east of the intersection of St. Paul Avenue and Woodland Avenue, legally described as: that portion of right-of-way lying between Blocks 3 and 4, Woodland Park, Sixth Division, Duluth, and located east of a line between the southwest corner on Lot 11, Block 3 and a point on the south right-of-way line located 30 feet west of the northeast corner of Lot 3, Block 4, and retaining the southerly 20 feet of the vacated right-of-way as a utility easement; and

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

WHEREAS, the city planning commission unanimously approved the street vacation petition, File No. 03130, at its November 12, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the unnamed street easement described above, and as more particularly described on Public Document No. 03-1124-14.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

Resolution 03-0796 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the westerly 200 feet of St. Benedict's Street adjoining property legally described as that portion of St. Benedict's Street adjoining Lots 2-4, Block One and Lots 5-7, Block Two and the northerly ten feet adjoining Lot 8, Block Two, Johnson's Addition to the City of Duluth, and retaining the southerly 20 feet of the northerly 26 feet of the vacated right-of-way adjoining Lots 7 and 8, Block 2 as a utility easement; and

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

WHEREAS, the city planning commission unanimously approved the street vacation petition, File No. 03131, at its November 12, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the portion of St. Benedict's Street and retaining the utility easement described above, and as more particularly described on Public Document No. 03-1124-15.

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

Resolution 03-0797 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into a commercial lease, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-1124-16, with the Minnesota department of transportation (Mn/DOT) for parking at the Lake Place parking lot which is located under and adjacent to Bridge No. 69816 at First Avenue East in Duluth, 50 percent of parking revenues after expenses to be remitted to Mn/DOT from the general fund.

Resolution 03-0810 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution No. 03-0229 is hereby amended by amending the description of the property to be acquired contained therein to read as follows: that part of Lot

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

3, Auditor's Plat No. A, New Duluth Lands, lying southerly of McCuen Street extended; and by increasing the consideration to be paid therefore to \$8,311.40, to be paid from Fund 0521, Agency 500, Organization 5532.

Resolution 03-0785 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Gopher State One-Call, Inc., be and hereby is awarded a contract for furnishing one-call system services as needed during year 2004 for the utility operation divisions in accordance with specifications on its low specification bid of \$1.15 per call for an estimated total of \$10,000, terms net 30, FOB job site, \$2,500 payable out of Water Fund 0510, Department/Agency 500, Organization 1930, Object 5316; \$2,500 payable out of Gas Fund 0520, Department/Agency 500, Organization 1930, Object 5316; \$2,500 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1930, Object 5316; \$2,500 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1930, Object 5316; to be encumbered out of year 2004 budget.

Resolution 03-0804 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to complete a study/report and preliminary survey; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for roadway and utility designs of the Trinity Road (TH53) project; and

WHEREAS, S.R.F. Consulting Group, 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 S.R.F. Consulting Group, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$18,700, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Organization 2103, Object 5530.

Resolution 03-0805 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it is deemed necessary for the public convenience and safety that Lake Avenue from Second Street Alley to Seventh Street (City Project No. 0087TR) 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 mph design speed, or unless a variance is granted; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, practical limitations require that the vertical alignment through all of the intersections of the project be constructed utilizing a shorter vertical curve length than dictated by standards which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules Chapter 8820, whereby the urban state aid standards be reduced for this project allowing for vertical curve lengths less than that required for a 30 mph design speed, and further provides that if the commissioner grants the variance that the city of Duluth hereby agrees to indemnify, save, and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or cause of action arising out of or by reason of the reconstruction of Lake Avenue in the city of Duluth in any manner than in accordance with Minnesota Rule 8820.9936 and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of granting of this variance.

Resolution 03-0811 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Gerald Thoreson the sum of \$10,626.91 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer; payment to be made from Self-Insurance Fund 0610.

Resolution 03-0812 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Salvation Army, under which the Salvation Army would administer an emergency energy assistance program using \$16,086 in funds that the city will receive from the Ordean Foundation for such purpose, which agreement is on file in the office of the city clerk as Public Document No. 03-1124-17; payment by the city will be made from the General Fund 0100, Agency 700, Organization 1428, Object MS14.

Resolution 03-0816 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized to execute the grant extension agreement filed as Public Document No. 03-1124-18 accepting approximately \$150,000 from the Minnesota department of public safety, Minnesota auto theft prevention program, to reimburse the police department for the salary and benefits of one police officer and equipment in the grant period from January 1, 2004, to June 30, 2005.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BE IT FURTHER RESOLVED, all revenues from the grant shall be deposited in Fund 0215, Agency 200, Organization 2466, Revenue Source 4230.

Resolution 03-0791 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby authorizes the sale of Duluth-Superior Duke's jerseys and jackets, said proceeds to be deposited into Revenue Fund 0210-030-2111-4690.

Resolution 03-0795 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 03-0802, by Councilor Hogg, approving the fiscal year January 1, 2004, to December 31, 2004, operation budget of the Duluth airport authority, was introduced for discussion.

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

Carol Carlson, Todd Erickson, Eric Lehto, Sharla Gardner and Alan Netland stated that the Duluth airport authority (DAA) bypassed the council by leasing the liquor license to a management company. They urged that the resolution be tabled until further information is provided on how the management agreement was arrived at. The speakers emphasized that the laid off workers are being treated as a commodity and that their intent is to get the employees back to work, not shut down the authority.

Councilor Hogg stated that while the council can control who is appointed to the DAA, it does not have the power or justification for trying to tell the DAA how to operate.

Councilors Gilbert and Stewart expressed concern that the employees were not treated fairly, which does not fit with the value system of the council and the city and requested a copy of the request for proposal for the management agreement and a legal opinion on the contract that was awarded.

Councilor Ness voiced concern that the tabling of this resolution is being used as a political chip in the negotiation process between the airport and the union.

Councilor Hogg called the question, which motion was seconded and passed upon the following vote:

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

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

Resolution 03-0802 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2004, to December 31, 2004, in the amount of \$2,549,103 for the Duluth airport authority is hereby approved.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 03-0802 was adopted upon the following vote:

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

Nays: Councilors Atkins, Bergson and Stover -- 3

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0789, by Councilor Gilbert, expressing support of Lakewalk Townhomes project subject to certain conditions, was introduced for discussion.

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

Alison Clarke, John Sanford, Nancy Nelson, Vicki Sanville, Katie Sandell, Paula Nelson-Gunther, Tom Hollenhorst, Gerry Kimball and Tim Larson urged support of this resolution and stated that the intent is to be proactive in the development, which contains two key points of land ownership and the vacation of street and alley easements.

The following reasons were given for proposing the resolution: the area could become polluted; the public could be visually hampered from seeing the lake because of the townhomes; the development could have negative economic impact if not built right; the city needs to preserve the Endion ledges; private money should be used instead of creating a tax increment financing project; there is a need to preserve easy access to the waterfront for the public; the city needs to work with the developer to ensure a successful development; the council needs to honor the neighborhood district's plan; there is a need to have open eyes and hearts to Duluth visionaries to provide and protect the open space that Duluth has and the city is giving away valuable public land and not getting the same value back.

Bill Burns, attorney representing the developer, reviewed that this project brings to fruition the rezoning of the property from industrial to residential and stated that the scheduling of a public hearing is a good idea so the pros and cons can be debated.

Councilor Gilbert stated this resolution is a good approach as direction would be given to the developers early in the process and would lay some ground rules for the developers to follow. He thanked Neighborhood Planning District 7 for working hard on this issue.

Councilors Stauber and Ness stated that there needs to be more information provided and discussion on the project and to hear from the planning commission before a decision is made.

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

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

Nays: Councilor Gilbert -- 1

- - -

Resolution 03-0814, by Councilor Gilbert, requesting a particular use of increased revenues in the fire department, was introduced for discussion.

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

Raymond Moe, representing the builders association, voiced concern that building fees would be used for something other than the purpose for which they are being collected, which is the issuing of building permits and inspections.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Erik Simonson, representing Duluth firefighters, stated that this resolution is about the safety of the public and should not be an area of doing more with less. He urged the council to restore the staffing level before the budget cuts through the increased revenue fees.

Councilor Gilbert stated that this resolution is one of priority for public safety and is a resolution to direct the administration that the council is concerned in this area.

Councilor Stauber reviewed that the 2003 and 2004 budget shows that the fire department has taken the least amount of cuts compared to other departments. He continued saying that there are other ways of running a fire department and gave examples of other cities and how they maintain their fire departments.

Councilor Ness stated that responsible budget and policy making involves decisions on where the money is to come from if you want to increase spending in other areas.

Councilor Ness moved to amend the resolution to read as follows:

“BE IT RESOLVED, that the city council requests that should revenues into the city increase over the 2004 budget, then, to the extent feasible, positions in the fire department and/or police department that were eliminated from the 2003 budget should be restored,” which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Ness, Stover and President Stenberg -- 6

Nays: Councilors Gilbert, Stauber and Stewart -- 3

Resolution 03-0814, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city council requests that should revenues into the city increase over the 2004 budget, then, to the extent feasible, positions in the fire department and/or police department that were eliminated from the 2003 budget should be restored.

Resolution 03-0814, as amended, was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Approved November 24, 2003, pursuant to Section 12 of the Duluth City Charter.

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Resolution 03-0815, by Councilor Gilbert, stating the council's intent that a \$135,800 payment to St. Louis County Heritage and Arts Center be in cash, was introduced for discussion.

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

Ken Buehler, executive director of the Historic Union Depot, reviewed that in past years the Depot has benefitted from higher levels of funding from hotel-motel tax than what is in the current budget. He continued saying that the Depot has taken over the marketing and administration of the St. Louis County Heritage and Arts Center since June 1, 2003, on behalf of St. Louis County, which has increased its support for the building. Mr. Buehler requested more money from the city's motel-hotel tax to enable better marketing for the center which will help support the building.

Councilor Gilbert stated he feels the Depot is a very important asset as it affects both citizens and tourists alike.

Councilor Ness stated that the city should be more flexible in the way that the Depot could repay their existing debt, especially with new management taking over the duties of the Depot.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Administrative Assistant Winson reviewed that this \$35,000 debt is from the previous organization and the administration is attempting to recoup that money, and restated that the administration is willing to provide \$100,000 in 2004 and the other \$35,000 to repay the debt.

Councilor Hogg moved to amend the resolution by inserting the words "except for 20 percent of the remaining debt owed" after the word "recipient," in the fifth line, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Hogg, Ness, Stewart and Stover -- 5

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

Abstention: Councilor Bergson -- 1

Resolution 03-0815, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city council of Duluth intends that the proposed 2004 expense item for Fund 0258 (special city excise and sales taxes) for payment to St. Louis County Heritage and Arts Center in the proposed amount of \$135,800, which expense item for year 2004 is found on page RF-8 of the proposed 2004 budget, be paid in cash to the recipient, except for 20 percent of the remaining debt owed and not by way of set-off against obligations owed by the recipient to the city.

Resolution 03-0815, as amended, was adopted upon the following vote:

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

Nays: Councilor Stewart -- 1

Abstention: Councilor Bergson -- 1

Approved November 24, 2003, pursuant to Section 12 of the Duluth City Charter.

- - -

Resolutions 03-0793 and 03-0794, by President Stenberg, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to reduce the minimum lot area from 7,000 square feet to 4,100 square feet and reduce the minimum rear yard setback from 25 feet to 15 feet for the construction of a single family dwelling on property located at 1001 West Sixth Street (Kenneth Finken and Erick Filby), were introduced for discussion.

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

Erick Filby, appellant, urged the council to reverse the board of zoning appeals' decision and allow this house to be constructed as it would put this lot on the city tax roll.

Councilor Ness moved to amend Paragraph 7 of Resolution 03-0794 as follows:

(a) Fill in the blank in the 13th line after the words "buildings in the vicinity:" with the words "reduction in size in order to allow for street right-of-way;"

(b) Fill in the blank in the 23rd line after the word "because" with the words "adjacent lots;"

(c) Fill in the blank in the 25th line with the words "there is a lack of housing; the size and location of the house is compatible with the neighborhood; the property size is reduced in order to provide right-of-way to the street; the configuration of adjacent lots precludes density incompatible with the neighborhood," which motion was seconded and carried upon a unanimous vote.

Resolution 03-0794, as amended, was adopted as follows:

BY PRESIDENT STENBERG:

WHEREAS, Erick Filby has appealed the board of zoning appeals the denial of a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

variance request to reduce the minimum lot area from 7,000 square feet to 4,100 square feet and to reduce the minimum rear yard setback from 25 feet to 15 feet for the construction of a single family dwelling on property located at 1001 West Sixth Street; and

WHEREAS, the property is located within an R-1-b, One Family Residential, zoning district; and

WHEREAS, Chapter 50-20.1 requires a minimum lot area of 7,000 square feet and a minimum rear yard setback of 25 feet for dwellings in an R-1-b zoning district; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed because no special circumstances or conditions applying to the building or land in question were peculiar to such property and did not apply generally to other land or buildings in the vicinity; and because a variance was not necessary for the preservation and enjoyment of a substantial property right; and it is merely a convenience for the applicant; and

WHEREAS, the granting of this variance was not justified under the existing language of the Zoning Code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to make the following findings:

(a) That by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship, upon the owner of such property;

(b) That such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code;

(c) There exist special circumstances or conditions applying to the building or land in question, which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;

(d) That the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;

(e) That authorizing of the variance will not impair an adequate supply of light and air to adjacent property, nor unreasonably increase the congestion in public streets, nor increase the danger of fire, nor imperil the public safety, nor unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of the condition of the land, described below as "special circumstances and conditions," and _____, strict application of the zoning code to this property would result in [practical difficulty or undue hardship to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code; because _____; that the following special circumstances or conditions apply to the building or land in question and are peculiar to such property or immediately adjoining property, and also do not apply generally to other land or buildings in the vicinity: _____; that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of

_____ ; that granting the variance is not merely a convenience to the applicant; that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city; because of adjacent lots, (or) as described in the staff report; and that there is a lack of housing; the size and location of the house is compatible with the neighborhood; the property size is reduced in order to provide right-of-way to the street; the configuration of adjacent lots precludes density incompatible with the neighborhood.

FURTHER RESOLVED, that the board of zoning appeals' decision of October 28, 2003, is hereby reversed by the city council and the appeal is granted, so that the variance shall now issue.

Resolution 03-0794, as amended, was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0793 failed upon a unanimous vote (Public Document No. 03-1124-19).

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BY PRESIDENT STENBERG:

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 2004.

Resolution 03-0835 was unanimously adopted.

Approved November 24, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0843, by President Stenberg, provisionally designating the Magney-Snively area for inclusion to the Duluth natural areas program, was introduced for discussion.

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

Greg Price urged passage of this resolution as this area would be a continuation of Jay Cooke State Park.

Allan Beaulier, representing Neighborhood Planning District 1, stated that the district unanimously endorses this natural area.

Kyle Deming, planning division, reviewed that the intent of this program is to first determine if there is sufficient public support and scientific evidence for the nominated area, and then create a management plan for the area within 12 months. He continued saying that many of the concerns and questions of what type of activities would occur in the area can be addressed when the management plan is developed.

President Stenberg moved to amend Paragraph (c) of the resolution by striking the words "or is forfeited to the state of Minnesota for nonpayment of taxes and under the control of St. Louis County" and "both of whom"; and adding the words "which owners" after the words "private owners," which motion was seconded and unanimously carried.

Councilor Bergson moved to table the amended resolution, which motion was seconded and carried upon a unanimous vote.

At this time, 10:00 p.m., Councilor Bergson left his seat.

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

03-066 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2004 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

BY COUNCILOR HOGG

03-067 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2004.

BY COUNCILOR HOGG

03-068 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR SPECIAL TAXING DISTRICT DULUTH TRANSIT AUTHORITY FOR THE YEAR 2004.

BY COUNCILOR HOGG

03-069 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT SEAWAY PORT AUTHORITY FOR THE YEAR 2004.

BY COUNCILORS STEWART AND STOVER

03-070 - AN ORDINANCE TO ALLOW FULL FOOD SERVICE IN BAR AREAS OF BAR/RESTAURANTS WHERE SMOKING IS PERMITTED; AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Mark Rutka, Mike Ronning, Dawn Fitzgerald, Dan Landgren and Mike Mohr urged councilors to support this ordinance change which would allow food service in the bar area where smoking is permitted. They stated that: they are not asking to change the smoking ban but to allow Duluth bars to be able to compete with neighboring communities; customers have a right to purchase foods other than a frozen pizza in a bar whether they are smoking or not and adults should be allowed to choose what bars they want to socialize in.

Ken Steil urged the councilors not to change the smoking ban for the following reasons: to protect the workers' health from the hazards of indoor pollution; currently there is no prohibition against serving food in the bars or serving food and alcohol together as it is a choice the customer needs to make and the people of the community voted for the no smoking ordinance.

BY COUNCILOR GILBERT

03-071 - AN ORDINANCE PROHIBITING SMOKING IN PUBLIC PLACES; AMENDING SECTIONS 28-63, 28-64, 28-65, AND 28-67 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

BY PRESIDENT STENBERG

03-065 - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER EAST

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FIRST STREET 300 FEET EAST OF FOURTH AVENUE EAST (ST. MARY'S DULUTH CLINIC HEALTH SYSTEM, BY NEAL J. HESSEN, FRYBERGER, BUCHANAN, SMITH & FREDERICK, P.A.).

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The following entitled ordinances were read for the second time:
BY COUNCILORS ATKINS, NESS, STEWART AND PRESIDENT STENBERG
03-064 (9634) - AN ORDINANCE PROVIDING FOR CHANGES IN HOURS OF CONSUMPTION OF ALCOHOLIC BEVERAGES FOR ON SALE INTOXICATING LIQUOR LICENSES; AMENDING SECTION 8-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Mark Rutka expressed frustration that a letter he received from the city states the 2:00 a.m. license allows the bars to serve only until 1:30 a.m. and does not deter the customers from going to Superior.

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

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BY PRESIDENT STENBERG
03-062 (9635) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15, PAGES 4 AND 15, ENTITLED RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION.

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

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BY COUNCILORS STAUBER AND GILBERT
03-063 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

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

Trudy Carlson, Greg Schmaedeke, Jim Aird, Sumelee Beede, Alison Clarke, K.L. Lewis and Larry Theivagt opposed the ordinance for the following reasons: it is not in the best interest of the students of the city of Duluth; it is a detriment to the university; it is bad for the taxpayers as students are a financial asset to the city; rental housing issues are law enforcement issues instead of landlord issues; police need to ticket students the first time there is a problem rather than giving them a warning; this ordinance is a blanket solution on an issue that needs to be pinpointed; current ordinances should be used to handle the problems that come with rental properties; not all rental units have college students for tenants; property owners retain property rights when buying a home; who and how is anyone going to enforce this ordinance change; if you are going to make policies, you need to have the money to make the changes be effective; being a multi-cultural city brings businesses to Duluth; the licensing and inspections of rental units should be enforced and there has been no contact with the multi-housing association or landlords asking for feedback on the ordinance.

Councilor Stauber moved to table the ordinance for a public hearing, which motion was seconded and carried upon a unanimous vote.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilor Hogg moved to reconsider Resolution 03-0829, confirming the appointment of John M. Eagleton to the Duluth airport authority, replacing John DeGrood, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hogg and Stover -- 2

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

Absent: Councilor Bergson -- 1

The meeting was adjourned at 10:35 p.m.

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

ORDINANCE NO. 9634

BY COUNCILOR ATKINS, NESS, STEWART AND PRESIDENT STENBERG:

AN ORDINANCE PROVIDING FOR CHANGES IN HOURS OF
CONSUMPTION OF ALCOHOLIC BEVERAGES FOR ON SALE
INTOXICATING LIQUOR LICENSES; AMENDING SECTION 8-19
OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-19 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-19. Hours for consumption, service, etc., of alcoholic beverages on on sale licensed premises.

(a) On any licensed on sale premises, which does not hold a state permit and a "late hours" permit issued by the city which allows sales until 2:00 a.m., no person shall consume or furnish to another person any alcoholic beverage in that period from one hour after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin, except that in the case of premises holding a late hour entertainment license, no person shall consume or furnish to another person any alcoholic beverage from 30 minutes after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin; and except that in the case of premises holding a state permit and a "late hours" permit issued by the city which allows sales until 2:00 a.m., no person shall consume or furnish to another person any alcoholic beverage in that period from 30 minutes after sales of alcoholic beverages on such premises are required by law to cease until the time at which sale of alcoholic beverages on such premises are next allowed by law to begin;

(b) No person in charge of such licensed on sale premises shall allow another person to consume any alcoholic beverages on such premises in that period from one hour after sales of alcoholic beverages on such premises are required by law to cease until the time at which sales of alcoholic beverages on such premises are next allowed by law to begin;

(c) The person in charge of such on sale premises shall not allow alcoholic beverages in glasses, cups or containers used for drinking, or in

opened and uncorked cans or bottles on such licensed premises during such times when consumption of alcoholic beverages on such premises is prohibited by this Section. For the purposes of this Section 8-19, open bottles of intoxicating liquor stored behind the bar with pouring spout stoppers shall be considered corked bottles;

(d) Notwithstanding any other provision of this Section 8-19, on any licensed on sale premises that is not covered by a valid late hour entertainment license, no person shall consume or furnish to another person any alcoholic beverage, nor shall the person in charge of the premises allow, nor shall any person possess, any alcoholic beverage in a glass, cup, or container used for drinking, or in open and uncorked cans or bottles after the time of 2:00 a.m., except as provided in subdivision (a) of this Section 8-19.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 28, 2003)

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

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

Nays: None -- 0

Absent: Councilor Bergson -- 1

Passed November 24, 2003

Approved November 24, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9635

BY PRESIDENT STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, AMENDING PUBLIC DOCUMENT NO. 03-0324-15, PAGES 4 AND 15, ENTITLED RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION.

The city of Duluth does ordain:

Section 1. That development within the boundaries of Traditional Neighborhood District No. 1 shall be governed by and regulated in accordance with Public Document No. 03-0324-15, entitled Ramsey Village Neighborhood Documents of Implementation, as amended by Public Document No. 03-1124-20, entitled Ramsey Village Neighborhood Documents of Implementation, Amended Pages No. 4 and 15.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 28, 2003)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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

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

Nays: None -- 0

Absent: Councilor Bergson -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed November 24, 2003

Approved November 24, 2003

GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 1, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-1201-01 Thomas E. and Susan K. Caine submitting petition to vacate the portion of Congdon Boulevard right-of-way adjoining the east 1/2 of Lot 6, Lot 7, and the western 40 feet of Lot 8, Seaway View Addition and the utility easement adjoining those lots. -- Assessor

03-1201-02 Shanty Bottle Shop, et al. (11 signatures), submitting petition to reclassify from R-3 to C-2, Lot 11, except the westerly ten feet, and all of Lots 12, 13, 14, 15 and 16, including the vacated 20 feet of East Fourth Street, Block 98, Portland Division of Town of Duluth. -- Assessor

03-1201-26 Trudy Carlson submitting communication regarding the proposed ordinance relating to rental licensing (03-063-O). -- Received

03-1201-03 The PFM Group submitting presale analysis regarding \$425,000 G.O. Bayfront Festival Park improvement bonds, Series 2003F; \$6,090,000 G.O. gas utility revenue bonds, Series 2003G; \$2,010,000 G.O. improvement bonds, Series 2003H; \$1,200,000 G.O. equipment certificates of indebtedness, Series 2003I. -- Received

03-1201-24 Erik Roadfeldt submitting communication regarding a particular use of increased revenues in the fire department (03-0814R). -- Received

03-1201-25 The following submitting communications regarding the proposed SMDC development (03-0846R, 03-0847R, 03-0848R, 03-0849R and 03-0850R): (a) Nickoel Anderson; (b) Eric Dings. -- Received

03-1201-04 The following submitting communications regarding the proposed Lakewalk Townhomes project (03-0789R): (a) Alison Clarke; (b) Elizabeth Kurkoski. -- Received

03-1201-27 The following submitting communications regarding proposed amendments to smoking in public places (03-070-O and 03-071-O): (a) William Call; (b) Rosemary D. Dahl; (c) Grey Doffin; (d) Mark R. Eckman; (e) David Hagemann; (f) Bob and Jan Herold; (g) Angel Hohenstein; (h) Tracy Lundeen; (i) Pat McComb; (j) Caryn McKechnie; (k) Jeff and Pam Mendelson; (l) Gina Miller; (m) Nancy Nelson; (n) Bruce Ojard; (o) Penny Perry; (p) Tammy Renaud; (q) Kate Scott; (r) Ken Stehl; (s) Mary Tanner; (t) Rich Updegrave and Jennifer McEwen; (u) Stephen P. Welsh and Penny A. Juel; (v) Jane and David Worley. -- Received

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REPORTS OF OFFICERS

03-1201-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from Regents of the University of Minnesota on February 10, 2004 (raffle). -- Received

03-1201-06 Engineering division submitting monthly project status report of November 1, 2003. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-1201-07 Commission on disabilities minutes of November 5, 2003, meeting. -- Received

03-1201-08 Duluth airport authority: (a) Minutes of October 20, 2003, meeting; (b) Unaudited balance sheet of September 30, 2003. -- Received

03-1201-09 Duluth human rights commission minutes of November 12, 2003, meeting. -- Received

03-1201-10 Duluth/North Shore Sanitary District board minutes of November 4, 2003, meeting. -- Received

03-1201-11 Technical design advisory committee for the Downtown Waterfront mixed use design review district minutes of October 1, 2003, meeting. -- Received

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At this time, 7:03 p.m., President Stenberg announced that the public hearing on the 2004 tax levy and budget would begin.

Peggy Spehar, budget division manager, reviewed the process used to develop the 2004 tax levy and budget and the purpose of this hearing.

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At this time, 7:05 p.m., President Stenberg closed the public hearing and announced that the public hearing regarding the 2004 – 2008 capital improvements program would begin.

Administrative Assistant Winson reviewed the purpose of this hearing.

At this time, 7:07 p.m., President Stenberg closed the public hearing and the regular order of business was resumed.

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RESOLUTION TABLED

President Stenberg moved to remove Resolution 03-0843, as amended, provisionally designating the Magney-Snively area for inclusion to the Duluth natural areas program, from the table, which motion was seconded and unanimously carried.

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

Tom Duff, representing the Nature Conservancy, voiced support for the resolution.

Resolution 03-0843, as amended, was adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that the Duluth City Council hereby makes the following findings of fact pertaining to that area legally described on Public Document No. 03-1201-17, on file in the office of the city clerk and denominated thereon as the Magney-Snively Natural Area:

(a) That the area is an area of special or unique ecological or environmental significance to the city of Duluth because:

(1) The area is a significant native plant communities area as defined in Article IV A of the program guidelines in that there exists thereon a northern rich maple basswood forest which is naturally viable and sustainable;

(2) The area is a special species area as defined in Article IV B of the program guidelines in that there exists thereon plant communities of the Spring Beauty (*Claytonia caroliniana*) and Moschatel (*Adoxa moshchatel*) which are naturally viable and sustainable;

(3) The area is a geological landform area meeting the criteria set forth in Article IV E of the program guidelines in that it contains rock formations described as Ely Peak

Basalt and Layered Series of Duluth Complex evidencing the existence of the midcontinental drift system;

(b) That the area is one of the best remaining viable examples of the types described in No. (a) above;

(c) That the land constituting the area is eligible for nomination for the program because it is either owned by the city, or is owned by private owners, which owners have consented to the designation of the property as a natural area under the program and to the imposition of controls in the form of a management plan thereon;

(d) That the area is in compliance with all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED, that, pursuant to Section 2-55 (a) of the Duluth City Code, 1959, as amended, the Magney-Snively Area as described on Public Document No. 03-1201-17 is hereby provisionally designated as a Duluth Natural Area, which designation shall continue to be provisional until program protections and a management plan for the area have been approved.

Resolution 03-0843, as amended, was unanimously approved.

Approved December 1, 2003

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.)

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

BY COUNCILOR ATKINS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering John Deere repair parts and supplies as needed during year 2004 for the fleet services division in accordance with specifications at an estimated amount of \$10,000, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5221; to be encumbered out of year 2004 budget.

Resolution 03-0822 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with International Business Machines Corporation covering the existing software license rental as needed during year 2004 for the M.I.S. division in accordance with specifications at an estimated amount of \$57,900, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 015, Organization 1513, Object 5319; to be encumbered out of year 2004 budget.

Resolution 03-0823 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with International Business Machines Corporation covering computer hardware maintenance as needed during year 2004 for the M.I.S. division in accordance with specifications at an estimated amount of \$27,800, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 015, Organization 1513, Object 5404; to be encumbered out of year 2004 budget.

Resolution 03-0824 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Gateway Companies, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12-month period in accordance with specifications and referencing state of Minnesota Contracts #425039 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects; not to exceed the year 2004 budget allocation for computer equipment in the amount of \$150,000; to be encumbered out of year 2004 budget.

Resolution 03-0831 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Insight Public Sector, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12-month period in accordance with specifications and referencing state of Minnesota Contracts #426490 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects; not to exceed the year 2004 budget allocation for computer equipment in the amount of \$60,000; to be encumbered out of year 2004 budget.

Resolution 03-0832 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Seventh Avenue West lying between the northerly line of West Third Street and southerly of the extended centerline of Blocks 34 and 35, Duluth Proper, Third Addition; and

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

WHEREAS, the city planning commission approved the vacation petition at its October 22, 2003, meeting upon the following terms and conditions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

(a) That the applicant dedicate an appropriate location for a 20 foot wide pedestrian and utility easement and that such easement be improved as a pedestrian pathway which need not be improved to city sidewalk standards; and

WHEREAS, the applicant has identified a utility and pedestrian easement described as the westerly 20 feet of Lot 113, Block 35, Duluth Proper, Third Division, which easement is an appropriate location for a 20 foot wide pedestrian and utility easement;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth accepts the dedication of the following pedestrian and utility easement from Thomas and Patricia Clure:

the westerly 20 feet of Lot 113, Block 35, Duluth Proper, Third Division and as more particularly described on Public Document No. 03-1201-13.

RESOLVED FURTHER, that the city council of the city of Duluth approves the vacation of Seventh Avenue West lying between the northerly line of West Third Street and southerly of the extended centerline of Blocks 34 and 35, Duluth Proper, Third Addition, and as more particularly described on Public Document No. 03-1201-13.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street and utility easement to be vacated and the portion of the westerly 20 feet of Lot 113, Block 35, Duluth Proper, Third Division, to be dedicated as a pedestrian and utility easement.

Resolution 03-0819 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-1201-14 with Duluth Technology Center, LLC for 49 parking spaces at the Lake Place Parking Lot which is located under and adjacent to Bridge No. 69816 at First Avenue East in Duluth, said revenues to be deposited into Fund 0100, Agency 015, Organization 1515.

Resolution 03-0834 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 03-0108 to housing and redevelopment authority (HRA), for furnishing professional right-of-way and easement acquisition services for year 2004 street and utility improvement projects, be amended to increase the amount by \$20,000 for a new total of \$50,000, payable out of various funds, various departments/agencies, various organizations, various objects.

Resolution 03-0821 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

BY COUNCILOR STOVER:

RESOLVED, that Trane Company be and hereby is awarded a contract for purchasing and delivering an 800 ton chiller and cooling tower with pump controls for the chilled water distribution system for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$549,700, terms net 30, FOB destination, payable out of Steam District #1 Fund 0540, Department/Agency 920, Organization 1490, Object 5530.

Resolution 03-0842 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0862 to M.S.A. Professional Service for professional engineering services required for the Morgan Park wastewater collection system and water distribution system improvements, be amended to increase the amount by \$238,241 for a new total of \$874,535, \$97,266 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5533; \$49,750 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5533; \$91,225 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5530.

Resolution 03-0844 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: front of 611 North 22nd Avenue West.

Resolution 03-0806 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

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 the following streets:

both sides of Penton Boulevard between England Avenue and Calais Street;

both sides of Quebec Avenue from 42nd Avenue East easterly 125 feet.

Resolution 03-0817 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the proper city officers are authorized and directed to enter into an amendment to Contract No. 19442 with the state of Minnesota, department of public safety,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

filed as Public Document No. 03-1201-15, to extend the term of the contract for police and fire department training for terrorist response situations to May 31, 2004.

Resolution 03-0845 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth City Council hereby established 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. 03-1201-16, 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 03-0813 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute a Minnesota trail assistance program agreement with the Minnesota department of natural resources in the sum of \$31,300 for the maintenance of the Duluth snowmobile trails for the 2003-2004 and 2004-2005 seasons; said agreement to be in the form of Public Document No. 03-1201-18 on file with the city clerk; the funds therefrom to be deposited in the General Fund 0100-500-1920-4233.

Resolution 03-0820 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that E-Z-GO Textron Company be and hereby is awarded a contract for leasing approximately 90 golf carts and ten utility carts as needed during year 2004 for the Enger Park and Lester Park golf courses in accordance with specifications at an estimated amount of \$70,500, terms net 30, FOB destination, payable out of Golf Fund 0503, Department/Agency 400, Organization 0500, Object 5415; to be encumbered out of year 2004 budget.

Resolution 03-0826 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that Northland Foods, Inc., be and hereby is awarded a contract for furnishing and delivering fruits and vegetables as needed for during the year 2004 for the Lake Superior Zoo in accordance with specifications at an estimated amount of \$16,000, terms net

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

30, FOB destination, payable out of General Fund 0100, Department/Agency 400, Organization 1814, Object 5245; to be encumbered out of year 2004 budget.

Resolution 03-0827 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a facility use agreement with Duluth Amateur Youth Basketball Association, a copy of which is filed as Public Document No. 03-1201-19, for the use of the Washington Recreation Center gym for consideration of \$7 per hour in 2003 and 2004. These funds shall be deposited into Fund 0210-030-2190-4615.

Resolution 03-0830 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR HOGG:

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

Section 1. Note 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 or notes to provide funds for the payment of costs of improvements to the municipal sewer utility, which bonds or notes 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. The city has applied for and received a commitment from the Minnesota public facilities authority (the PFA) for a loan for the project, as hereinafter defined.

1.02 The city council has, by Ordinance No. 9626 adopted October 27, 2003, ordered the issuance, sale and delivery of a general obligation sewer utility revenue note in the amount of \$1,179,115 of the city, for the payment of the costs of improvements to the municipal sewer utility through the installation of sewer mains and related improvements to the sewer system in portions of the Morgan Park neighborhood (the project) as identified in the city's application to the PFA, and for the payment of part of the interest cost of the bond or note (the note).

1.03 The city hereby authorizes the issuance and sale of the note, in substantially the form on file in the office of the clerk as Public Document No. 03-1201-12, for the project to the PFA pursuant to a Minnesota public facilities authority project loan and bond purchase agreement dated September 30, 2003, between the PFA and the city, in substantially the form presented to the council and on file in the office of the clerk (the loan agreement), as Public Document No. 03-1201-12 which is hereby authorized and approved.

Section 2. Execution and delivery of note and loan agreement.

2.01 The note to be issued hereunder shall be dated as of the date of issuance, shall be issued in the principal amount of \$1,179,115, in fully registered form and lettered and numbered R-1. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A to the note.

2.02 The note and the loan agreement shall be prepared for execution in accordance with the approved forms and shall be signed by the manual signature of the mayor and attested by the manual signature of the clerk. In case any officer whose signature shall appear on the note shall cease to be an officer before delivery of the note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. All actions of the officers of the city regarding the loan agreement, including but not limited to, the officers of the city executing the loan agreement, are ratified, confirmed and approved as of the date of the loan agreement.

2.03. The city will cause to be kept at its offices a register in which, subject to such reasonable regulations as the city may prescribe, the city shall provide for the registration of transfers of ownership of the note. The note shall be initially registered in the name of the PFA and shall be transferable upon the register by the PFA in person or by its agent duly authorized in writing, upon surrender of the note, together with a written instrument of transfer satisfactory to the clerk, duly executed by the PFA or its duly authorized agent.

2.04. Delivery of the note shall be made at a place mutually satisfactory to the city and the PFA. The note shall be furnished by the city without cost to the PFA. The note, when prepared in accordance with this resolution and executed, shall be delivered to the PFA by and under the direction of the treasurer. Disbursement of the proceeds of the note shall be made pursuant to the loan agreement.

2.05. In the event of an inconsistency between a provision of this resolution and a provision of the loan agreement, the provision of the loan agreement shall govern.

Section 3. Revenues, accounts and covenants.

3.01 The city council covenants and agrees with the PFA 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 note 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 or notes when due.

3.02 The city hereby creates a separate construction account within the public utility sewer fund to which there shall be credited the proceeds of the note as received, together with any additional funds which may be available and are appropriated for improvements to the project. 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 the project and costs of the issuance of the note.

3.03 Until the note issued hereunder is 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 note and on any other bonds or notes which have been or may be issued and made payable from said net revenues of the sewer utility. 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 note. 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.

3.04 Surplus utility revenues from time to time received in the sewer utility operating account, in excess of payments due from and reserves required to be maintained in the sewer utility operating account and in the sewer debt service fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.05

(a) In the event the monies and payments appropriated to the sewer debt service fund are insufficient to pay principal of and interest on the note and the bonds and notes payable from such fund as the same become due, the city is required by law and by contract with the holders of the note and such bonds 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;

(b) 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. However, the net revenues of the sewer utility appropriated to the sewer debt service fund are estimated to be not less than five percent in excess of the principal of and interest on the note and the other bonds and notes payable from such fund, and accordingly, no tax is levied at this time.

Section 4. Tax covenants; miscellaneous.

4.01 The city council covenants and agrees with the holders of the note that the city will

(a) 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

(b) Refrain from taking any action which would cause interest on the note to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the note and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the note were issued. To this effect, any

proceeds of the note and any sums from time to time held in such debt service account (or any other city account which will be used to pay principal and interest to become due on the note) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations;

(b) In addition, the proceeds of the note and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the note to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the code);

(c) The city hereby covenants not to use the proceeds of the note, or to cause or permit them to be used, in such a manner as to cause the note to be a private activity bond within the meaning of sections 103 and 141 through 150 of the code.

4.03

(a) Pursuant to Section 1.148-7(d) of the treasury regulations, relating to exception from rebate, the city hereby covenants that with respect to the gross proceeds of the note, the following schedule will be met:

(1) At least 15 percent of the gross proceeds of the note will be allocated to expenditures for the governmental purpose of the note within six months of the date of issue of the note;

(2) At least 60 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and

(3) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of five percent of the available proceeds of the note and that 100 percent of the available proceeds of the note will be allocated within 30 months from the date of issue of the note.

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

Section 5. Certificate of proceedings.

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

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

5.03 The officers of the city are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the note and that to the best of their knowledge and belief the official statement is a complete and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 03-0818 was unanimously adopted.

Approved December 1, 2003

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. Capital improvement plan.

1.01

(a) Under and pursuant to Minnesota Statutes, Section 410.326 (the act), the city council has authorized preparation of a capital improvement plan for the years 2004 through 2008 which has been presented to the city council in a document entitled Capital Improvement Budget and Five Year Plan 2004-2008, dated November 2003 (the plan);

(b) The city council has caused due notice to be given and has this day held a public hearing as required by the act, to provide an opportunity for residents to express their views on the plan;

(c) The city council has considered the following for each project discussed in the plan and for the overall plan:

(1) The condition of the city's existing infrastructure, including the projected need for repair or replacement;

(2) The likely demand for the improvement;

(3) The estimated cost of the improvement;

(4) The available public resources;

(5) The level of overlapping debt in the city;

(6) The relative benefits and costs of alternative uses of the funds;

(7) Operative costs of the proposed improvements; and

(8) Alternatives for providing services more efficiently through shared facilities with other cities or local government units.

1.02

(a) Based on the considerations set forth in the plan and Section 1.01C hereof, the city council finds that the plan is desirable and beneficial to the city and its residents;

(b) The city council finds that the proposed improvements under the plan will result in no unnecessary duplication of public facilities provided by other units of government in the region.

1.03 The plan is approved.

Section 2. Intent to issue bonds.

2.01

(a) The city council is considering the issuance of capital improvement bonds under the act and Minnesota Statutes, Chapter 475, in an amount not to exceed \$800,000 (the bonds), for the purpose of providing funds for design and installation of a City Hall air-conditioning system; modify customer service areas of City Hall offices to meet ADA requirements; restore the granite and brick facades of City Hall; replace fire station overhead doors; install ventilation system in firehalls; roof replacement at Firehall #1; update and expand

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

locker room at Firehall #1; restore exterior masonry at Firehall #10; and remodel first floor police offices in City Hall (the project) and payment of discount and costs of issuance;

(b) The city hereby expresses its intent to issue the bonds for the project in an aggregate principal amount not to exceed \$800,000, pursuant to the plan, the act and Minnesota Statutes, Chapter 475;

(c) The city will issue the bonds if no petition requesting a vote on the issuance of the bonds signed by voters equal to five percent of the votes cast in the city in the last general election is filed with the city clerk within 30 days after the date of the public hearing described in Section 2.02 of this resolution.

2.02 The city council shall hold a public hearing on the issuance of the bonds at 7:00 p.m. on January 12, 2004. The city clerk is authorized and directed to cause the notice of public hearing, substantially in the form on file in the office of the city clerk as Public Document No. 03-1201-20, to be published in the official newspaper of the city or a newspaper of general circulation in the jurisdiction of the city not less than 14 days nor more than 28 days prior to the date set for the public hearing.

2.03 The administrative staff of the city and its agents are hereby authorized to take such further action necessary to carry out the intent and purpose of this resolution and the requirements of the act.

Resolution 03-0841 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0784, by Councilor Stewart, confirming the appointments of Sally Anderson and Marcia Hales to the animal humane board, replacing Cherie Franzen and Gerald Abelsen, was introduced for discussion.

The resolution was removed from the agenda at Councilor Stewart's request.

- - -

Resolution 03-0846, by President Stenberg, approving DEDA's acquisition of certain property from Jack G. and Marilyn S. Krenzen pursuant to DEDA Resolution 03D-69, was introduced for discussion.

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

- - -

Resolution 03-0847, by President Stenberg, approving DEDA's development agreement with SMDC for the digestive disease/cancer center project, was introduced for discussion.

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

- - -

Resolution 03-0848, by President Stenberg, authorizing application to DEED for a grant in the amount of \$1 million for the SMDC medical campus expansion project and committing the local share, was introduced for discussion.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Resolution 03-0849, by President Stenberg, authorizing DEDA to condemn, if necessary, various properties in Portland Division for the SMDC First Street development, was introduced for discussion.

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

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 03-1201-21, with Diggers Hotline, Inc., for membership in the Wisconsin buried utility notification program and to pay a membership fee of not to exceed \$200 plus a \$1.37 per use charge for such membership, said sum to be payable from Fund 520, Agency 500, Organization 1930, Object 5316.

Resolution 03-0852 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0850, by Councilor Bergson, of intent to remove the one way designation from East First Street between Third and Eighth Avenues East, was introduced for discussion.

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

- - -

BY COUNCILOR STAUBER:

WHEREAS, the city has received notification from the Arrowhead Regional Development Commission of the decrease in 2003 federal, NSIP and state funds available for the operation of the senior dining program during the year 2003. The new maximum amount available will be \$274,444; and

WHEREAS, said reduction in funds of \$10,565 will result in a reduction (-2,910) in the maximum number of meals that can receive reimbursement in 2003 (new maximum of 77,967) while leaving the per meal reimbursement at its current rate of \$3.52 for each eligible congregate meal served; and

WHEREAS, the Arrowhead Regional Development Commission approved this contract addendum at their November 20, 2003, board meeting.

RESOLVED, that the proper city officers execute the contract addendum and upon receipt of the funds from the Arrowhead Regional Development Commission that such fund be deposited into Fund Account 0272, Agency 031, Organization 6303.

Resolution 03-0809 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 03-1201-22, between the city of Duluth and the state

of Minnesota, department of natural resources, for the construction of a new public water access facility to the St. Louis Bay on Park Point at 13th Street.

Resolution 03-0828 was unanimously adopted.

Approved December 1, 2003

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILORS STAUBER AND GILBERT

03-063 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

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

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

K.L. Lewis felt that the number of units should not be restricted and that there should be inspections and certifications.

Councilor Stauber moved to retable the ordinance, which motion was seconded and unanimously carried.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

03-066 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2004 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Hogg moved to table the ordinance, which motion was seconded and unanimously vote.

- - -

BY COUNCILOR HOGG

03-067 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2004.

Councilor Hogg moved to table the ordinance, which motion was seconded and unanimously vote.

- - -

BY COUNCILOR HOGG

03-068 (9636) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR SPECIAL TAXING DISTRICT DULUTH TRANSIT AUTHORITY FOR THE YEAR 2004.

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimously vote.

- - -

BY COUNCILOR HOGG

03-069 (9637) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT SEAWAY PORT AUTHORITY FOR THE YEAR 2004.

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimously vote.

- - -

BY COUNCILORS STEWART AND STOVER

03-070 (9638) - AN ORDINANCE TO ALLOW FULL FOOD SERVICE IN BAR AREAS OF BAR/RESTAURANTS WHERE SMOKING IS PERMITTED; AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR GILBERT

03-071 - AN ORDINANCE PROHIBITING SMOKING IN PUBLIC PLACES; AMENDING SECTIONS 28-63, 28-64, 28-65, AND 28-67 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

K.L. Lewis, Dawn Fitzgerald, Mark Mitchell, Dan Landgren and Mark Rutka supported the ordinance change for reasons of: bar owners need room to survive; this will not affect those outside the enclosed bar area; there are only adults in these areas; smoking is a matter of personal choice for adults; business has already dropped off 20 percent for the affected establishments; this is just a matter of being able to serve a freshly prepared meal in a bar area; employees are not required to work in a bar where smoking is allowed, it is their choice; businesses have created enclosed areas and installed separate ventilation systems and business owners should not have to be told how to run their business.

Pat McKone, representing the lung association, opposed Ordinance 03-070 and reviewed Minnesota department of health written statements about tobacco and secondhand smoke and history of the time line of the smoking ordinance. She reviewed at length the contents/history of the issue from her perspective.

Sara Mannerter, American Cancer Society, Anne Vomaster, American Lung Association, Ken Steil and Terry Clark opposed Ordinance 03-070 for reasons of: the desire for less people to have cancer; 1/3 of all cancers are related to tobacco; the citizens have spoken through the voting process about what they want; this weakens the intent of the ordinance the voters chose; in a survey of 200 households, it reflected by a majority of 2 to 1 that residents of Hermantown and Proctor would support a smoking ban similar to Duluth's in their community; the economy in the state and nationwide has been the cause for a business downturn, not the smoking ban; no one has gone out of business because of the smoking ordinance and there is no question that secondhand smoke is harmful.

Councilors Stewart, Stover, Hogg, Atkins, Bergson and President Stenberg supported Ordinance 03-070 for reasons of: prohibiting eating in a bar will not stop people from smoking; this does not allow one to smoke in a restaurant; this only allows individuals to eat where it is legal to smoke and drink; language in state statutes is what caused this problem; establishments have lost business with this prohibition on serving their own prepared food and by citing reports and disputing claims expressed by the opponents of the proposed ordinance.

Councilors Gilbert, Ness and Stauber felt that: this is a betrayal of the voters choice; more voters voted on this issue than voted for mayor; this ordinance changes the definition of a bar/restaurant; this change will lead to further changes that will weaken the original ordinance; the city supports SMDC's multimillion dollar expansion to treat cancer and supporting this is a contradiction; if the ordinance needs to be changed, the voters should do it; actions like this enhances the cynicism of voters; not all establishments will be able to utilize this change and employees no longer have the choice to decide if they want to work under certain conditions because of the occupational safety regulations.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilor Stewart moved passage of Ordinance 03-070 and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stewart, Stover and President Stenberg -- 6

Nays: Councilors Gilbert, Ness and Stauber -- 3

[Editor's Note: Ordinance No. 9638 was vetoed by Mayor Doty on December 9, 2003 (Public Document No. 03-1215-04), and reconsidered on December 15, 2003.]

Councilor Gilbert moved to remove the Ordinance 03-071 from the agenda, which motion was seconded and unanimously carried.

BY PRESIDENT STENBERG

03-065 (9639) - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER EAST FIRST STREET 300 FEET EAST OF FOURTH AVENUE EAST (ST. MARY'S DULUTH CLINIC HEALTH SYSTEM, BY NEAL J. HESSEN, FRYBERGER, BUCHANAN, SMITH & FREDERICK, P.A.).

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

The meeting was adjourned at 9:03 p.m.

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9636

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR SPECIAL TAXING DISTRICT DULUTH TRANSIT AUTHORITY FOR THE YEAR 2004.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2004 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,063,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,063,100.

Section 3. That this ordinance shall take effect January 1, 2004.

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 1, 2003

Approved December 1, 2003

GARY L. DOTY, Mayor

ORDINANCE NO. 9637

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT SEAWAY PORT AUTHORITY FOR THE YEAR 2004.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2004 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$658,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing the Seaway Port authority special taxing district the sum of \$658,100.

Section 3. That this ordinance shall take effect January 1, 2004.

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

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

Nays: None -- 0

Passed December 1, 2003
Approved December 1, 2003
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9639

BY PRESIDENT STENBERG:

AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER EAST FIRST STREET 300 FEET EAST OF FOURTH AVENUE EAST (ST. MARY'S DULUTH CLINIC HEALTH SYSTEM, BY NEAL J. HESSEN, FRYBERGER, BUCHANAN, SMITH & FREDERICK, P.A.).

The city of Duluth does ordain:

Section 1. That under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations, and restrictions hereinafter set forth, permission is hereby granted to St. Mary's Duluth Clinic Medical Center, their successors and interests, referred to herein as the permittees, to occupy, erect, and maintain a skywalk in that part of East First Street as the same was dedicated to the use of the public and the plat of Duluth Proper First Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota described as follows: aerial easement of skywalk across East First Street, city of Duluth, St. Louis County, state of Minnesota described as follows: that portion of East First Street adjoining Lots 13 and 14, Block 25, Portland Division and Lots 13 and 14, Block 29, Portland Division (Reference File No. 03100).

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the

city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated 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 appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such 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 by 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 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 LHB Engineers and Architects, entitled "SMDC Medical Center Site, First Street Proposed Skywalk Easement," dated June 19, 2003, and on file in the office of the city clerk as Public Document No. 03-1201-23.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 18, 2004)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 1, 2003

Approved December 1, 2003

GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, December 4, 2003, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota

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

Absent: None -- 0

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PRESENTATIONS OF PETITIONS AND OTHER COMMUNICATIONS

03-1204-01 A&L Properties submitting communication regarding the proposed extension of the skywalk (03-0847R). -- Received

03-1204-02 The PFM Group submitting official statement regarding \$425,000 G.O. Bayfront Festival Park improvement bonds, Series 2003F; \$6,090,000 G.O. gas utility revenue bonds, Series 2003G; \$2,010,000 G.O. improvement bonds, Series 2003H; \$1,200,000 G.O. equipment certificates of indebtedness, Series 2003I. -- Received

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MOTIONS AND RESOLUTIONS

Councilor Hogg moved to consider Resolutions 03-0837, 08-0838, 03-0839 and 03-0840 regarding issuance, sale and delivery of various G.O. bonds and equipment certificates, at this time, which motion was seconded and unanimously carried.

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

Kathy Cardell, representing the PFM Group, reviewed the nature of the resolutions and results of the respective bids (Public Document No. 03-1204-02).

Resolutions 03-0837, 03-0838, 03-0839 and 03-0840 were adopted as follows.

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

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

B. The city council has, by Ordinance No. 9627 adopted on October 27, 2003, authorized the issuance and sale of General Obligation Bayfront Festival Park Improvement Bonds in an amount not to exceed \$430,000 for the purpose of providing the local match of grant funds from private donations to pay part of the costs associated with the design and construction of the warming facility at Bayfront Festival Park (the "Project").

C. The City has entered into a grant agreement dated July 28, 2003, providing a private grant to the City for the Project in the aggregate amount of \$350,000 (the "Grant") payable in installments through January 15, 2012.

D. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$425,000 General Obligation Bayfront Festival Park Improvement Bonds, Series 2003F, to be dated December 1, 2003, as the date of original issue (the "Bonds") to provide the City's match for the Grant for construction of the Project.

E. Public Financial Management, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Public Financial Management,

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Inc., to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc., taken with regard to the sale of the Bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$422,424.55, plus accrued interest on the total principal amount from December 1, 2003, 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, 2003, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2005	\$45,000	2.00%
2006	50,000	2.00%
2007	50,000	2.50%
2008	50,000	2.50%
2009	55,000	3.00%
2010	55,000	3.10%
2011	60,000	3.40%
2012	60,000	3.60%

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, 2004. 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

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not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

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

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

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-1204-03. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

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

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maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

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

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION BAYFRONT FESTIVAL PARK IMPROVEMENT BOND
SERIES 2003F

R-____ \$_____

<u>Interest</u>	<u>Maturity Date</u>	<u>Date of</u>	<u>CUSIP</u>
<u>Rate</u>	<u>Original Issue</u>		
	February 1, ____	December 1, 2003	

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, 2003, 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, 2004. 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 \$425,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, and is issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, Ordinance No. 9627, and a resolution adopted by the governing body of the City on December 4, 2003 (the "Resolution"), for the purpose of financing a portion of the costs associated with design and construction of the warming facility at Bayfront Festival Park located in the City, which obligations and interest thereon are payable in part from grant proceeds and in part from ad valorem taxes as described in the Resolution. 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.

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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:

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, 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

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owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank Minnesota, National Association, as Bond Registrar, in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/__/03	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon

the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate construction account within its Capital Improvement Project Fund 450, Agency 015, Org. C223, to which there shall be credited the proceeds of the Bonds, less discount, together with any additional funds, including monies from the Grant received by the City prior to the date of this resolution, which may be available and are appropriated for the Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Project.

3.02 A separate debt service account is hereby created and designated as the "2003 Bayfront Festival Park Improvement Bonds Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. There is hereby appropriated all of the monies received by the City from the Grant on or after February 1, 2004. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited unused discount, if any, plus capitalized interest in the amount of \$0, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, all Grant proceeds collected after the date of this resolution and the ad valorem taxes levied pursuant to Section 3.03 hereof.

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

Levy Year	Collection Year	Gross Tax Levy	Grant Proceeds	Net Tax Levy
2003	2004	61,895	\$35,000	26,895
2004	2005	64,108	\$35,000	29,108
2005	2006	63,058	\$35,000	28,058
2006	2007	61,746	\$35,000	26,746

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Levy Year	Collection Year	Gross Tax Levy	Grant Proceeds	Net Tax Levy
2007	2008	65,683	\$35,000	30,683
2008	2009	63,951	\$35,000	28,951
2009	2010	67,410	\$35,000	32,410
2010	2011	65,268	\$35,000	30,268

Said levies are such that if collected in full they, together with the receipt of Grant proceeds pledged for payment of the Bonds, will produce at least 5 percent in excess of the amount needed to meet when due the principal and interest on the Bonds.

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

B. All Grant proceeds and said taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

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

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into

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account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 A. Pursuant to Section 148(f)(4)(B), relating to the six-month spending exception from rebate, the City expects that the gross proceeds of the Bonds will be expended for the Project no later than the date which is six months after the date of issuance of the Bonds, not considering accrued interest from the Bonds being gross proceeds for this test, and thus the City expects the Bonds to be exempt from Section 148(f) rebate requirements.

B. The City shall comply with all federal rebate requirements which may apply if such spending test is not met.

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 03-0837 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Approved December 4, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal gas utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the gas utility and are payable primarily from net revenues to be derived from the operation of the municipal gas utility and pledged for their payment.

1.02 The city council has, by Ordinance No. 9624 adopted October 14, 2003, ordered the issuance, sale and delivery of general obligation gas utility revenue bonds in the maximum amount of \$6,150,000 of the City, for the payment of the costs of improvements to the municipal gas utility and for payment of part of the interest cost of the bonds.

1.03 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$6,090,000 General Obligation Gas Utility Revenue Bonds, Series 2003G (the "Bonds").

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Public Financial Management, Inc., to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc., taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 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 Cronin & Co., Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$6,050,777.60, plus accrued interest on the total principal amount from December 1, 2003, 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, 2003, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

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Year	Amount	Interest Rate	Year	Amount	Interest Rate
2005	\$280,000	2.50%	2013	\$410,000	3.60%
2006	330,000	2.50%	2014	430,000	4.00%
2007	335,000	2.50%	2015	450,000	4.00%
2008	345,000	3.00%	2016	470,000	4.00%
2009	355,000	3.00%	2017	490,000	4.00%
2010	365,000	3.25%	2018	515,000	4.10%
2011	380,000	3.25%	2019	540,000	4.20%
2012	395,000	3.50%			

2.02 A. The Bonds maturing in the years 2005 through 2012 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2013 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2012, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1,

2004. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

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

B. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete, and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-1204-04. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 A. In order to make the Bonds eligible for the services provided by 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.

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2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION GAS UTILITY REVENUE BOND, SERIES 2003G

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2003	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

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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, 2003, 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, 2004. 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 \$6,090,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9624 adopted on October 14, 2003, and pursuant to a resolution adopted on December 4, 2003, by the governing body of the City (the "Resolution") and is issued for the purpose of providing funds to pay for improvements to the municipal gas utility. The principal hereof and interest hereon are payable primarily from the net revenues to be derived from the operation of the municipal gas utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal gas utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and in the amounts required to pay the normal, reasonable and current expenses of

operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds.

The Bonds of this series maturing in the years 2005 through 2012 are not subject to redemption before maturity, but those maturing in the year 2013 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2012, and on any date thereafter, in whole or in part, in such order of maturities as selected by the City and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the

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unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank Minnesota, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank Minnesota, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/03	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

Clerk _____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, Accounts and Covenants.

3.01 Covenants, Accounts and Representations.

A. The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal gas utility in a separate Gas Utility Operating Account within the Public Utility Gas Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal gas utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the

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net revenues which are herein pledged and appropriated first to pay the principal of and interest on the Bonds when due.

B. The City has created a separate construction account within the Public Utility Gas Fund to which there shall be credited \$6,090,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the gas utility and costs of the issuance of the 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 "Debt Service Fund") in the Public Utility Gas Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the gas utility. The treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$6,090,000, 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 Gas 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 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 Gas Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Gas Utility Operating Account and in the Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal gas utility, for the prepayment and redemption of bonds constituting a lien on the municipal gas utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.04 If the balance in the Gas Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. It is estimated that the net revenues herein pledged and appropriated to the Debt Service Fund will be received at the times and in amounts not less than 5 percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and

investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the Bonds, and that 100 percent of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor

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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 03-0838 was unanimously adopted.

Approved December 4, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 A. Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said Statutes and the home rule charter of the City, the City is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

B. The city council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the city clerk by the Special Assessment Board pursuant to and in accordance with Chapter IX of the City Charter (the "Public Improvements"); and the Council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
03-0005	1/06/03	\$23,200	Sanitary sewer in Clay Street alley

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Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
03-0006	1/06/03	36,250	Sanitary sewer in Petre Street
03-0007	1/06/03	17,032	Sanitary sewer in Falcon Street
03-0200	3/24/03	16,497	Sanitary sewer in Morgan Street
03-0215	3/24/03	29,000	Watermain - McCulloch Street from Superior Street - 48th Avenue East
03-0216	4/14/03	213,000	Sanitary sewer in Anderson Road from Haines to Decker Road
03-0279	4/14/03	26,950	Sanitary sewer in 91st Avenue West at Clyde intersection
03-0271	4/28/03	73,700	19th Avenue East from 8th Street to College Street
03-0330	5/12/03	13,130	Kent Road between Chester Park to 19th Avenue East
03-0329	5/12/03	62,000	Sidewalks and restore streets 2003
03-0370	5/27/03	116,263	Sanitary sewer in Decker Road
03-0442 03-0456	6/23/03	290,000	Arrowhead Road-Dodge Avenue to Woodland Avenue
03-0457	6/23/03	125,000	Street, water and gas main, sanitary sewer in Basswood Avenue from Walnut Street North 676 feet
03-0458	6/23/03	15,080	Sanitary sewer across Getchell Road
03-0440	6/23/03	15,560	Sanitary sewer in Gilead Street beginning 100 feet east of Como
03-0455	7/14/03	81,250	Sanitary sewer in Roslyn Avenue
03-0547	7/28/03	494,628	Crystal Drive from Swan Lake Road East 1645 feet
03-0546	7/28/03	231,000	Matterhorn Circle from Matterhorn Drive South 650 feet
03-0613	8/25/03	28,400	Reconstruct Locust Street and sanitary sewer

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Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
03-0688	9/22/03	28,000	Permanent alley in 9th Street alley from 13th-14th Avenue East
03-0689	9/22/03	33,000	Permanent alley in 102nd Avenue West alley

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,010,000 General Obligation Improvement Bonds, Series 2003H, to be dated December 1, 2003, as the date of original issue (the "Bonds").

D. Public Financial Management, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Public Financial Management, Inc., to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc., taken with regard to the sale of the Bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,992,704.15, plus accrued interest on the total principal amount from December 1, 2003, 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, 2003, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2005	\$ 95,000	2.50%	2013	\$135,000	3.60%
2006	110,000	2.50%	2014	140,000	3.75%
2007	110,000	2.50%	2015	150,000	4.00%
2008	115,000	3.00%	2016	155,000	4.00%

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Year	Amount	Interest Rate	Year	Amount	Interest Rate
2009	115,000	3.00%	2017	160,000	4.00%
2010	120,000	3.25%	2018	170,000	4.10%
2011	125,000	3.50%	2019	180,000	4.20%
2012	130,000	3.50%			

2.02 A. The Bonds maturing in the years 2005 through 2012 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2013 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2012, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2004. 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

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not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-1204-05. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 A. In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city

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council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT BOND
SERIES 2003H

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2003	

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, 2003, 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, 2004. 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 \$2,010,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes and a resolution adopted by the governing body of the City on December 4, 2003 (the "Resolution"), for the purpose of financing local public improvements, which obligations and interest thereon will be payable from special assessments levied or to be levied against property specially benefitted by local improvements.

The Bonds of this series maturing in the years 2005 through 2012 are not subject to redemption before maturity, but those maturing in the year 2013 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2012, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

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IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

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/___/03	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its

agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, Accounts and Covenants.

3.01 The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will assess against benefitted property the cost of the improvements to the City for the Public Improvements in an amount which is not less than 20 percent of the costs of such projects financed by the proceeds of the Bonds allocable to the Public Improvements. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.02 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds to a separate construction account (the "2003 Projects Account") within the Special Assessment Capital Projects Fund for the Public Improvements. The proper City officers are authorized and directed to pay out of such construction account from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements described in Section 1.01 and the costs of issuance of the Bonds.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "2003 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 2003 Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, if any, capitalized interest in the amount of \$0, plus the amount of accrued interest on the Bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied, if any, pursuant to Section 3.04 hereof.

3.04 It is estimated that the special assessments levied and appropriated to the 2003 Improvement Bond Account will be received at the times and in amounts not less than 5 percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

3.05 Proceeds of the Bonds on deposit in the 2003 Projects Account and the 2003 Improvement Bond Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment

shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

4.01 The city council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the Bonds, and that 100 percent of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12)

(the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file with the county auditor a certified copy of this Resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 03-0839 was unanimously adopted.

Approved December 4, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Certificate Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Sections 410.32 and 412.301 and Minnesota Statutes, Chapter 475 (collectively, the "Act"), and the City Charter, the City is authorized to issue its general obligation capital equipment certificates of indebtedness to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the certificates of indebtedness.

1.02 The city council adopted Resolution No. 03-0771 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,200,000 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 \$1,200,000 General Obligation Equipment Certificates of Indebtedness, Series 2003I, of the City (the "Certificates") to provide funds to purchase capital equipment authorized by the Act,

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to pay certain expenses incurred in the issuance of the Certificates and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Certificates will have a useful life of more than five years.

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Public Financial Management, Inc., to be prospective bidders on the Certificates at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Certificates. All actions of the mayor, the clerk and Public Financial Management, Inc., taken with regard to the sale of the Certificates are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Certificates, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$1,207,424.25, plus accrued interest on the total principal amount from December 19, 2003, to the date of delivery of the Certificates and upon condition that the Certificates mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such bid reasonable and proper and the bid of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms, Execution and Delivery of the Certificates.

2.01 The Certificates to be issued hereunder shall be dated December 19, 2003, 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 19 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2004	\$230,000	2.00%
2005	235,000	2.00%
2006	240,000	2.50%
2007	245,000	2.50%
2008	250,000	2.50%

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 19 and December 19 in each year (each referred to herein as an "Interest Payment Date"), commencing June 19, 2004. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond

registration records maintained by the Bond Registrar at the close of business 15 days next preceding the Interest Payment Date (whether or not a business day) at such owners' addresses shown on such bond registration records.

2.04 The Certificates shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Certificates shall cease to be an officer before delivery of the Certificates, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Certificate, together with a certificate to be signed by the manual or facsimile signature of the city clerk in substantially the form set forth in the form of the Certificate. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The city council hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Certificates (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 03-1204-06. 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

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entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Certificate at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Certificates of the like aggregate principal amount, as requested by the transferor.

2.08 Each Certificate delivered upon transfer of or in exchange for or in lieu of any other Certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Certificate. Each Certificate shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Certificates called for redemption or to make any such exchange or transfer of the Certificates during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the Certificates.

2.09 The City and the Bond Registrar may treat the person in whose name any Certificate is registered as the owner of such Certificate for the purpose of receiving payment of principal of and interest on such Certificate and for all other purposes whatsoever, whether or not such Certificate be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Certificates shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Certificates shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH

GENERAL OBLIGATION EQUIPMENT CERTIFICATE
OF INDEBTEDNESS, SERIES 2003I

R-____ \$_____

Interest		Date of	
Rate	Maturity Date	Original Issue	CUSIP
%	December 19, ____	December 19, 2003	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 19, 2003, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on June 19 and December 19 of each year (each referred to herein as an "Interest Payment Date") commencing on June 19, 2004. 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 \$1,200,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on December 4, 2003 (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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Certificate in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest thereon when due, without limitation as to rate or amount; and that the issuance of this Certificate does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.

This Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Certificate to be executed in its name by the facsimile signatures of the mayor and the city clerk.

Attest:

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

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
12/19/03	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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

the within Certificate and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Certificate on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate acquisition account within the Capital Equipment Fund to which there shall be credited \$1,200,000, 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 percent in excess of the amounts of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

principal and interest on the Certificates as such principal and interest respectively become due as follows:

Levy Year	Collection Year	Tax Levy
2003	2004	\$270,559
2004	2005	270,979
2005	2006	271,294
2006	2007	270,244
2007	2008	269,063

B. A separate debt service account is hereby created and designated as the "2003 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 \$1,200,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Certificates.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Certificates, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into the Debt Service Fund. Said taxes shall be irrevocable until the Certificates and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and the amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Certificates and the interest thereon, in accordance with the terms set forth in this resolution.

3.05 Proceeds of the Certificates on deposit in the acquisition account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Section 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Certificates when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Certificates that the City will (i) take all action on its part necessary to assure that the interest on the Certificates will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Certificates and investment earnings thereon, making required payments to the federal government, if any,

and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Certificates to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Certificates and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Certificates shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Certificates were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Certificates or \$100,000. To this effect, any proceeds of the Certificates and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Certificates) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Certificates and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Certificates, or to cause or permit them to be used, in such a manner as to cause the Certificates to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Certificates, the following schedule will be met: (i) at least 15 percent of the gross proceeds of the Certificates will be allocated to expenditures for the governmental purpose of the Certificates within six months of the date of issue of the Certificates; (ii) at least 60 percent of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100 percent of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5 percent of the available proceeds of the Certificates, and that 100 percent of the available proceeds of the Certificates will be allocated within 30 months from the date of issue of the Certificates.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Certificates. To provide for the public availability of certain information relating to the Certificates and the security therefor and to permit underwriters of the Certificates to comply with the Rule, which will enhance the marketability of the Certificates, the mayor and the clerk are hereby authorized and directed to

execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the city clerk.

Section 6. Certificates of Proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the Certificates herein authorized have been duly entered on the county auditor's register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City pertaining to the authorization, issuance, and sale of the Certificates and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Certificates, as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Certificates and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

6.04 In the event of the absence or disability of the mayor or the city clerk, such officers as in the opinion of the City attorney, may act in their behalf, shall without further act or 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 03-0840 was unanimously adopted.

Approved December 4, 2003

GARY L. DOTY, Mayor

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RESOLUTIONS TABLED

Resolutions, by President Stenberg, 03-0846, approving DEDA's acquisition of certain property from Jack G. and Marilyn S. Krenzen pursuant to DEDA Resolution 03D-69; 03-0847, approving DEDA'S development agreement with SMDC for the digestive disease/cancer center project; 03-0848, authorizing application to DEED for a grant in the amount of \$1 million for the SMDC medical campus expansion project and committing the local share; 03-0849, authorizing DEDA to condemn, if necessary, various properties and air rights in Portland Division for the SMDC First Street development; and Resolution 03-0850, by Councilor Bergson, of intent to remove the one way designation from East First Street between Third and Eighth Avenues East, were introduced for discussion.

Councilors and Administrative Assistant Winson discussed and reviewed the final plans for the construction and funding of the project at length.

Mr. Winson stated that the project no longer requires the acquisition of the Krenzen property and he requested that the council remove Resolution 03-0846 from the agenda.

President Stenberg moved to remove Resolution 03-0846 from the agenda, which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Resolutions 03-0847, 03-0848, 03-0849 and 03-0850 were adopted as follows:

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 99-0239, the Duluth economic development authority's (DEDA) development agreement (Public Document No. 03-1204-07) with St. Mary's/Duluth Clinic Health System (SMDC) approved at its meeting of December 1, 2003, pursuant to DEDA Resolution No. 03D-77, a copy of which is on file in the office of the city clerk as Public Document No. 03-1204-08, is hereby approved.

Resolution 03-0847 was unanimously adopted.

Approved December 4, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the city of Duluth act as the legal sponsor for the project contained in the greater Minnesota business development public infrastructure grant program application to be submitted on December 2, 2003 and that the mayor is hereby authorized to apply to the department of employment and economic development for funding for this project on behalf of St. Mary's/Duluth Clinic Health System.

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 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 mayor and city clerk of the city of Duluth are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 03-0848 was unanimously adopted.

Approved December 4, 2003

GARY L. DOTY, Mayor

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BY PRESIDENT STENBERG:

RESOLVED, that the city council of the city of Duluth hereby makes the following findings:

(a) That St. Mary's Hospital and the Duluth Clinic, as a combined organization (SMDC), are the largest supplier of medical services to the citizens of the city of Duluth and to Northeastern Minnesota, Northern Wisconsin and the Upper Peninsula of Michigan; and

(b) That SMDC is also one of the largest employers in the city of Duluth, providing a large number of high paying jobs to citizens of the city and of the area; and

(c) That the ever-increasing need for medical services and the continuing improvements in medical technology have resulting in a need for SMDC to materially expand

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

their medical service facilities; and

(d) That such expansion of facilities would be best carried out in conjunction with their existing facilities in and adjacent to Duluth's medical district; and

(e) That having such an expansion occur in and adjacent to the medical district would strengthen SMDC's existing facilities and would bring more than 200 new jobs to the area; and

(f) That the construction of such a medical facility will require additional parking in an area where there is already a significant but unmet demand for parking; and

(g) That a plan has been developed to acquire and consolidate ownership of property and air rights within the project site generally located between Superior Street and First Street and between Third and Sixth Avenues East, demolish dilapidated and blighting structures located thereon and construct a new 225,000 square foot medical facility and an approximately 1,000 vehicle parking ramp with the possible addition of hotel and retail development, stabilizing and enhancing the entire neighborhood; and

(h) That the acquisition of the property and air rights described on Public Document No. 03-1204-09, which is on file in the office of the city clerk, is necessary to the implementation of the aforesaid redevelopment; and

(i) That to date, the developer and DEDA have been unable to acquire said property and air rights, despite their best efforts to do so and DEDA and the developer believe that, despite such efforts, they may be unable to the necessary property and air rights within the time frames required by the project without the use of the power of eminent domain; and

(j) That in order to assure that the project is in fact developed in the city of Duluth and that it meets the needs of SMDC, it is necessary to acquire possession and control of the subject property and air rights as soon as possible; and

(k) That pursuant to Section 18 of Resolution 89-0323 of the Duluth City Council, the authorization of the city is require in order for DEDA to be empowered to use the power of eminent domain.

FURTHER RESOLVED, that should the DEDA board of commissioners determine that the exercise of the power of eminent domain is necessary to the acquisition of any or all of the property and air rights described on Public Document No. 03-1204-09, the proper DEDA officials are hereby authorized to so exercise said power as authorized in Minnesota Statutes Chapter 117 to acquire any or all of that property and those air rights in St. Louis County, Minnesota generally described on Public Document No. 03-1204-09.

FURTHER RESOLVED, that said DEDA officials are hereby authorized to acquire possession of said property and air rights as expeditiously as possible pursuant to the provisions of Minnesota Statutes 117.042.

FURTHER RESOLVED, that said DEDA officials shall pay cost of acquisition of said property and air rights as established pursuant to Minnesota Statutes Chapter 117 and shall pay all costs associated with said acquisition proceeding.

Resolution 03-0849 was unanimously adopted.

Approved December 4, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

WHEREAS, pursuant to Ordinance 7060 approved on September 24, 1956, First Street between 24th Avenue East and Fourth Avenue West was designated as a one way street for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

traffic proceeding in a westerly direction; and

WHEREAS, pursuant to Section 33-17 of the Duluth City Code, 1959, as amended, the Duluth City Council now has the authority to establish and provide for one way traffic on any street or avenue in the city by resolution; and

WHEREAS, in order for the proposed SMDC First Street medical facilities development to be successful, it is necessary that access be available to the project from First Street for traffic from both the east and the west; and

WHEREAS, after review of the current traffic patterns and needs in the area and after receiving advice and information from the city engineers offices and from the general public, the council has determined that allowing two-way traffic on First Street from Third Avenue East to Eighth Avenue East will meet the needs of the SMDC project and will not have a material negative effect on traffic needs and the street access in the area.

RESOLVED, that, prior to the opening of the SMDC First Street medical facilities development, the city council does hereby declare its intention to withdraw the one way designation from that portion of East First Street lying between Third Avenue East and Eighth Avenue East and to allow two way traffic thereon.

Resolution 03-0850 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Ness, Stauber, Stewart, Stover and President Stenberg -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved December 4, 2003

GARY L. DOTY, Mayor

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The meeting was adjourned at 7:20 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 15, 2003, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bergson, Hogg, Ness, Stauber, Stewart, Stover and President Stenberg -- 8

Absent: Councilor Gilbert -- 1

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The minutes of the city council meetings held on September 22, October 14 and 27, 2003, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

03-1215-01 Ron Bushey, et al. (two signatures), submitting petition to vacate two abutting unused utility easements on Park Point, Block 2, Lots 12, 26, 13 and 27, Oatka Beach Addition. -- Assessor

03-1215-02 Daniel E. Markham submitting petition to vacate the southerly 40 feet of the sewer easement located along the eastern property line of Lot 13, Block 1, Second Rearrangement in Congdon Park Division. -- Assessor

03-1215-03 Donald B. Morse, et al. (three signatures) submitting petition to vacate Blocks 8 and 9, Motorline Division, partial vacation, 400 foot alley. -- Assessor

03-1215-22 Matthew Brown submitting communications regarding SMDC development (03-0846R, 03-0847R, 03-0848R and 03-0849R) and the proposed amendments to smoking in public places (03-070-O and 03-071-O). -- Received

03-1215-23 Arne Ion submitting communications regarding the proposed amendments to smoking in public places (03-070-O and 03-071-O) and the proposed ordinance relating to rental licensing (03-063-O). -- Received

03-1215-24 The following submitting communications regarding proposed amendments to smoking in public places (03-070-O and 03-071-O): (a) American Cancer Society; (b) Ila A. Anderson; (c) Nickoel Anderson; (d) Ruth Anderson; (e) Sarah A. Beier; (f) Marcia Bowker; (g) Tracie Clanaugh; (h) Ann Forrest Clark; (i) Christie Culliton; (j) Terri Fitzgibbons; (k) Bonnie Fritch; (l) Bonnie Gillette; (m) David Hagemann; (n) Chuck and Pat Hanson; (o) John Jacobson; (p) Bruce Jessen; (q) Debbie Johnson; (r) Roger Johnson; (s) Kathy Krokum; (t) John J. Kuncaitis; (u) Sandra Laiti; (v) Sandi Larson; (w) Edward N. Leonard; (x) Becky Lesch; (y) LeeAnn Lewandowski; (z) Joan M. Lindstrom (supported by seven signatures); (aa) Jim and Lorelei Livesay; (bb) Donna Manns; (cc) Joyce A. Mireault; (dd) Dennis and Rosemarie Mitchell; (ee) Shelia Petrovich; (ff) Brian and Karen Rapp; (gg) Kelly Ravenfeather; (hh) Jack C. Renick; (ii) Cassandra Schamber; (jj) Linda M. Sertich; (kk) Ben Stauber; (ll) Daryl and Janet Sulerud; (mm) Bonnie Solberg; (nn) Eric Svoboda; (oo) Sam Talarico; (pp) Steve Townsend; (qq) Anett Trebitz; (rr) Linnea and John Wiita; (ss) Katrina Yoon. -- Received

03-1215-25 The following submitting communications regarding the proposed ordinance relating to rental licensing (03-063-O): (a) Ruth Anderson; (b) Edna Blanchard; (c) Patrice Bradley; (d) Tim Carpenter; (e) Kerri Edblad-Chilcote; (f) Joan Erickson; (g) Peter and Patricia Lilliberg; (h) Kevin K. Prodinsky; (i) Sandy Robinson; (j) Susan Schumacher and Bob Cormier; (k) Kathleen Sewell; (l) Carl D. Svendsen. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

03-1215-26 The following submitting communications regarding the proposed resolution authorizing a contract with ALLCO Finance Corporation (03-0760R): (a) Eric Dings; (b) Brian Fuxa. -- Received

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REPORTS OF OFFICERS

03-1215-04 Mayor Doty submitting veto of Ordinance 9638, an ordinance to allow full food service in bar areas of bar/restaurants where smoking is permitted. -- Received

03-1215-05 Assessor submitting:

(a) Letters of sufficiency of petitions to vacate:

(1) The portion of Congdon Boulevard right-of-way adjoining the east 1/2 of Lot 6, Lot 7 and the westerly 40 feet of Lot 8, Seaway View Addition; and the utility easement adjoining these lots

(2) Two abutting unused utility easements on Park Point, Block 2, Lots 12, 26, 13 and 27, Oatka Beach Addition;

(b) Letter of insufficiency of petition to reclassify from R-3 to C-2 the following described property: Lot 11, except the westerly ten feet and all of lots 12 through 16, Block 98, Portland Division;

(c) Assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 2002, to June 1, 2003, for which the licensed collector has not been reimbursed. -- Received

03-1215-06 Engineering division submitting monthly project status report of December 1, 2003. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

03-1215-27 Alcohol, gambling and tobacco commission minutes of November 12, 2003, meeting. -- Received

03-1215-07 Heritage preservation commission minutes of: (a) September 23; (b) October 15, 2003, meetings. -- Received

03-1215-08 Housing and redevelopment authority of Duluth minutes of November 3, 2003, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Rand Gallagher questioned what the council and city are doing to provide jobs to keep the city's youth in Duluth.

- - -

Karl Wyant expressed concern that the skywalks are closed too early in the evening, making them unavailable for people who work and live Downtown who need to get to their parking ramp.

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ORDINANCE RECONSIDERED

BY COUNCILORS STEWART AND STOVER

03-070 (9638) - AN ORDINANCE TO ALLOW FULL FOOD SERVICE IN BAR AREAS OF BAR/RESTAURANTS WHERE SMOKING IS PERMITTED; AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stewart moved to reconsider the ordinance, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stewart, Stover and President Stenberg -- 6

Nays: Councilors Stauber and Ness -- 2

Absent: Councilor Gilbert -- 1

The rules were suspended upon a unanimous vote to hear speakers on the ordinance.

DD Davison; Mike Hieb; Judith Arvold; Joseph Martinelli; Kristin Pass; Charles Gessert; Randall Pass; Jim Taylor; Mark Eckman, Sr.; Lois Eckes; Jim Skoog and Ken Steil urged the councilors not to override the mayor's veto for the following reasons: the public voted on and approved the issue; it is a health and disability issue; many other illnesses and diseases are related to the use of tobacco; the health risk of secondhand smoke can not be minimized; women who work in establishments where smoking is present are twice as likely to get lung cancer; the ordinance does not make the playing field equal for the restaurants; this issue will be before the council again if the veto is overridden and this will increase the number of restaurants who will allow smoking.

Mike Ronning; Dawn Fitzgerald; KL Lewis; Mark Rutka; Andrew Olson and Mark Mitchell urged the councilors to overturn the mayor's veto for the following reasons: it was the intent of the council to have the original ordinance read this way; smoking areas in bars should be allowed to serve food prepared in house to customers; bars should be able to serve food and alcohol together; patrons who sit in the smoking section are being deprived of the right to be served food which is afforded to the nonsmoking patrons and bars are not forcing people to come into the smoking section of the bars.

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At this time, 7:20 p.m., Councilor Gilbert took his seat.

- - -

Councilor Stewart urged councilors to overturn the mayor's veto.

Councilors Ness and Stauber voiced concern that there will be an expansion of the number of businesses that will allow smoking and this ordinance change would not create a level playing field for businesses. They also stated that overturning the amendment would make citizens distrustful of the council and would damage the relationship between the citizens and the council.

Councilor Hogg moved to call the question, which motion was seconded and carried upon a unanimous vote.

Councilor Stewart moved passage of the ordinance, which motion was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stewart, Stover and President Stenberg -- 6

Nays: Councilors Gilbert, Ness and Stauber -- 3

- - -

RESOLUTIONS TABLED

Councilor Stover moved to remove Resolution 03-0760, authorizing a contract with ALLCO Finance Corporation for exclusive rights to finalize a lease of city-owned infrastructure and expressing city's intent to do so, from the table, which motion was seconded and carried upon a unanimous vote.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

KL Lewis expressed concerns for this possible agreement and Brian Fuxa urged the councilors not to approve this resolution, as the corporations want this for tax relief and then the tax burden is shifted back to the tax payers.

Administrative Assistant Winson reviewed that this resolution is a letter of agreement with ALLCO for a period of two years for them to look into a transaction with the city by looking at the city's infrastructure and its value, the legalities relating to the City Charter and state law, finding an investor for this transaction, and until the city enters into a contract with an investor, the city is able to pull out of the contract.

City Attorney Brown explained that if this deal would be completed, there would be at least three to four contracts completed with ALLCO with the major contract being the lease of the facilities. He continued saying the City Charter requires a referendum to lease or sell the facilities and must be passed by a 2/3 majority of registered voters and approved by a 7/9 vote of the council.

Councilors Ness, Stauber and Stewart reviewed that this transaction would lease the city's infrastructure to a large organization who would get a large tax windfall and although the city would get a large up front payment, over time there will be less money coming to the city because there would be less taxes going to the government and then less government aid to the city.

Responding to Councilor Hogg, Mr. Brown replied that any revenue derived from the lease agreement would have to stay with the utilities and would not be able to go into the general fund to be used for general purposes.

Councilor Stewart moved to continue consideration of the resolution after the consent agenda, which motion was seconded and carried upon a unanimous vote.

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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 Stenberg moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement substantially in the form of that filed as Public Document No. 03-1215-09, with Duluth-Superior Public Access Community Television, Inc., for providing cablecasting, training, production and administrative services relating to public access television, in the amount of \$178,000 to be paid from General Fund 0100, Agency 700, Organization 1409, Object 5441.

Resolution 03-0857 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 03-1215-05(c), which is levied to defray in full the expense of solid waste collecting during the period of March 1, 2002, to June 1, 2003, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 03-0858 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 03-1215-11, and under which agreement the bureau will provide advertising and promotion services to the city during the year 2004 at a cost to the city not to exceed \$1,146,900; payable from Fund 0258, Agency 030, Organization 1460, Object 5441.

Resolution 03-0860 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the city is hereby authorized to execute agreements with Blue Cross and Blue Shield of Minnesota under which that company will provide administrative services and stop loss insurance to the city group health plan during calendar year 2004 for an administrative fee of \$31.87 per single employee or per family per month and a fee for stop loss coverage of \$9.91 per single employee per month and \$26.47 per family per month, for a total estimated cost of \$1,135,946, which shall be paid from the group health fund.

Resolution 03-0861 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, in June of 1998 the Great Lakes Aquarium operating and revenue participation agreement, City Contract No. 18364, was entered into between the city, Duluth economic development authority and the Lake Superior Center authority; and

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 2004.

Resolution 03-0890 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth alcohol, gambling, and tobacco commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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>
Elk's Lodge #133	4250 Haines Road

Resolution 03-0859 was unanimously adopted.
Approved December 15, 2003
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that Graybar Electric Company, Inc., be and hereby is awarded a contract for furnishing and delivering miscellaneous electrical supply items as needed for year 2004 for facilities management division and engineering division in accordance with specifications at an estimated amount of \$25,000, terms net 30, FOB destination, \$10,000 payable out of General Fund 0100, Department/Agency 015, Organization 2500, Object 5220 and \$15,000 payable out of General Fund 0100, Department/Agency 500, Organization 1930, Object 5247; to be encumbered out of year 2004 budget.

Resolution 03-0868 was unanimously adopted.
Approved December 15, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering fuel as needed during the year 2004 for the various departments/divisions, in accordance with specifications at an estimated amount of \$546,350, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects; to be encumbered out of year 2004 budget.

Resolution 03-0869 was unanimously adopted.
Approved December 15, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Arrowhead Equipment Company be and hereby is awarded a contract for furnishing and delivering tires and tubes as needed for a 12 month period during year 2004 for the fleet services division in accordance with specifications at an estimated amount of \$40,000, terms net 30, FOB destination, \$34,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5221 and \$6,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5404; to be encumbered out of year 2004 budget.

Resolution 03-0871 was unanimously adopted.
Approved December 15, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

delivering O.E.M. parts and repairs for Caterpillar equipment as needed for year 2004 for the fleet services division in accordance with specifications at an estimated amount of \$30,000, terms net 30, FOB destination, \$25,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5404; to be encumbered out of year 2004 budget.

Resolution 03-0882 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the Duluth City Council requests that the Duluth Charter Commission considers and recommends to the city council that the council enact an ordinance, a copy of which is on file with the clerk as Public Document No. 03-1215-12, which ordinance will change the City Charter as follows:

Sec. 35. Civil service board--established; membership; term of office; vacancies.

There is hereby established a civil service board, which shall consist of five members, who shall be appointed by the council, and shall serve without compensation, and whose term of office shall be for six years, except as herein next provided. The council first elected under this Charter, as soon as practicable after its election, shall appoint one member of said board to serve for two years, one member to serve for four years, and one member to serve for six years. Without delay, after the size of the membership of the board is increased by two members, the council shall appoint two new members, one member to serve for four years and one member to serve for six years. Any vacancies in the board shall be filled by the council for the unexpired term.

Resolution 03-0853 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the reappointments by Mayor Doty of John Beyer (police) and Norma Johnson (confidential unit) to the deferred compensation plan commission for terms expiring on December 31, 2007, are confirmed.

Resolution 03-0854 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 03-1215-13, with Job Service for the provision of airline dislocated worker services

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

pursuant to the Workforce Investment Act for the period of April 7, 2003, through September 30, 2004, at costs not to exceed \$51,770 which shall be payable from Fund 0268.

Resolution 03-0863 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form of the contract on file with the clerk or Public Document No. 03-1215-14, with St. Louis County to provide supported work services with total costs not to exceed \$51,631 for the period July 1, 2003, through December 31, 2003.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 0268.

Resolution 03-0866 was unanimously adopted.

Approved December 15, 2003

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, on file in the office of the city clerk as Public Document No. 03-1215-15, with the St. Louis County social services department for furnishing approximately 41,925 hot meals for eligible senior citizens and guests at two St. Louis County facilities located in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$4.41 per meal for eligible senior citizens, \$4.79 per meal for guests, and an additional \$0.28 per meal for dining room management provided at Lincoln Park, or approximately \$191,353, payable out of Federal Program Fund 0272, Department/Agency 031, Organization 6304, Activity SD04, Object 0071.

Resolution 03-0885 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 03-0782 the council did request the administration to prepare plans and specifications for the construction of 380 feet of sanitary sewer in Swenson Avenue beginning at the intersection of 90th Avenue West and extending westerly (City Job No. 0384SN) at an estimated cost of \$34,000; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959, and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$34,000, payable from Special Assessment Fund 0410, Agency 038, Organization 5388, Object 5530 and that all of the cost of said improvement be defrayed by special assessment

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 03-0851 was unanimously adopted.

Approved December 15, 2003

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 desires financial assistance from the coastal management assistance program for the purpose of employing consulting engineers to design sediments traps for Miller and Coffee Creeks in 2005.

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 \$45,000 for said sediment trap design.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to act as legal sponsor of said grant, to accept said grant if tendered by the Minnesota department of natural resources, to execute any documents required to be executed to accept such grant and to obligate up to \$45,000, payable from Fund 0535, Division 1930, Object 5303, as the local share of such design cost.

Resolution 03-0878 was unanimously adopted.

Approved December 15, 2003

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 desires financial assistance from the coastal management assistance program for the purpose of developing a regional stormwater education evaluation instrument in 2005 in conjunction with the cities of Hermantown, Proctor, Superior, Midway Township, Duluth Township, WLSSD, University of Minnesota Duluth, University of Minnesota Sea Grant, University of Wisconsin Superior, St. Louis County, Minnesota department of transportation, St. Louis River CAC, and South St. Louis SWCD as part of the regional stormwater protection team.

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 \$14,999 for said regional education evaluation tool.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to act as legal sponsor of said grant, to accept said grant if tendered by the Minnesota department of natural resources, to execute any documents required to be executed to accept such grant and to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

obligate up to \$3,000, payable from Fund 0535, Division 1915, Object 5441, and \$2,000 in in-kind contributions as the local share of such program.

Resolution 03-0879 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to develop, design and implement an area wide program; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the Morgan Park wastewater collection system and water distribution system improvements - Phase II; and

WHEREAS, M.S.A. Professional Service has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with M.S.A. Professional Service to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$795,707, \$413,043 will be payable from the Water Fund 0510, Department/Agency 500, Organization 1905, Object 5533; \$193,506 will be payable from the Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5533 and \$189,158 will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0407, Object 5530.

Resolution 03-0884 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that the city is hereby authorized to accept from the division of homeland security and emergency management, Minnesota department of public safety, a 2003 state homeland security equipment/exercise grant in the amount of \$39,879;

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any agreements necessary to implement the project on behalf of the fire department. All monies from this grant will be deposited into Special Projects Fund 0210, Agency 030, Organization 2164, Revenue Source 4230.

Resolution 03-0864 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR BERGSON:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zones are hereby established:

front of 28 England Avenue;

front of 510 North 12th Avenue East;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

front of 2811 Wicklow Street.
Resolution 03-0867 was unanimously adopted.
Approved December 15, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 03-1215-16 with Chelsey Broadcasting Company of Duluth, LLC (KDLH), and Premier Pyrotechnics for the fireworks display at the Warmer by the Lake celebration on January 1, 2004, payment for said fireworks display to be made by KDLH.

Resolution 03-0862 was unanimously adopted.
Approved December 15, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

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 for the purchase of railroad property within the Grassy Point area;

(b) That the director of administrative services is 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 director of administrative services has signatory authority to apply for the funds;

(d) That the city of Duluth does agree to act as legal sponsor and to obligate funds required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms and conditions of Minnesota's Lake Superior coastal program matching funds to come from the city's Capital Improvement Fund 0450, Object 5530.

Resolution 03-0880 was unanimously adopted.
Approved December 15, 2003
GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

WHEREAS, the U.S. department of transportation and the Minnesota department of transportation have made capital and operating funds available to the Duluth transit authority; and

WHEREAS, the Duluth transit authority has requested and the city of Duluth has processed and completed the property tax levy which will provide the necessary local funding for the projects; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, the Duluth transit authority has completed the necessary state and federal requirements;

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 year 2003 and apply for state and federal funds in 2004.

Resolution 03-0881 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 03-1215-17, 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, 2004, through December 31, 2004, for the operation of the Duluth senior dining program at a cost of \$7,008, payable at \$584 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 0272, Department 031, Organization 6304.

Resolution 03-0886 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 03-1215-18, with the Woodland Gardens Association for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 2004, through December 31, 2004, for the operation of the Duluth senior dining program.

Resolution 03-0888 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to agreement (City Contract No. 19370) with Paul Schintz, Inc., to operate the concession and manage the golf course facilities at Enger and Lester Park golf courses, substantially in the form of that on file in the office of the city clerk as Public Document No. 03-1215-19 at no change in amount payable under the agreement.

Resolution 03-0891 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

Councilor Stewart moved to continue discussion regarding Resolution 03-0760 at this time, which motion was seconded and unanimously carried.

Jim Lovell, representing ALLCO, explained the potential financial benefit to the city and reviewed that this type of transaction has been used all across the country for many years. He

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

said that most of the cities that have utilized these transactions have done so with transit assets such as subway cars, light rail cars, etc., and that it as a transaction, if structured properly, can be a very low risk and financial benefit to the city. Mr. Lovell explained that the transaction involves the city leasing its assets out for a very long period of time to a for profit corporation who would pay full fair market value of the assets, and then the corporation could claim tax benefits from the assets from the federal government. He continued saying that the corporation would then turn around and lease the assets back to the city for approximately 30 years, which would require the city to make annual rent payments back to the company during the lease back period of time, at which time the city has the option to buy back the assets for a fixed price.

Councilor Atkins moved to retable the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stewart, Stover and President Stenberg -- 6

Nays: Councilors Gilbert, Ness and Stauber -- 3

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The following resolutions were also considered:

Resolution 03-0870, by Councilor Atkins, designating the Duluth News Tribune as the official newspaper of the city for the year 2004, was introduced for discussion.

Councilor Hogg urged the administration to find other sources for bidders for next year's contract.

Resolution 03-0870 was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that the Duluth News Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 2004, 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 \$1.80 per inch, these being the legal rates for the state of Minnesota. The estimated total annual cost is \$25,000.

The billing is to be on the inch rate; term: net 30 and payable out of various funds, departments/agencies, organizations and objects; to be encumbered out of year 2004 budget.

Resolution 03-0870 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Ness, Stauber, Stewart and Stover -- 7

Nays: Councilor Hogg and President Stenberg -- 2

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

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, 2004, 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: Historic Union Depot,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Inc. (St. Louis County Heritage & Arts Center), 506 West Michigan Street, Ken Buehler, executive director.

Resolution 03-0893 was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Ness, Stauber, Stewart and Stover

-- 8

Nays: President Stenberg -- 1

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income; and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs;

NOW, THEREFORE, BE IT RESOLVED, that the FY 2004 action plan portion of the city of Duluth consolidated plan for housing and community development required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 03-0873 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in resolutions 03-0874 and 03-0875 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto and authorizing appropriate city officials to execute any documents with HUD to implement the program. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

Resolution 03-0872 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U. S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

WHEREAS, City Council Resolution No. 03-0872, adopted December 15, 2003, approved the FY 2004 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2004 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

ACCOUNT	AMOUNT	PROJECTS
HOUSING PROJECTS		
6701	\$170,000	Affordable home ownership services - NHS
6702	\$18,000	HOPE VI individual development account - Community Action Duluth
6703	\$830,000	Duluth property rehabilitation program - HRA/NCLT
6704	\$150,000	Duluth weatherization program - AEOA
6705	\$90,000	City Homes Phase III - NCLT
ECONOMIC DEVELOPMENT PROJECTS		
6706	\$23,000	Harbor View youth employment program - Copeland Community Club
6707	\$15,000	Business planning assistance - Project SOAR
6708	\$95,000	Career development - Project SOAR
6709	zero fund	Small business revolving loan fund - North Star CDC
6710	\$46,000	Opportunities Cooking - Damiano Center
6711	\$75,000	Microenterprise development - Northeast Entrepreneur Fund
6712	\$54,000	Women in Construction - WTHC
6713	\$24,000	CHUMWorks
6714	\$8,000	Acquisition and demolition

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

2004 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

PUBLIC FACILITY IMPROVEMENT PROJECTS

6715	\$100,000	Restroom accessibility project - Damiano Center
6716	\$101,000	Downtown accessibility - Phase II - People with Disabilities
6717	\$161,000	Citywide street program - assessor's division
6718	\$150,000	Morgan Park street improvements - Phase I
6719	\$270,000	City Homes - Phase III (infrastructure) Morgan Park

PUBLIC SERVICE PROJECTS

6720	\$75,400	Duluth Hunger Program - CHUM
6721	\$67,400	Primary health care for low-income people - LSCHC
6722	\$9,600	Money management program - Salvation Army
6723	\$10,000	Ready to rent tenant certification program - HAC
6724	\$30,000	Fair housing - HAC
6725	\$23,700	Youth center - Life House
6726	\$29,300	Shelter program - Safe Haven Shelter for Battered Women
6727	\$30,500	Family transitional housing - Salvation Army
6728	\$10,500	Veterans Outreach North
6729	\$32,900	Transitional housing - WTHC
6730	\$42,900	Lincoln Park education and enrichment program - Boys and Girls Club
6731	\$27,800	Harbor View After School and Summer Program - Copeland Community Club
6732	\$16,400	Out of school youth enrichment program- Grant Collaborative
6733	\$33,500	Washington Center - Neighborhood Youth Services
6734	\$25,100	Youth program expansion - Valley Youth Center
6735	\$35,600	Mentor Duluth - YMCA
6736	\$9,400	Girl Power - YWCA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

2004 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

PLANNING/PROGRAM ADMINISTRATION

6737	\$340,000	Program administration
6738	\$170,000	Neighborhood planning
6739	\$26,657	Contingency

\$3,426,657 Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 2004	CDBG grant - city	\$3,400,000
Year 1998	CDBG grant - city	\$8,625
Year 1999	CDBG grant - city	\$531
Year 2001	CDBG grant - city	\$6,180
Year 2002	CDBG grant - city	\$11,321
Total		\$3,426,657

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year community development accounts:

		Original	Modified	Revised
	1998			
6118	Lower Chester improvements	\$95,268	-\$8,625	\$86,643
	1999			
6244	Contingency	\$531	-\$531	\$0
	2001			
6412	88th Avenue West street lighting	\$19,000	-\$6,180	\$12,820
	2002			
6510	Ramsey street improvement	\$71,000	-\$8,545	\$62,455

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

		Original	Modified	Revised
6513	Citywide streets	\$118,385	-\$2,566	\$115,819
6519	Women in Construction	\$59,024	-\$210	\$58,814
\$26,657 - Total amount reprogrammed				

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of HUD funds.

Resolution 03-0873 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 03-0872, adopted December 15, 2003, approved the FY 2004 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2004 HOME PROGRAM - FUND 260

NUMBER	PROJECTS	AMOUNT
H012	MURL housing - HRA	\$ 85,500
H001	New construction - NCLT City Homes Phase III	270,000
H003	Other rehabilitation - homeowner property rehabilitation	276,200
H003	Purchase - rehabilitation - resale - NHS	23,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

2004 HOME PROGRAM - FUND 260

NUMBER	PROJECTS	AMOUNT
H008	Program administration	82,800
H009	CHDO operating - NCLT	11,000
H002	Scattered site development - WTHC	71,000
H009	Predevelopment - WTHC	9,000
Total		\$828,000

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 03-0874 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 03-0872, adopted December 15, 2003, approved the FY 2004 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

2004 ESG PROGRAM - FUND 260

NUMBER	PROJECTS	AMOUNT
5434	CHUM Shelter	\$ 21,110
	CHUM Drop-In Center	10,000
	WTHC	18,500
	Safe Haven Shelter	21,130
	Life House, Harbor House	14,470
	Veterans Outreach North	5,200
	Salvation Army	24,540
	5495	Administration
TOTAL		\$121,000

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

Source of funding	
2004 ESGP grant	\$121,000

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 03-0875 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2002 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program recommends funding projects as set forth below;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-2002 HUD-funded community development accounts as set forth below:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

2002 CDBG Transfers

Project #	Project	Budget amount	New amount	Amount of increase or decrease
6513	Citywide streets	\$115,819	\$113,043	(2,776)
6514	Hillside streetscape Phase V	\$ 62,000	\$ 62,776	+\$2,776

Resolution 03-0876 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 03-1215-20, with United States Steel Corporation guarantying that, if the Duluth economic development authority fails to fulfill its obligations under its agreement to purchase the old Universal Atlas Cement Plant site in Gary-New Duluth, the city will fulfill those obligations as set forth in said purchase agreement.

Resolution 03-0877 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

RESOLVED, that pursuant to the requirements of Resolution No. 99-0239, the Duluth economic development authority's (DEDA) purchase agreement in the amount of \$232,000, payable from Fund 0860, with United States Steel Corporation for the purchase of Atlas Cement Site approved at its meeting of December 15, 2003, pursuant to DEDA Resolution No. 03D-81, a copy of which is on file in the office of the city clerk as Public Document No. 03-1215-21, is hereby approved.

Resolution 03-0892 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

BY PRESIDENT STENBERG:

WHEREAS, Taxi2000 has over 30 years of experience and expertise in the personal rapid transit (PRT) industry; and

WHEREAS, Taxi2000 desires to locate a certification track for the purpose of providing proof that the Taxi2000 system is a safe form of transit in all types of weather conditions; and

WHEREAS, Taxi2000 has recently secured two million dollars in private funding for the establishment of such a facility; and

WHEREAS, the location of Duluth as the certification facility for the PRT industry could lead to the creation of many manufacturing jobs.

RESOLVED, that the Duluth City Council supports Taxi2000 in its desire to locate a certification facility in Duluth.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

FURTHER RESOLVED, if funding becomes available, the Duluth City Council would consider assisting Taxi2000 with funding support and in securing additional funding from other sources.

Resolution 03-0894 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

Resolution 03-0889, by Councilor Ness, establishing the city's legislative priorities for the 2004 session of the Minnesota state legislature, was introduced for discussion.

Councilor Ness moved to table the resolution for a committee meeting on January 26, 2004, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the City Clerk as Public Document No. 03-1215-10, 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, 2004, through December 31, 2004.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 0272, Department/Agency 031, Organization 6304.

Resolution 03-0887 was unanimously adopted.

Approved December 15, 2003

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCES TABLED

BY COUNCILOR HOGG

03-066 (9640) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2004 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Hogg reviewed that he has prepared amendments for this ordinance and Ordinance 03-067 which would have the affect of increasing both the levy and the budget by \$200,000 for the purpose of completing the comprehensive plan.

Mr. Winson reviewed that staff has reviewed the budget and because health insurance costs did not increase as much as anticipated, the budget now shows an additional \$200,000 in the planning department's budget to cover the cost of the comprehensive plan.

Councilors Ness and Stewart thanked the administration for finding the extra dollars for the comprehensive plan without negatively impacting other city services and stated that the ordinance amendments are no longer necessary.

Councilor Stauber challenged the new administration and councilors to seek ways of investing the new tax dollars raised in the city that will reap the greatest benefit to Duluthians. He reviewed that volunteers play in big role in many areas of the city and suggested that the city consider more volunteerism in city departments instead of raising taxes and cutting programs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stauber and President Stenberg -- 2

- - -

BY COUNCILOR HOGG

03-067 (9641) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2004.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stauber and President Stenberg -- 2

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR STOVER

03-072 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN DULUTH HEIGHTS TO THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH.

The rules were suspended upon a unanimous vote to hear a speaker on the ordinance.

Sumlee Berda questioned why this property is being sold to a government agency, which creates unfair competition for small businesses, when small businesses are needed to get the tax base going.

- - -

Councilors thanked Councilor Hogg and President Stenberg for their years of service on the council.

- - -

The meeting was adjourned at 9:50 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9638

BY COUNCILORS STEWART AND STOVER:

AN ORDINANCE TO ALLOW FULL FOOD SERVICE IN BAR AREAS OF BAR/RESTAURANTS WHERE SMOKING IS PERMITTED; AMENDING SECTION 28-64 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, is hereby amended to read as follows:

Sec. 2-64. Smoking prohibited in public places; exception.

No person shall smoke in any public place except:

(a) Restaurants that have a currently existing 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, provided that this exception shall cease to be in effect after April 1, 2003;

- (b) Bars;
- (c) The bar area of a bar/restaurant, if:
 - (1) The bar area is separately enclosed on all sides by continuous floor-to-ceiling walls, interrupted only by closeable doors; and
 - (2) The bar area is separately ventilated, with negative air pressure in relation to areas of the bar/restaurant where smoking is not permitted; and
 - (3) Minors are not permitted in the bar area at any time;
- (d) A civic organization, service club, fraternal or patriotic organization or similar private membership organization, when admission to the organization is limited to members and members' guests, provided that this exception shall not apply to any organization established to avoid compliance with this ordinance [Article];
- (e) The use of tobacco as part of a recognized religious ritual or activity.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 18, 2004)

Councilor Stewart moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Hogg, Stewart, Stover and President Stenberg -- 6

Nays: Councilors Gilbert, Ness and Stauber -- 3

Passed December 15, 2003

Approved December 15, 2003, pursuant to Section 12 of the Duluth City Charter.

- - -

ORDINANCE NO. 9640

BY COUNCILOR HOGG:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2004 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, 2004, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

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 use of general fund balance that has been designated for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the finance director.

Section 2. That the finance director be authorized to approve the payments of \$3,062,100 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,982,100 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$80,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the administrative assistant or his designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year. 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 2004.

010 – LEGISLATIVE AND EXECUTIVE		
1101	City council – total	\$ 159,900
1102	Mayor's office – total	166,300
1103	Administrative assistant - total	183,000
1104	Attorney's office – total	1,291,300

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

010 – LEGISLATIVE AND EXECUTIVE		
1105	Human rights office – total	143,200
	Total legislative and executive	\$1,943,700

015 – ADMINISTRATIVE SERVICES		
1510	Human resources – total	\$ 600,100
1511	Budget – total	222,400
1512	City clerk – total	526,700
1514	Data/word processing – total	1,377,300
1515	Facilities management	4,242,200
1516	Architect's office	186,400
	Total administrative services	\$7,155,100

020 – PLANNING AND DEVELOPMENT DEPARTMENT		
	Urban development – total	\$957,000
	Total planning department	\$957,000

030 - FINANCE		
1322	City assessor's office – total	\$ 740,600
1324	City auditor's office – total	1,342,500
1325	Purchasing office – total	282,700
1327	City treasurer's office – total	340,100
	Total finance and records	\$2,705,900

100 – FIRE DEPARTMENT		
1501	Fire administration - total	\$ 399,400
1502	Firefighting operations – total	12,148,300
1503	Fire prevention and training – total	467,100
1504	Building inspection	1,682,200
	Total fire department	\$14,697,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

2000 – POLICE DEPARTMENT		
1610	Police support services – total	\$4,844,100
1620	Police uniform division – total	8,512,400
	Total police department	\$13,356,500

300 - LIBRARY		
1702	Library services – total	\$3,599,700
1703	Buildings and equipment total	212,500
	Total library	\$3,812,200

400 – PARKS AND RECREATION		
1812	Recreation and senior services - total	\$1,580,200
1814	Zoo – total	1,011,900
	Total parks and recreation	\$2,592,100

500 – PUBLIC WORKS		
1900	Director’s office – total	\$ 56,200
1920	Maintenance – total	6,679,400
1925	Bridges – total	651,000
1930	Transportation engineering services – total	1,661,100
	Total public works	\$9,047,700

700 – TRANSFERS AND OTHER FUNCTIONS		
	Total transfers and other functions	\$12,372,800

PUBLIC ENTERPRISE		
503	Golf fund – total	\$1,998,500

PUBLIC UTILITIES		
510	Water fund total	\$ 13,519,600

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

PUBLIC UTILITIES		
520	Gas fund – total	44,235,100
530	Sewer fund – total	17,516,100
535	Stormwater fund – total	3,357,200
540	Steam fund – total	\$3,955,100

Section 8. That the administrative assistant or his designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secured. Local funding will be available after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2004.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stauber and President Stenberg -- 2

Passed December 15, 2003
 Approved December 15, 2003
 GARY L. DOTY, Mayor

ATTEST:
 JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9641

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
 TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2004.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2002 for general operations is hereby determined to be the sum of \$10,153,500 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 \$5,886,600.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$3,781,100.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2003

Section 4. For the pay of debt for the Duluth transit bonds, there will be levied the sum of \$195,800.

Section 5. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$290,000.

Section 6. That this ordinance shall take effect January 1, 2004.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bergson, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stauber and President Stenberg -- 2

Passed December 15, 2003

Approved December 15, 2003

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -