



# CITY OF DULUTH PROCEEDINGS OF THE CITY COUNCIL 2007

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 8, 2007, 6:00 p.m. in the Lake Superior Ballroom, Duluth Entertainment Convention Center.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

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## ELECTION OF OFFICERS

Councilor Reinert, 2006 council president, announced that the election of officers for 2007 would now take place.

Councilor Stover was elected president upon a unanimous vote.

Councilor Johnson was elected vice president upon a unanimous vote.

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## MOTIONS AND RESOLUTIONS

BY COUNCILOR STEWART:

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 general obligation tax and aid anticipation certificates of indebtedness of 2007 in the maximum amount of \$17,000,000 (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. 07-0108-01. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed

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

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

Resolution 07-0013 was unanimously adopted.

Approved January 8, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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

(a) The Duluth economic development authority (DEDA) has issued its \$2,720,000 lease revenue bonds, Series 1995A (the Series 1995A bonds), of which \$1,640,000 in principal amount is outstanding on the date hereof. The proceeds of the Series 1995A bonds were used to develop community center facilities, including meeting rooms, community police offices, storage space and athletic facilities, consisting of a gymnasium, swimming pool and changing facilities and related improvements for parking and park/open space within the city's portion of the former Washington Junior High School (the project);

(b) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, for debt service savings, and the city hereby requests that DEDA issue its approximately \$1,345,000 lease revenue refunding bonds, Series 2007A (the bonds), to provide funds to prepay and redeem the outstanding Series 1995A bonds, to establish a reserve fund and to pay the costs of issuance of the bonds. The principal of and interest on the bonds shall be payable from lease rentals from the city's lease of the project sufficient to provide for the prompt and full payment of the bonds and interest accruing thereon;

(c) The city hereby requests DEDA to utilize and hereby approves the terms and conditions of the bonds and the sale thereof as set forth in the official terms of offering on file with the city clerk as Public Document No. 07-0108-02. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city shall meet at the time and place fixed therein to consider the amendment to lease and related documents needed to sell the bonds;

(d) City staff, the financial advisor and bond counsel shall work with DEDA to arrange for the sale of the bonds;

(e) The terms and conditions of the amendment to lease and the bonds shall be approved in a subsequent resolution of this city council.

Resolution 07-0014 was unanimously adopted.

Approved January 8, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for street and utility purposes:

That part of Lot 52, Fond du Lac Water Street lying northerly of the following described line: beginning at a point on the westerly line of said lot 52, Fond du Lac Water Street,

50.46 feet south of the north line of said Lot 52; to a point on the east line of said Lot 52, 37.85 feet south of the north line of said Lot 52, thereby terminating (Parcel SS);

All of Lot 119, Fond Du Lac Ontario Street (Parcel NN);

That part of Lots 114, 116 and 118, Fond du Lac Ontario Street, lying westerly of the following described line: beginning at a point on the north line of said Lot 114, Fond du Lac Ontario Street, 12.48 feet west of the east line of said Lot 114; to a point on the south line of said Lot 118, Fond du Lac Ontario Street, 19.00 feet west of the east line of said Lot 118, thereby terminating (Parcel MM);

That part of Lots 103 and 105, Fond du Lac Erie Street, and Lots 106 and 108, Fond du Lac Pembina Street, lying westerly and southerly of a line drawn from a point on the north line of said Lot 103 distant 16.00 feet west of the northeast corner of said Lot 103 to a point on the east line of said Lot 108 distant 109.00 feet south of the northeast corner of said Lot 108 (Parcel JJ);

That part of Lots 81, 83, 85, 87 and 89, Fond du Lac Itasca Street, and that part of Lots 86, 88 and 90, Fond du Lac Cass Street, lying southwest of a line drawn from a point on the north line of Lot 85, Fond du Lac Itasca Street, distant 4.00 feet east of the northwest corner of said Lot 85, to a point on the east line of Lot 90, Fond du Lac Cass Street, distant 21.29 feet south of the northeast corner of said Lot 90;

All of Lot 92, Fond du Lac Cass Street, except the northerly 60 feet (Parcel O);

That part of Lot 82, Fond Du Lac Itasca Street, lying southwest of a line drawn from a point on the west line of said Lot 82 distant 70 feet northerly of the southwest corner of said lot to a point on the south line of said lot distant 36 feet east of the southwest corner of said lot (Parcel N);

That part of Lot 101, Fond Du Lac Huron Street, and Lot 102, Fond Du Lac Erie Street, lying westerly of line drawn from the northwest corner of said Lot 101, to the southeast corner of said Lot 102 (Parcel II).

Resolution 07-0002 was unanimously adopted.

Approved January 8, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of understanding with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0108-03, which allows DEDA to participate during 2007 in the city's self insurance fund program; DEDA funds in the amount of \$6,500 to be deposited in 610-036-1656-4904.

Resolution 07-0010 was unanimously adopted.

Approved January 8, 2007

HERB W. BERGSON, Mayor

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

The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

07-001 - AN ORDINANCE AMENDING SECTION 50-35 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO SPECIAL USE PERMIT STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

06-059 (9814) - AN ORDINANCE AMENDING SECTIONS 2-16 AND 31-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO FEES AND CHARGES.

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

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Councilor Reinert spoke of the accomplishments of the council during the past year. He introduced President Stover.

President Stover thanked councilors for their support and introduced Mayor Bergson.

Mayor Bergson presented the 2007 State of the City Address (Public Document No. 07-0108-04).

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

JEFFREY J. COX, City Clerk

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#### **ORDINANCE NO. 9814**

BY COUNCILOR STEWART:

AN ORDINANCE AMENDING SECTIONS 2-16 AND 31-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO FEES AND CHARGES.

The city of Duluth does ordain:

Section 1. That Section 2-16 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-16. Special or nonroutine services by city departments; fees.

(a) Any city department that furnishes special or nonroutine services to any person or organization, other than services which it is required by law to perform without fee, may charge the person or organization requesting such services a fee as set by council resolution for that type of service, but not to exceed the cost of performing such services. No fee shall be charged unless the amount, regardless of how it is calculated or determined, is authorized by council resolution;

(b) Each year, on or before November 1, the clerk shall prepare and present to the council a resolution setting out recommended changes in the amount to be charged for the various city fees. Changed fees shall be calculated by changing the existing fee in the same proportion as the proportional change in the implicit price deflator for gross domestic product, government consumption expenditures and gross investment, state and local, during the 12 months prior to August 1 of the previous year. The implicit price deflators for gross domestic product, government expenditures, state and local, is produced and published by the U.S. department of commerce, bureau of economic analysis, or its successor. The following are excepted from the application of the implicit price deflator:

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- (1) A rate increase that would amount to less than \$1;
- (2) Fees that are tied to another index, such as uniform building codes, a state index or federal law;
- (3) Fees for events, attractions or recreation opportunities (for example, golf rates are adjusted annually based on business goals, rates of surrounding courses or other factors. Additionally, these rates are reviewed and approved by boards and commissions before they go to the city council);
- (4) Fees and charges associated with the public utilities;
- (5) Any other fee that the council elects to determine by a different method.

The fee amount for the excepted fees shall be determined by the council by resolution.

Section 2. 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. Each year, on or before November 1, the clerk shall prepare and present to the council a resolution setting out recommended changes in the amount to be charged for the fees. Changed fees shall be calculated by changing the existing fee in the same proportion as the proportional change in the implicit price deflator for gross domestic product, government consumption expenditures and gross investment, state and local, during the 12 months prior to August 1 of the previous year. The implicit price deflators for gross domestic product, government expenditures, state and local, is produced and published by the U.S. department of commerce, bureau of economic analysis, or its successor. The following are excepted from the application of the implicit price deflator:

- (1) A rate increase that would amount to less than \$1;
- (2) Fees that are tied to another index, such as uniform building codes, a state index or federal law;
- (3) Fees for events, attractions or recreation opportunities (for example, golf rates are adjusted annually based on business goals, rates of surrounding courses or other factors. Additionally, these rates are reviewed and approved by boards and commissions before they go to the city council);
- (4) Fees and charges associated with the public utilities;
- (5) Any other fee that the council elects to determine by a different method.

The fee amount for the excepted fees shall be determined by the council by resolution.

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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 3. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: February 25, 2007)

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed January 8, 2007  
Approved January 8, 2007  
HERB W. BERGSON, Mayor

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**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Tuesday, January 16, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

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The minutes of the council meeting held on December 4, 2006, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0116-01 CMA Management, LLC, petition to vacate the public easement lying over, under and across that part of vacated Helm Street, Marine Division of Duluth, lying between the easterly line of 32nd Avenue West and a line drawn from the northeast corner of Lot 27, Block 3, Marine Division of Duluth, to the southeast corner of Lot 12, Block 4, Marine Division of Duluth. -- Assessor

07-0116-02 Walter Peterson, et al. (two signatures), by Charles H. Andresen, attorney, petition to vacate a portion of Austin Street, Woodland Park Second Division. -- Assessor

07-0116-03 Seaway Hotel application for a concurrent use permit to construct a stairway exit from the first escape to the alley to the west of 20th Avenue West between Superior Street and First Street. -- Planning commission

07-0116-04 Robert Stubenvoll, et al. (three signatures), petition to vacate Lakeview Avenue adjoining Lot 4, Block 5, and Lot 22, Block 6, Congdon Park Division, subject to the retention of a 20 foot wide easement for existing storm sewer. -- Assessor

07-0116-05 Suites at Waterfront Plaza application for a concurrent use permit to construct 14 condominium decks on west facade and seven decks on east facade (Lake Avenue), above sidewalk at 325 Lake Avenue South. -- Planning commission

07-0116-15 Rob West communication regarding establishment of a workforce strategy task force (07-0049R). -- Received

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**REPORTS FROM THE ADMINISTRATION**

Chief Administrative Officer Hall reported that the mayor has been busy at the legislature working on legislation for the irrevocable trust and the Duluth Entertainment Convention Center (DECC) expansion. He noted that the administration has assigned a staff member to the duties of working on the aspects of the task force recommendation that relates to prescription medication/drug importation.

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**REPORTS FROM OTHER OFFICERS**

07-0116-06 Assessor assessment rolls levied to defray the assessable portions of the following contracts: (a) No. 5418, Superior Street between 38th and 40th avenues West (assessable amount: \$62,104.31); (b) No. 5427, Skyline Parkway Alley sanitary sewer extension (assessable amount: \$38,166.57); (c) No. 7022, 1997 street improvement reassessment (assessable amount: \$1,500). -- Received

07-0116-07 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Duluth East Athletic Association in April, 2007; (b) Rotary Club of Duluth, Harbortown, MN USA, Inc., on April 18, 2007. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

07-0116-08 Commission on disabilities: (a) Minutes of December 6, 2006, meeting; (b) 2006 year end report. -- Received

07-0116-09 Duluth airport authority minutes of: (a) November 21; (b) December 11, 2006, meetings. -- Received

07-0116-12 Duluth human rights commission minutes of November 8, 2006, meeting. -- Received

07-0116-10 Duluth state convention center administrative board minutes of: (a) July 24; (b) August 29; (c) September 25; (d) October 31; (e) November 27, 2006, meetings; (f) Building committee meetings held: (1) January 31; (2) November 14, 2006; (g) Finance committee meeting held October 31, 2006 ; (h) Long range planning session held November 27, 2006. -- Received

07-0116-11 Duluth/North Shore Sanitary District minutes of November 8, 2006, meeting. -- Received

07-0116-13 Planning commission minutes of November 14, 2006, meeting. -- Received

07-0116-14 Seaway Port authority of Duluth minutes of: (a) June 21; (b) August 9; (c) September 27, 2006, meetings. -- Received

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis expressed a concern that the DECC expansion will be a hazard if everyone needs to evacuate or even leave at the same time. She felt that attention should be given to maintenance of the building, moorings adjacent to the DECC and a safety fence by the water.

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Phil Lundberg expressed a concern relative to the lack of parking due to construction at Fourth Street and 14th Avenue East. He felt that there is an anti-small business attitude, where his customers have to carry their laundry over a 1/2 block or more, because of the new business construction.

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### RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 06-0875, confirming assessment roll levied to defray the assessable portion of 3400 Drive Trinity Road sanitary sewer and watermain extension, from the table, which motion was seconded and unanimously carried.

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

Dale LeMay, Christine Ostern and Jean LeMay expressed opposition to the resolution for reasons of: the assessments against their property of 1.6 acres is unfair because it is the same as their neighbors who jointly own approximately 15 acres; their property will not benefit from the sewer improvements because their property does not front on it; this assessment has been a detriment for them to be able to sell their house; now that a street and improvements have been put in only the properties who front this have increased in value; they are not against paying a fair share for their assessment; besides this assessment, there would be another \$7,000 to do the

construction to connect to the sewer; at the time this petition was originally submitted, the amount mentioned was understood only to be an estimate and they were gone for the winter when the assessment meetings were held.

The councilors reviewed the history of this project, the process for assessments and what could be possible alternatives.

Councilor Stewart noted that: this project was done based on the assessed property owners' petition; the original assessment was agreed to by all of the property owners and the council can either approve this resolution or have all of the taxpayers of Duluth pay this assessment, which was done for the benefit of three parties.

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

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

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of Superior Street between 38th and 40th avenues West (Contract #5418; assessable amount - \$62,104.31), to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0001 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to reinstate the assessable portion of canceled street improvements 1997 (Contract #7022; assessable amount - \$1,500), to be deposited in Fund 330, is hereby confirmed.

Resolution 07-0007 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of Skyline Parkway Alley sanitary sewer extension (Contract #5427; assessable amount - \$38,166.57), to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0008 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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. 07-0116-16 with The Valuation Group, Inc., for appraisal services anticipated to be needed during 2007 related to various tax court proceedings in the total amount of not to exceed \$20,000, payable from the General Fund 100-700-1407-5441.

Resolution 07-0011 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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 and approves the application of a 2:00 a.m. beverage license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

Shand, LLC (Blue Crab Bar), 1909 West Superior Street, with Brian D. Shand, president and 60 percent stockholder, and Jeffrey Shand, vice president and 40 percent stockholder, transferred from Midway Bar, Inc. (Midway Bar), same address.

Resolution 07-0029 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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 and approves the application of a 2:00 a.m. beverage license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

Chaser's of Duluth, Inc. (Bedrock Bar), 2023 West Superior Street, with Tammi Benson, president and 50 percent stockholder and Cary Gimpel, vice president and 50 percent stockholder, transferred from Ray Skelton (Bedrock Bar), same address.

Resolution 07-0030 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating additional bar license for the period ending August 31, 2007, subject to departmental approvals:

Norshor Experience, Inc. (Norshor Experience), 211 East Superior Street.

Resolution 07-0031 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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 The Title Loan Company, Inc., dba Money Xchange.

Resolution 07-0045 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that John Hall, chief administrative officer 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 06-0019 adopted January 9, 2006, be rescinded.

Resolution 07-0023 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT 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 in 41st Avenue East from Regent Street to Regent Street Alley as part of the Lakeside West Central 2007 street improvement project; that the costs of said improvement estimated at \$18,315 shall be paid from the Special Assessment Fund 0410, Agency 038, Object 5530, Project No. 0126TR06, and that said costs be levied against the property specifically benefitted by said improvements.

Resolution 07-0003 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the city of Duluth established the initial municipal state aid system of streets by resolution approved October 28, 1957, under provisions of Minnesota Laws 1957, Chapter 943.

RESOLVED, it now appears that revisions in the municipal state aid system are necessary.

FURTHER RESOLVED, that portions of the street described as follows he and hereby are designated as a municipal state aid street of the city of Duluth, subject to the approval of the commissioner of transportation of the state of Minnesota: 27th Avenue West from Helm Street to Courtland Street (+) 0.12 miles.

Resolution 07-0004 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the construction of Bridge No. 69671 over Amity Creek on Seven Bridges Road, S.P. 118-080-31.

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RESOLVED, that the grant has been approved and the amount of the grant has been determined to be \$601,290.

FURTHER RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any construction costs qualifying for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the construction costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund. Grant monies received hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Object 4240-01, Project No. 0159TR.

Resolution 07-0005 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the construction of Bridge No. 69672 over Amity Creek on Skyline Parkway (MSAS 176), S.P. 118-176-002.

RESOLVED, that the grant has been approved and the amount of the grant has been determined to be \$582,907.

FURTHER RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any construction costs qualifying for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the construction costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund. Grant monies received hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Object 4240-01, Project No. 0163TR.

Resolution 07-0006 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the following is the revised 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
92277	26th Avenue West	\$1,550,000	\$900,000		\$650,000	2007
93402	Second Street	\$700,000	\$430,000		\$270,000	2008
L5833	Triggs Avenue	\$140,000	\$116,000		\$24,000	2009
L8496	Toledo Street	\$140,000	\$116,000		\$24,000	2010
91143	Third Street	\$680,000	\$544,000		\$136,000	2009

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Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
L3140	63rd Avenue West	\$420,000	\$160,000		\$260,000	2009
69812	27th Avenue West	\$1,300,000	\$900,000		\$400,000	2007
L8491	38th Avenue West	\$135,000	\$85,000		\$50,000	2008
L8516	Fairmont Street	\$135,000	\$100,000		\$35,000	2008
L8476	Lincoln Park Drive	\$700,000	\$550,000		\$150,000	2007
L5931	Niagara Street	\$135,000	\$85,000		\$50,000	2008
88550	Central Avenue	\$200,000	\$75,000		\$125,000	2010

Resolution 07-0009 was unanimously adopted.  
 Approved January 16, 2007  
 HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that Resolution 06-0094 to LHB Engineers and Architects, Inc., for professional engineering services for a condition and rehabilitation study for Bridge No. 92277 at 26th Avenue West over Miller Creek, be amended by an amount of \$62,871 to implement the final design and construction plans and specifications for the rehabilitation of Bridge No. 92277, for a new total of \$71,831. The increase will be payable from Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, City Project No. 0540TR.

Resolution 07-0012 was unanimously adopted.  
 Approved January 16, 2007  
 HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that Thunder Bay Chemicals, Ltd., be and hereby is awarded a contract for furnishing and delivering 150,000 gallons of liquid aluminum sulfate for the utility operations division in accordance with specifications on its low bid of \$99,724.50 plus sales tax of \$6,482.09 for a combined total of \$106,206.59, terms net 30, FOB destination, payable from the Water Fund

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0510, Department/Agency 500, Organization 1955, Object 5216. The total of 150,000 gallons is based on an estimated quantity from the previous year.

Resolution 07-0017 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Hawkins, Inc., dba Hawkins Water Treatment Group - Superior, 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 of its low bid of \$137,500 plus sales tax of \$8,937.50, for a combined total of \$146,437.50, terms net 30, FOB destination, payable from Water Fund 0510, Department/Agency 500, Organization 1955, Object 5216. The total of 100,000 gallons is based on an estimated quantity from the previous year.

Resolution 07-0018 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Hawkins, Inc., dba Hawkins Water Treatment Group - Superior, be and hereby is awarded a contract for furnishing and delivering 145 tons of liquid hydrofluorosilicic acid for the utility operations division in accordance with specifications on its low bid of \$57,275 plus sales tax of \$3,722.88 for a combined total of \$60,997.88, terms net 30, FOB destination, payable from Water Fund 0510, Department/Agency 500, Organization 1955, Object 5216. The total of 145 tons is based on an estimated quantity from the previous year.

Resolution 07-0019 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Hawkins, Inc., dba Hawkins Water Treatment Group - Superior, be and hereby is awarded a contract for 55 tons of liquid chlorine for furnishing and delivering 55 tons of liquid chlorine in accordance with specifications on its low bid of \$27,192 plus sales tax of \$1,767.48 for a combined total of \$28,959.48, terms net 30, FOB destination, payable from Water Fund 0510, Department/Agency 500, Organization 1955, Object 5216. The total of 55 tons is based on an estimated quantity from the previous year.

Resolution 07-0020 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Airgas Specialty Products be and hereby is awarded a contract for furnishing and delivering 40,000 pounds of liquid anhydrous ammonia to the utility services division in accordance with specifications on its low bid of \$23,200 plus sales tax of \$1,508, for a combined total of \$24,708, payable from Water Fund 0510, Department/Agency 500,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Organization 1955, Object 5216. The total of 40,000 pounds is based on an estimated quantity from the previous year.

Resolution 07-0021 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Como Lube and Supplies, Inc., be and hereby is awarded a contract for furnishing and delivering oils and lubricants as needed in years 2007-2008, 2008-2009, 2009-2010, for the fleet services division at an estimated amount of \$100,000 per year, terms net 30, FOB destination, and payable from various funds, departments/agencies, organizations and objects.

Resolution 07-0022 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that the St. Louis County Board of Commissioners is hereby requested to free-convey to the city the following tax forfeited parcels for utility purposes:

Lot 8, Block 19, Morgan Park Company's Rearrangement of Part of Spirit Lake Addition to Duluth.

Resolution 07-0024 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc., to provide professional engineering services related to the Lakewalk east extension, Phase II, from 36th Avenue East to 47th Avenue East, payable from the Capital Improvement Fund 450, Department/Agency 030, Object 5520, Project No. CP2007-OT-0443, City Engineering Project No. 0580TR.

Resolution 07-0025 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that the proper city officials are hereby authorized to acquire at no cost from the Duluth economic development authority, the following described property located in St. Louis County, Minnesota, for the public purpose of stormwater management:

Outlot A, Andrews Division First Addition.

Resolution 07-0027 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that a six-month extension of City Contract #19592 with LHB, Inc., be and hereby is authorized for professional services in updating the city's GIS (geographical information system) stormwater map, beginning January 1 and ending August 31, 2007, for an increase not to exceed \$10,000, and a new contract total of \$95,000, payable from the Stormwater Fund 0535, Department/Agency 500, Organization 1915, Object 5310.

Resolution 07-0032 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Resolution 06-0620 be and hereby is amended to authorize the proper city officials to extend the 2005 contract with Holiday Stationstores for fuel as needed for a period of two months beginning January 1, 2007, and ending February 28, 2007, at an estimated amount of \$100,000, terms net 30, FOB destination, payable out of the Fleet Services Fund 660, Department/Agency 015, Object 5212.

Resolution 07-0034 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that the St. Louis County Board of Commissioners is hereby requested to free-convey to the city of Duluth the following tax forfeited parcels for street and utility purposes:

Parcel B: That part of Lots 21, 23, 25, 27, 29, 31, 33, 35, 37 and 39, Fond du Lac Fourth Street lying 20 feet northerly and 20 feet southerly of the following described line: Beginning at a point on the west line of Lot 21, Fond du Lac Fourth Street, 13.56 feet south of the northwest corner of said Lot 21, to a point on the east line of Lot 39, Fond du Lac Fourth Street, 54.83 feet south of the northeast corner of said Lot 39, thereby terminating.

Parcel D: The southerly 46 feet of the northerly 98 feet of Lots 41, 43 and 45, Fond du Lac Fourth Street. That part of Lots 47, 49, 51, 53, 55 and 57, Fond du Lac Fourth Street described as follows: Beginning at a point on the west line of said Lot 47, 52 feet south of the northwest corner of said Lot 47; thence easterly 40 feet to a point on the east line of said Lot 47, 52 feet south of the northeast corner of said Lot 47; thence northeasterly 81.22 feet to a point on the east line of Lot 51, Fond du Lac Fourth Street, 38.10 feet south of the northeast corner of said Lot 51; thence north 17.30 feet to a point on the east line of said Lot 51, 20.80 feet south of the northeast corner of said Lot 51; thence northeasterly 82.68 feet to the northwest corner of Lot 57, Fond du Lac Fourth Street, thence east 40 feet to the northeast corner of said Lot 57; thence south 64.10 feet to a point on the east line of said Lot 57; thence southwesterly 242.44 feet to a point on the west line of Lot 47, Fond du Lac Fourth Street, 98 feet south of the northwest corner of said Lot 47; thence north 46 feet along the west line of said Lot 47 to the point of beginning. All of Lot 59, Fond du Lac Fourth Street.

Resolution 07-0036 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Waste Management of Northern Minnesota be and hereby is awarded a contract for garbage/refuse removal at various city of Duluth buildings and locations as needed for year 2007 for various departments and divisions in accordance with city specifications at an estimated amount of \$62,000, terms net 30, FOB job site, payable out of various funds, departments/agencies, organizations, objects.

Resolution 07-0038 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that Resolution 06-0176 be amended (Change 3) to authorize the proper city officials to extend the contract with Inter-City Oil, Inc., for delivering fuel to various city locations, for two months, beginning January 1, 2007, and ending February 28, 2007, at an estimated increase of \$26,625, for a new total of \$147,625, terms net 30, FOB destination, payable out of Fleet Service Fund 660, Department/Agency 015, Object 5212.

Resolution 07-0039 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to accept an additional grant award from the state of Minnesota, commissioner of public safety, office of justice programs, in the amount of \$274,286 for the purpose of supporting the operations of the Lake Superior drug and gang task force and to execute the Amendment No. 2 to Grant Contract #2006-NGTF-00369/9300-2194, a copy of which is on file in the office of the city clerk as Public Document No. 07-0116-17, grant funds to be deposited in Fund 215, Agency, 200, Organization 2260, Revenue Source 4210-02.

Resolution 07-0026 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the St. Louis County sheriff be and hereby is authorized to provide identification services for the city of Duluth police department during year 2007 for an estimated amount of \$13,495, payable from General Fund 0100, Department/Agency 200, Organization 1610, Object 5319.

Resolution 07-0033 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

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. 07-0116-18, 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, 2007, through December 31, 2007,

for an amount not to exceed \$262,851 (combined federal, NSIP [formerly known at USDA] and state funds).

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 272, Agency 031, revenue sources 4214, 4215 and 4241.

Resolution 07-0037 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0050, by Councilor Stewart, requesting that the administration develop and present an ordinance authorizing residential parking permits in metered zones, was introduced for discussion.

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

Blake Shippee, Ben Small, Karen Holte and Bryan Reneau expressed support for the resolution for reasons of: the owners have invested \$2 million into the building, which was an eye soar; the parking commission did not support this; the intent to get the hospital employees to use the ramp on First Street is good, but not by means of the meters to accomplish that goal; having a permit system for other metered areas opens up a huge opportunity for the city; the meters were put in with the best of intentions, but it is not working out practically and financially for residents; residents would have to pay \$8 a day, park blocks away or get tickets; some of the residents are low income individuals who are financially just getting by as it is and residents who work night shifts would have to get up every two hours to plug the meters.

Mr. Hall noted that he had been made aware recently that when Neighborhood Housing Services and the Housing and Redevelopment Authority (HRA) assisted in the financing for the Eustone Building that parking was a consideration, with spaces made in the HRA lot.

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

“FURTHER RESOLVED, that the city council requests that the administration temporarily suspend enforcement of the newly installed meters in the vicinity of Fourth Avenue East and First Street and Third Avenue East and Third Street until the resident permit parking program has been developed or other parking solutions have been found,” which motion was seconded and discussed.

Councilors Johnson, Gilbert and Krause expressed concerns about: how a permit parking zone would work for this type of area; the council previously voted to have meters in this area; the new meters represent a sizeable expense; the intent to not enforce the meters; if the council is going to change their position there should be a significant reason and the parking meters should not be bagged.

The amendment carried upon the following vote:

Yeas: Councilors Little, Ness, Stauber, Stewart and President Stover -- 5

Nays: Councilors Gilbert, Johnson, Krause and Reinert -- 4

Resolution 07-0050, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Little, Ness, Stauber, Stewart and President Stover -- 6

Nays: Councilors Johnson and Krause -- 2

Abstention: Councilor Reinert -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

*[EDITOR'S NOTE: Resolution 07-0050 was vetoed by Mayor Bergson on January 26, 2007 (Public Document No. 07-0129-11), reconsidered and tabled by the City Council on January 29, 2007; and amended and approved on February 12, 2007.]*

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BY COUNCILOR JOHNSON:

RESOLVED, that the monthly salary schedule for assistant city attorneys is hereby established as follows:

<b>Effective January 1, 2007</b>				
<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
4,176	4,389	4,602	4,817	5,029
<b>Step 6</b>	<b>Step 7</b>	<b>Step 8</b>	<b>Step 9</b>	<b>Step 10</b>
5,266	5,536	5,806	6,074	6,344
<b>Step 11</b>	<b>Step 12</b>	<b>Step 13</b>	<b>Step 14</b>	<b>Step 15</b>
6,646	6,988	7,550	7,677	8,017
<b>Effective January 1, 2008</b>				
<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
4,301	4,431	4,740	4,962	5,180
<b>Step 6</b>	<b>Step 7</b>	<b>Step 8</b>	<b>Step 9</b>	<b>Step 10</b>
5,424	5,702	5,980	6,256	6,534
<b>Step 11</b>	<b>Step 12</b>	<b>Step 13</b>	<b>Step 14</b>	<b>Step 15</b>
6,845	7,198	7,776	7,907	8,258
<b>Effective January 1, 2009</b>				
<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
4,430	4,474	4,882	5,110	5,335
<b>Step 6</b>	<b>Step 7</b>	<b>Step 8</b>	<b>Step 9</b>	<b>Step 10</b>
5,587	5,873	6,160	6,444	6,730
<b>Step 11</b>	<b>Step 12</b>	<b>Step 13</b>	<b>Step 14</b>	<b>Step 15</b>
7,051	7,414	8,010	8,145	8,506

An assistant city attorney shall, at the time of his or her initial appointment, be placed at Step 1 of such scale, unless a higher step is recommended by the city attorney. During the first two years of service, the attorney shall advance one step in the pay scale every six months until reaching Step 5. Upon written approval of the city attorney, the assistant city attorney shall advance to Step 6, and thereafter shall advance one step in the pay scale upon completion of

each additional year of service, up to Step 10. The assistant city attorney shall remain at Step 10 until written approval of the city attorney allows for advancement to Step 11, and thereafter, the assistant city attorney shall advance one step in the pay scale upon completion of each additional year of service, up to Step 15. At any time, the city attorney, with approval of the chief administrative officer, may advance an assistant city attorney one step in the pay plan.

RESOLVED FURTHER, that should the city attorney appoint a deputy city attorney or chief prosecutor to carry out administrative duties, that person or person shall receive an additional .5 percent of compensation during each month of such service.

RESOLVED FURTHER, that effective January 1, 2007, the monthly salary for the city attorney shall be \$8,595; effective January 1, 2008, the monthly salary for the city attorney shall be \$8,853; and effective January 1, 2009, the monthly salary for the city attorney shall be \$9,119.

RESOLVED FURTHER, that the city attorney and assistant city attorneys shall be entitled to the same fringe benefits, including, but not limited to, health, deferred compensation, retiree and severance, as the supervisory employees of the city, excluding longevity awards.

RESOLVED FURTHER, that the city attorney and assistant city attorneys shall, in addition to the monthly pay prescribed elsewhere in this resolution and effective January 1, 2008, receive, monthly, an amount equal to one percent of his/her basic monthly pay deposited into a Minnesota health care savings plan post employment health care savings plan account, administered by the Minnesota State retirement system, established by the employer in the name of the employee.

RESOLVED FURTHER, that the city shall reimburse the license fee paid by each lawyer in the office of city attorney which is necessary to maintain the lawyer's license.

Resolution 07-0041 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Stauber -- 1

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0044, by Councilor Gilbert, authorizing agreement with Coalition for Eco-Industrial Development for \$25,000, was introduced for discussion.

Councilors Krause and Stewart felt that: there are other organizations which provide "seed" money for start up loans; there is no payback and the city should not be in the business development world.

Resolution 07-0044 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are authorized to execute and implement a contract, substantially in the form of that on file with the city clerk as Public Document No. 07-0116-19, between the city and Coalition for Eco-Industrial Development, for a term of five years at a total cost of \$25,000, payable from Fund 257-015-5340.

Resolution 07-0044 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber and President Stover -- 6

Nays: Councilors Krause and Stewart -- 2

Abstention: Councilor Little -- 1

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0043, by Councilor Ness, requesting the Charter commission to recommend adoption of an ordinance amending Section 102 of the City Charter pertaining to liquor sales near parks, was introduced for discussion.

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

Carol Valentini noted her family's desire to open a Valentini's Restaurant in Duluth, similar to the one that her family has had in Chisholm for approximately 75 years. She stated that it is their intent to put the restaurant in the former Duluth Dodge location at 1400 London Road and that she has a concern that there will be a huge negative impact on their plans if they will be affected by this Charter restriction.

Councilor Krause expressed concern that a number of neighborhoods could be impacted with this removed. He felt that sometimes tragic events occur with alcohol and it would be adverse to have establishments near a park where children play. He expressed hope that some other definition of "park" could be established.

Resolution 07-0043 was adopted as follows:

BY COUNCILOR NESS:

BE IT RESOLVED, that the city council hereby requests that the Charter commission recommend approval of an ordinance amending Section 102 of the City Charter, which proposed ordinance is on file with the city clerk as Public Document No. 07-0116-20.

Resolution 07-0043 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0049, by Councilor Ness, expressing the council's intent to commit itself as a partner in the establishment of a workforce strategy task force, was introduced for discussion.

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

Kevin Snyder, Duluth workforce council chairperson, and Don Hoag, manager of the workforce development division, expressed support for the resolution for the reasons of: the increasing need, with large numbers of baby boomers retiring, for skilled, trained workers across all business sectors; cities that address this problem will engage and retain the youngest and brightest workers and that this is a business issue.

Resolution 07-0049 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the Duluth workforce council is establishing a workforce strategy task force, the purpose of the task force being to develop a comprehensive community strategy that addresses the emerging realities in community and economic development and to establish "workforce vitality" as our area's primary competitive advantage; and

WHEREAS, the WSTF would be administered and managed by the Duluth workforce council, who will establish the task force membership consisting of workforce council members and other key community leaders; and

WHEREAS, the WSTF would be charged with conducting a public strategy process that addresses issues that affect the quality of our area's workforce, broadly defined. Those issues

would include quality of life, education, housing, marketing, and meeting the specific needs of our local employers (among others). Ideally, this process would include a community-wide summit on workforce strategy; and

WHEREAS, the WSTF would address the following community goals in the establishment of their strategies:

(a) Recruit and retain a hard-working, loyal, talented, creative workforce that will effectively meet the specific needs of our existing businesses and emerging industries;

(b) Encourage and enhance entrepreneurship opportunities; develop a culture of entrepreneurship and community support of local entrepreneurs; encourage succession planning for retiring entrepreneurs;

(c) Provide a viable option for boomers to stay in the area after retirement and continue to contribute to the community and to their workplace during their retirement years; help redefine a new, active retirement model in our community;

(d) Micro-targeting to match Duluth's unique assets, culture, and way of life to the people who bring value in the workforce and who are looking for those very assets and values in the community they hope to call home;

(e) To specifically address the issues of underemployment, untapped potential of workforce, the under-prepared workforce, and Duluth's perception problem;

(f) To conduct an aggressive community education campaign to explain the opportunities that workforce change will bring to Duluth and how we can create a true competitive advantage in economic development by investing in this strategy; and

WHEREAS, the WSTF intends to present a final strategy to the city council and the community by the end of 2007.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council commits itself as a partner in the establishment of a workforce strategy task force (WSTF).

Resolution 07-0049 was unanimously adopted.

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0015, by Councilor Little, amending Resolution 06-0492, increasing the contract with Duncan Parking Technologies, Inc., for parking meters and parts by \$50,650.98 for a new total of \$100,530.48, was introduced for discussion.

Councilor Stauber opposed the resolution because he did not support the placement of meters by the new parking ramp and that the problem of resident parking by the new ramp needs to be addressed first.

Resolution 07-0015 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that the contract with Duncan Parking Technologies, Inc., for furnishing and delivering parking meters and parts, be and hereby is increased by \$50,650.98 (\$47,559.60 plus sales tax of \$3,091.38), for a new total of \$100,530.48, terms net 30, FOB destination, payable

from General Fund 100, Department/Agency 700, Organization 1407, Object 5406.

Resolution 07-0015 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Stewart and President Stover -- 5

Nays: Councilors Krause, Little and Stauber -- 3

Abstention: Councilor Reinert -- 1

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0028, by Councilor Little, awarding contract to LDV, Inc., for the purchase of a mobile command post vehicle in the amount of \$151,553, was introduced for discussion.

Deputy Police Chief Beyer reviewed the current frequency of use and condition of the vehicle that is being used at this time, noting that it is very crowded and in need of repairs. He felt that a new vehicle would be used in other new police situations and in conjunction with other law enforcement agencies.

Councilors Stewart and Little felt that \$150,000 is not a necessary expenditure at this time.

Resolution 07-0028 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that LDV, Inc., be and hereby is awarded a contract for a mobile command post vehicle - Model #SWTMCC16LGS260-03 for the city of Duluth police department in accordance with specifications on its bid of \$151,553, terms net 30, FOB destination, payable out of the Capital Equipment Fund 0250, Department/Agency 015, Organization 2006-V604, Object 5580.

Resolution 07-0028 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Little and Stewart -- 2

Approved January 16, 2007

HERB W. BERGSON, Mayor

- - -

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT STOVER

07-002 - AN ORDINANCE AUTHORIZING THE SALE OF CITY OWNED PROPERTY NEAR THE INTERSECTION OF MESABA AVENUE AND CENTRAL ENTRANCE TO MARIA A. IALLONARDO FOR \$20,757.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

07-001 (9815) - AN ORDINANCE AMENDING SECTION 50-35 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO SPECIAL USE PERMIT STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS.

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

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The meeting was adjourned at 8:58 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9815**

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING SECTION 50-35 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO SPECIAL USE PERMIT STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS.

The city of Duluth does ordain:

Section 1. That Section 50-35 be amended to read as follows:

Sec. 50-35. Enumerated.

The following are the special uses for which the city council may issue a special permit, as provided in Section 50-32:

(a) Airport, landing field or landing strip for all forms of aircraft, auto race track and drag strip;

(b) Amusement park, but not within 300 feet of any R district;

(c) Beauty salon in an R district, subject to the following restrictions and conditions:

(1) Such use shall be incidental and subordinate to the principal residential use conducted within a dwelling and not in an accessory building;

(2) At least 120 square feet but not more than 1/4 of the floor area of one story of the building shall be devoted solely to such use and to no other use;

(3) Only one person shall work in the beauty salon and such person shall reside on the premises;

(4) There shall be no separate entrance to the beauty salon from the front of the building, and the applicant shall provide evidence of inspection and compliance with all applicable fire and building codes;

(5) No signs or displays advertising the salon shall be permitted on the premises;

(6) At least two off street parking spaces shall be available on the premises for use by patrons of the salon, such parking space requirement to be in addition to the parking space requirements otherwise applicable to the premises;

(7) Applicant shall, prior to issuance of a special use permit pursuant to this Section, provide proof that applicant has all required licenses for operation of a beauty salon;

(8) Notice and publication as required by Section 50-32.2 of this Code shall, in the case of permits under this paragraph, include mailed notice to all property owners and occupants of property within 200 feet of the building;

(9) No permit shall be granted pursuant to this paragraph if a beauty salon already exists within 1,000 feet of the premises;

(d) The city council recognizes that bed and breakfasts are an asset to the community and help the preservation of historic homes and neighborhoods and help the economy of the region as small businesses. Bed and breakfast inns and country

inns; in districts where they are permitted as special uses and only as provided herein;

(1) This special use permit shall be granted only to those properties, which meet or exceed the criteria outlined herein. A bed and breakfast inn must be a residential building that has no greater impact on the uses of the public areas or infrastructure or natural resources of the neighborhood than, or be apparent to an observer to be other than, the existing property used as a fully occupied private home with house guests. The principal building must appear outwardly to be a single family dwelling, giving no appearance of a business use other than allowed signs.

No permit shall be considered or issued for a bed and breakfast facility located closer than 450 feet to an existing bed and breakfast facility. This limitation may be waived by the city council for properties which are locally designated heritage preservation landmarks;

(2) An application for this special use permit shall include the following:

- (A) A site plan as defined in Section 50-1.60;
- (B) A landscape plan as defined in Section 50-1.40;
- (C) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;
- (D) Sign drawings showing location, dimensions and detail;
- (E) For a waiver of the 450 foot separation, a copy of the resolution designating the properties as a heritage preservation landmark;

(3) Bed and breakfast inns and country inns may be granted special use permits subject to the following standards and conditions:

(A) The property must be comprised of a minimum of 0.6 acre;

(B) The main residential building must contain a minimum of 1,500 square feet of area on the first floor;

(C) For an inn, the proprietor shall be the owner and occupant of the property;

(D) Off street parking for the uses of the property shall be provided on site as required in Section 50-26. Scattered off site parking shall not be allowed;

(E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) as required by the city in order to maintain the apparent single family use of the property;

(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In bed and breakfast country inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in bed and breakfast inns, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises which involve a total number of participants in excess of the approved dining area seating capacity

shall be limited to: six days per year and shall be restricted to the period of October 15 through June 15;

(G) Any construction to restore buildings to historic condition, any construction of new buildings and any exterior alterations to the building must be authorized by the city council through this special use permit process;

(H) There shall be a limitation on the number of guest rooms permitted based on the size of the building, building code or fire code;

(I) Total signage on the property shall not exceed 12 square feet in size. Such signage shall complement the architecture of the structure;

(J) Guests' stays shall be limited to 21 consecutive days;

(K) A bed and breakfast establishment must comply with all building and fire code requirements. Inspections shall be conducted before special use permits or licenses are issued;

(L) The owner/operator shall present inspection reports from the city fire marshal and St. Louis County health department to the city clerk prior to the issuance of any licenses;

(M) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;

(e) Cemetery, crematorium or mausoleum;

(f) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not more than six children, and is an extension of an existing facility licensed under state law.

Any such facility shall meet all other state licensing requirements for such facilities, be contiguous to or located not more than 100 feet from the existing licensed facility charged with operation of the facility, and must not present any external image other than that of a single family residence;

(g) Circus or carnival grounds, but not within 300 feet of any R district;

(h) Clinic of less than 10,000 square feet in floor area;

(i) Commercial, recreational or amusement development for temporary or seasonal periods;

(j) Commercial rooming house, but only in those districts where permitted as special use;

(k) Commercial services and recreational uses in the IP industrial park district, as further defined in Section 50-123 of this Chapter;

(l) Day care facility, but only in those districts where permitted as a special use;

(m) Elderly congregate housing facility, but only in those districts where permitted as a special use;

(n) Marina;

(o) Mini storage facilities; subject to compliance with the following criteria:

(1) Located in a S zone;

(2) On a parcel not less than 7-1/2 acres in size with no less than 500 feet of frontage on a publicly maintained right-of-way;

(3) Development shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration (5.25 inches of rainfall);

(4) Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

(5) There shall be maintained a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

(6) There shall be a minimum structure setback of 100 feet from any property line;

(7) Storage area unit shall not exceed a 12 foot wall height and a floor area of 300 square feet;

(8) Lighting shall be limited so as not to illuminate beyond property lines;

(p) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the R-4 district;

(q) Petroleum soil treatment;

(1) Petroleum soil treatment in the form of land treatment (soil farming) shall be located in S-suburban zones and shall comply with the following criteria:

(A) That the pollution control agency (PCA) shall have reported to the planning department regarding the individual site and the possibility of any problems relative to issuance of PCA authorization for use of the site;

(B) The natural topography, drainage character, vegetation and use of the site shall not be altered beyond site preparation required for any listed permitted land use within the S-suburban zone. Specifically:

1. No vegetation shall be cut or removed from within state required setbacks except as required for installation of temporary roads;

2. Vegetation removal shall be minimal. Vegetation greater than six inches caliper shall not be removed except as determined necessary to accommodate minimal equipment clearances, and there shall be minimal preparation of the soil on the treatment area. Such preparation shall minimize disturbance of the topsoil and does not preclude the return of the site to listed permitted S-suburban zone land uses;

(C) All treatment areas must be planted to pasture grasses during treatment and replanted to the original vegetation after the treatment process has been completed;

(D) No sites shall be located within wetland, shore land or flood zones as defined by Chapter 51 of the Code;

(E) That the applicant shall maintain the treatment site in strict compliance with all conditions of this permit and associated state or federal permits;

(2) Petroleum soil treatments using biodegradation such as composting or aerobic treatment cells or other technologies as may be developed and approved by the PCA from time to time, shall be only permitted in M-1 and M-2 zones, and shall be subject to the standards (A), (B), (D) and (E) cited above;

(r) Power transmission line, review and approval to be provided for separately in each of two steps:

(1) A general corridor special use permit;

(2) A final design special use permit, under the following conditions and procedures:

(A) Submittal information for general corridor special use permits. In addition to other information required by the special use permit process, the applicant shall provide the following information with applications for general corridors:

1. A statement demonstrating the need for the proposed line;

2. Drawings showing the approximate location of a preferred route (having a width of less than 1,000 feet) and at least one alternative route. Included within each route shall be an intended center line and subject site and adjacent area information, the form of which shall be determined by the planning commission on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views. Drawings shall also indicate proposed general types, heights and ranges of spacing of supporting structures and related equipment such as pumping stations, although the specific type of line shall not be approved until the final design review;

3. A statement identifying potential locations of conflict such as adjacent scenic and residential areas and describing general proposed methods of dealing with such conflicts;

4. A statement addressing each applicable standard of Section 50-35(r)(4) below in regard to the preferred route and alternative routes;

(3) Submittal information for final design special use permits. In addition to information otherwise required by the special use permit process, the applicant shall provide the following for final design special use permits:

(A) Plans and profiles, the form of which shall be determined by the planning commission, showing the exact location of the center line and the exact location and design of supporting structures and related equipment as proposed by the applicant. Alternative potential designs of supporting structures shall also be presented;

(B) A landscaping plan and subject site and adjacent area information on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views in a form which shall be determined by the city planning commission;

(C) A statement addressing each applicable standard of Section 50-35(r)(4) below;

(4) Standards for approval. No special use permit shall be granted unless the following standards and conditions are met in addition to normal requirements of the special use permit process:

(A) For general corridor special use permits:

1. The public need for the route and facility as specifically proposed shall be demonstrated;
2. Where possible, lines shall avoid existing and potential urban density residential neighborhoods;
3. The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

(B) For final design special use permits:

1. Where it is determined that a proposal would unduly harm adjacent property or property values, it shall be determined that no other feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;
2. All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;
3. Lines shall meet or exceed the National Electric Safety Code;
4. Electro-magnetic noise and interference with radio and television reception, as well as audible hum outside the line right-of-way, shall be minimized;
5. The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

(C) For both general corridor and final design special use permits. The following standards shall apply in addition to those required above under general corridor and final design special use permits:

1. When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion which would create sedimentation and pollution problems; areas of unstable soils which would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

2. Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

(5) Alteration of final design special use permit. Once the final design special use permit is issued, the applicant may change the height and location of structures for engineering purposes provided no structure height is increased or decreased by more than 20 percent of its approved height or moved more than 25 feet from its approved location. Should it be necessary to alter the height or location more than the amounts set forth herein, applicant must obtain the approval of the city planning commission after the commission has conducted its normal public hearing and notice procedures. The decision of the planning commission on any alterations shall be final unless appealed to the city council within ten days;

(s) Privately operated community building or recreation field;

(t) Any public or government owned or leased building not permitted in a particular district; provided that such permit shall run for a full period of the lease and that both lease and permit shall run for not less than ten years from date of permit;

(u) Radio or television broadcasting tower or station;

(v) Residential care facility, only in those districts where permitted as a special use;

(w) Residential rooming house, only in those districts where permitted as a special use;

(x) Riding stable;

(y) Solid waste disposal facility;

(1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;

(2) An application for this special use permit shall include the following:

(A) A complete legal description of the property and the specific site within the property description;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65.7;

(D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;

(E) Engineering certification, signed by the project engineer, which must certify (with any exceptions listed) that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;

(F) Signage plans showing location, dimensions and detail;

(G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;

(H) Ground water monitoring plan as and if required by state statutes or rules;

(I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;

(3) Standards and conditions. Solid waste disposal facilities and yard waste composting facilities may be granted special use permits in S, M-1 and M-2 zones subject to the following:

(A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In S and M-1 zones the setback shall be 300 feet from all properties zoned other than M-2. Such setbacks shall be bermed and/or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;

(B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and Western Lake Superior Sanitary District requirements in accordance with Minnesota Statutes and agency rules;

(C) Solid waste disposal facilities for industrial waste shall only be allowed in M-2 zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;

(D) Solid waste disposal facilities for construction debris shall only be allowed in M-2 zones;

(E) Facilities for composting of yard waste shall not accept materials other than yard waste;

(F) No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined in Chapter 51 of this Code;

(G) All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;

(H) There shall be no burning of materials;

(I) Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in S and M-1 zones shall be constructed with an approved, as part of the special use permit, dust free material;

(J) All vehicles transporting materials to or from the facility shall be covered;

(K) For sites in S and M-1 zones, there shall be no dumping or operations outside of buildings, nor delivery or removal of materials to or from the site occurring between the hours of 10:00 p.m. and 7:00 a.m.;

(L) Except for yard waste composting facilities there shall be no processing (separating or sorting) of materials outside of covered structures;

(M) Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed 55db at any property line which abuts property zoned other than M-2;

(N) In S and M-1 zones there shall be no exterior lighting permitted except to provide security for buildings and parking areas. Where such lighting is permitted it shall be directed so no light source is visible from any property line;

(O) Compliance funding: in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

(z) Strobe lights, as defined in Section 10-36 of this Code, may be used on radio and television broadcasting towers exceeding 400 feet in height located in that area of the city commonly known as the tower farm within Section 28, Township 50, Range 14, subject to the following restrictions and conditions:

(1) Strobe lights may be used only when the north sky illumination on a vertical surface at the base of the tower is greater than five footcandles. Red obstruction lights must be used at all other times;

(2) Strobe installations shall be shielded so as not to be visible from ground elevation for a radius of two miles from the antenna base;

(3) Strobe installations will be allowed only on towers which are required by federal aviation administration regulations to be painted orange and white;

(aa) Drive-in theater in the S suburban district;

(bb) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the state;

(cc) Essential municipal or public utility use, facility or building, other than a business office or production facility; provided that such use, facility or building shall be located in a S district only if its specific function requires that it be so located in order to serve the immediate neighborhood, as opposed to serving a major portion of the community. Provided, that a substation which serves more than the immediate neighborhood may be granted a special use permit in S districts if such substation is located in such a manner that it is visually screened from adjacent properties and is located on a site of at least five acres;

(dd) Veterinarian or animal hospital; provided, that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house and kept for company or pleasure) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a sound-proof building with adequate ventilation;

(ee) Wind energy conversion systems. Wind energy conservation systems (WECS) shall be permitted, provided; tower height shall not exceed 200 feet; that existing or future uses permitted within adjacent properties are not adversely effected by noise, electronic signal interference or safety conditions; that satisfactory

visual screen buffers be provided at the edges of the property to mitigate aesthetic impacts upon the neighborhood if located within "R" districts; and that WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower unless it can be demonstrated that tower failure would not damage adjacent public or private interests;

(ff) Personal wireless communications service towers. These towers shall include all towers and poles over 50 feet high used to provide "personal wireless services" as defined in 47 USCS §332(c)(7)(C)(I), including those commonly known as cellular telephone towers or personal communications services (PCS) towers. The following standards shall apply to the considerations of special use permits for these towers:

(1) No permit decision shall unreasonably discriminate among providers of functionally equivalent services;

(2) No permit decision shall have the effect of prohibiting personal wireless services in an area;

(3) No permit decision shall be based on the environmental effects of radio frequency emissions if the proposed tower complies with all applicable federal communications commission regulations;

(4) Any decision to deny a permit for these towers must be made in writing and supported by substantial evidence contained in a written record;

(5) The construction of new towers shall, where possible, be avoided when there are existing high buildings or other structures in the area that can reasonably be used to house the telecommunications facilities;

(6) Whenever possible, new towers shall be built in zones for manufacturing or commercial uses as opposed to zones for residential uses;

(7) New towers shall, where possible, be constructed to accommodate multiple telecommunications users and thus minimize the proliferation of the towers, if such multiple use capacity can be attained using reasonable height limitations;

(8) New towers shall, where reasonably possible, be designed to blend into the proposed site so as to minimize its visual impact on the surrounding area;

(9) Telecommunications facilities and equipment used in conjunction with the tower shall not create unacceptable noise levels for the surrounding area;

(10) New towers shall comply with all applicable laws, including, but not limited to, the state building code and federal communications and aeronautics statutes, rules and regulations.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: February 25, 2007)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed January 16, 2007  
Approved January 16, 2007  
HERB W. BERGSON, Mayor

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**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, January 25, 2007, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Reinert, Stauber, Stewart and President Stover -- 7

Absent: Councilors Little and Ness -- 2

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**REPORTS OF OTHER OFFICERS**

07-0125-01 Finance department director: (a) Presale analyses of sales of: (1) \$17,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2007 (07-0046R); (2) Duluth economic development authority \$1,345,000 lease revenue refunding bonds, Series 2007A (07-0051R); (b) Official statements regarding: (1) \$17,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2007 (07-0046R); (2) Duluth economic development authority \$1,345,000 lease revenue refunding bonds, Series 2007A (07-0051R); (c) Bid results regarding: (1) \$17,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2007 (07-0046R); (2) Duluth economic development authority \$1,345,000 lease revenue refunding bonds, Series 2007A (07-0051R). -- Received

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**MOTIONS AND RESOLUTIONS**

Resolution 07-0046, by Councilor Stewart, providing for the issuance, sale and delivery of \$17,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2007 of the city of Duluth, Minnesota, and prescribing the terms thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 07-0051, prescribing the form of and authorizing the execution of an amendment to lease with the Duluth economic development authority in connection with the community center in the former Washington Junior High School, were introduced for discussion.

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

Finance Department Director Stark and Jessica Cameron, representing The PFM Group, reviewed the results of the sales and recommended the council accept the bids.

Resolutions 07-0046 and 07-0051 were adopted as follows:

BY COUNCILOR STEWART:

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. 07-0013, adopted January 8, 2007, authorized the issuance and provided for the sale of \$17,000,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2007 (the "Certificates") in anticipation of collection of taxes levied in the year 2006 for collection during the year 2007 and state aids receivable in 2007 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 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 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.

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 Wachovia Bank, N.A. of Charlotte, North Carolina, (the "Purchaser"), to purchase the Certificates at a cash price of \$17,055,080, plus accrued interest on the total principal amount from February 7, 2007, to the date of delivery of the Certificates and upon condition that the Certificates mature and bear interest at the times and annual rate 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 7, 2007, 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, 2007 (the "Maturity Date"). The Certificates shall not be subject to redemption prior to the Maturity Date. The Certificates shall bear interest at the rate of 4.00 percent per annum. Interest on the Certificates shall be payable on the Maturity Date. Interest shall be computed on the basis of a 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, 2007, 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, 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. 04-0219-03. 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,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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

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

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

CITY OF DULUTH

GENERAL OBLIGATION TAX AND AID ANTICIPATION CERTIFICATE  
OF INDEBTEDNESS OF 2007

R-1 \$17,000,000

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	December 31, 2007	February 7, 2007	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: SEVENTEEN 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, 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, 2007, 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 \$17,000,000, pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, and pursuant to a resolution adopted by the City Council of the City on January 25, 2007 (the "Resolution").

It is hereby certified and recited that a sum of \$35,026,500 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 2006 for collection during the year 2007, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 2007; 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,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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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 7<sup>th</sup> day of February, 2007.

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, 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, 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, National Association in the name of the registered owner last noted below.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Date	Registered Owner	Signature of Bond Registrar
2/7/07	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

\_\_\_\_\_

(Name and Address of Assignee)

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

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

Signature Guaranteed:

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

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 2007, 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 \$17,000,000, 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 \$17,000,000, 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 \$630,000, pursuant to Section 3 of Ordinance No. 9810 (the "Certificates Interest Levy"), to be utilized in part to pay the interest on the Certificates. The City Council covenants and agrees that it will deposit into the Debt Service Account, as received, all of the Certificates Interest Levy up to 100% of the amount necessary to pay the interest on the Certificates. The City Council hereby certifies that the General Fund Taxes are \$7,186,300, and based on notices from the Minnesota Department of Revenue, the State Aids are reasonably expected to be \$27,840,200.

C. The City Council hereby declares that the full faith and credit and taxing power of the City and the proceeds of the current tax levies for the General Fund, which is the amount levied in Section 2 of Ordinance No. 9810, adopted by the City Council on December 18, 2006 (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 2007 (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. 04-0219-03.

Resolution 07-0046 was unanimously adopted.

Approved January 25, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

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

Section 1. Recitals.

1.01 The Duluth economic development authority (the issuer) issued its \$2,720,000 lease revenue bonds, Series 1995A (the Series 1995A bonds), of which \$1,640,000 in principal amount is outstanding on the date hereof. The proceeds of the Series 1995A bonds were used to develop community center facilities, including meeting rooms, community police offices, storage space and athletic facilities, consisting of a gymnasium, swimming pool and changing facilities and related improvements for parking and park/open space within the city's portion of the former Washington Junior High School (the project).

1.02 Pursuant to Resolution 95-0428, the city council approved and proper city officials executed and/or approved the following documents in connection with the project and the issuance of the Series 1995A bonds:

(a) A primary lease (the primary lease) entered into between the city and the issuer, pursuant to which the city, as lessor, leases the city portion (as defined in the primary lease) to the issuer, as lessee;

(b) A lease (the lease) entered into between the issuer and the city, pursuant to which the issuer, as lessor, leased the city portion (as defined in the lease) to the city, as lessee;

(c) The trust indenture (the indenture) between the issuer and Norwest Bank Minnesota, National Association, now known as Wells Fargo Bank, National Association (the trustee).

1.03 It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, for debt service savings, and the city has requested that the issuer issue its \$1,380,000 lease revenue refunding bonds, Series 2007A (the bonds), to provide funds to prepay and redeem the outstanding Series 1995A bonds, to establish a reserve fund and to pay the costs of issuance of the bonds. The principal of and interest on the bonds shall be payable from lease rentals from the city's Lease of the project sufficient to provide for the prompt and full payment of the bonds and interest accruing thereon.

1.04 As authorized by Minnesota Statutes, chapters 469 and 475, including Section 469.103 (the act), the Issuer has agreed to enter into an amendment to the lease with the city and to issue the bonds to prepay and redeem the Series 1995A bonds maturing in 2007 and thereafter, to fund a reserve fund and to pay the costs of the refunding and the costs of issuance of the bonds. The debt service on the bonds will be payable from the basic rent provided for in the Lease, as amended. The lease, as amended, is subject to annual appropriation by the city council with a right of the city to terminate the lease upon nonappropriation of funds to pay the rents due thereunder.

1.05 The forms of the following documents have been prepared and submitted to the city council (Public Document No. 07-0125-02):

(a) A first amendment to lease (the first amendment to lease) proposed to be entered into between the issuer and the city, pursuant to which the issuer, as lessor, will amend the lease, will continue to lease the city portion (as defined in the lease) to the city, as lessee, and the city will agree to pay rent, including amounts sufficient to pay the principal of and interest on the bonds; and

(b) The first supplemental trust indenture (the first supplemental indenture) between the issuer and the trustee.

Section 2. Findings.

2.01 The terms of the first amendment to lease and first supplemental indenture are found to be advantageous to the city and are hereby approved.

2.02 The primary lease, the lease, as amended by the first amendment to lease, and the indenture, as amended and supplemented by the first supplemental indenture, are hereby approved and affirmed.

2.03 The terms of the bonds as set forth in the first supplemental indenture are hereby approved.

Section 3. Authorization and approval of the documents. The first amendment to lease and first supplemental indenture are hereby made a part of this resolution as though fully set forth herein and are hereby approved in substantially the forms presented to the city council. The mayor and the city clerk are authorized and directed to execute, acknowledge and deliver the first amendment to lease on behalf of the city with such changes, insertions and omissions therein as the attorney for the city may hereafter deem appropriate. Such execution is to be conclusive evidence of approval of such document in accordance with the terms hereof.

Section 4. Other documents. The mayor, the city clerk and the other officers of the city are authorized and directed to arrange for the notices for and the redemption and prepayment of the outstanding series 1995a bonds, execute and deliver all of the certificates, documents and agreements, which may be required under the terms of the first amendment to lease and first supplemental indenture or by attorneys approving the bonds and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

Section 5. Other proceedings.

5.01 The mayor, the city clerk and the other officers of the city are authorized to furnish to the purchaser of the bonds, the issuer, the trustee and counsel approving the bonds certified copies of all proceedings and records of the city and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the transactions contemplated herein, as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies of certificates and affidavits, including any heretofore furnished, shall constitute representations of the city as the truth of all statements contained therein.

5.02 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 obligated persons 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 bonds and the security therefor and to permit underwriters of the bonds to comply with the rule, which will enhance the marketability of the bonds, the mayor and the city clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 07-0125-02.

5.03 The city covenants and agrees with the issuer and 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 tax, 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 specified periods.

Section 6. Maintenance of account.

6.01 There has been created, and the city agrees to maintain, a separate rental payment account for payment of rent under the lease, as amended, which shall be a separate segregated account within the city's general fund. The monies in the rental payments account shall be used for no purpose other than the payment of the basic rent and the additional rent under the lease. The treasurer is authorized and directed to transfer monies of the city to the rental payments account at the times and in an amount sufficient to ensure that rent under the lease is paid when due. The city will pay promptly when due, all of the rent and other amounts required by the lease, as amended, from the sources at the times and in the amounts specified herein and in the lease, as amended.

Resolution 07-0051 was unanimously adopted.

Approved January 25, 2007

HERB W. BERGSON, Mayor

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The meeting was adjourned at 5:17 p.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, January 29, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber and Vice President Johnson -- 7

Absent: Councilor Stewart and President Stover -- 2

- - -

Vice President Johnson presided over the meeting in the absence of President Stover.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0129-01 DSGW Architects, Inc., concurrent use permit application for new parking arrangement and stairway at 2200 London Road. -- Planning commission

07-0129-02 Richard LeBeau, et al. (one signature), further petition to reclassify from R-1-a to C-5 the westerly 550 feet of the southerly 433 feet of the easterly 1,858.11 feet of the south 1/2 of the southeast 1/4, Section 8, Township 50, Range 14. -- Assessor

07-0129-03 Duluth Lakewalk Offices, LLC, acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9800 on November 13, 2006. -- Received

07-0129-04 Eric Ringsred communications (two) regarding the on sale intoxicating liquor license of Black River Mills, Inc. (Kozy Bar), 129 East First Street (07-0063R). -- Received

07-0129-12 The following communications regarding residential parking in designated metered areas (07-0050R): (a) Bridget Friday; (b) Angela McDermott; (c) Jillian McGee; (d) Theresa Shelley; (e) ShipRock Management, Inc.; (f) Jamie Washington; (g) Andrew Weyrauch; (h) Jessica Zibell. -- Received

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**REPORTS FROM THE ADMINISTRATION**

07-0129-11 Mayor Bergson veto of Resolution 07-0050, requesting that the administration develop and present an ordinance authorizing residential parking permits in metered zones. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0129-05 Assessor:

(a) Assessment roll levied to defray the assessable portion of Contract No. 5422, Denim Drive, full development (assessable amount \$271,384.79);

(b) Letters of sufficiency of:

(1) Further petition to reclassify from R-1-a to C-5 the westerly 550 feet of the southerly 433 feet of the easterly 1,858.11 feet of the south 1/2 of the southeast 1/4, Section 8, Township 50, Range 14;

(2) Petitions to vacate:

(A) A portion of Austin Street, Woodland Park Second Division;

(B) The public easement lying over, under and across that part of vacated Helm Street, Marine Division of Duluth, lying between the easterly line of 32nd Avenue West and a line drawn from the northeast corner of Lot 27, Block 3, Marine Division of Duluth, to the southeast corner of Lot 12, Block 4, Marine Division of Duluth. -- Received

07-0129-06 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) St. James Catholic School on June 4, 2007; (b) St. Louis and Carlton County Chapter of Pheasants Forever on April 20, 2007. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

07-0129-07 Duluth human rights commission minutes of December 13, 2006, meeting. -- Received

07-0129-08 Duluth/North Shore Sanitary District minutes of December 13, 2006, meeting. -- Received

07-0129-09 Parks and recreation commission minutes of: (a) November 8; (b) December 13, 2006, meetings. -- Received

07-0129-10 Planning commission minutes of: (a) November 28; (b) December 12, 2006, meetings. -- Received

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Alison Clarke, representing Neighborhood Planning District No. 7, requested the council to encourage the administration to move forward expeditiously to acquire and establish the public's right to use a strip of shoreline located near the development northeast of 23rd Avenue East called The Ledges.

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Blake Shippec requested the council reconsider the original resolution dealing with parking meters near St. Mary's Medical Center/Duluth Clinic and at looking at the parking permit process, otherwise tenants of rental units will need to leave the area because of the parking tickets and lack of off street parking in the area.

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At this time, 7:10 p.m., the public hearing regarding the 2007-2011 capital improvement plan bond issuance was called to order.

Finance Department Director Stark explained that the public hearing is a requirement under state statute if the city is going to sell bonds for the capital improvement plan, which the council has approved for year 2007 and which will not be sold until December of 2007.

No one appeared who wished to be heard and the public hearing was closed at 7:13 p.m.

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At this time, 7:14 p.m., the public hearing regarding the establishment of Tax Increment Financing (TIF) District No. 24 (Duluth renaissance project) was called to order.

Tom Cotruvo explained that this project is located on the block between Lake Avenue and First Avenue East and would consist of 21 new dwelling units, an open plaza in the middle of the block, two historic buildings at the end of the block which would be renovated into new office and retail space and a 70 car parking ramp located beneath the plaza.

Keith Nelson and Dennis Fink, St. Louis County commissioners, spoke against the resolutions for the following reasons: TIF districts pad the pockets of developers with taxpayers' money; the city approves too many TIF districts; the city needs to encourage private investors and developments without using public money and this project does not meet the "but for" test. They also stated that they will be requesting the legislature for changes in the law creating TIF districts.

Craig Olson, president of Duluth Trades Council, urged support of this project as TIF districts serve a useful purpose by creating developments that provide jobs for the trade unions.

Bill Burns, attorney for A&L Development, stated that this \$20 million project is a classic example of public and private development with \$9 million of private money and a \$6 million bank debt is being personally guaranteed by the developer. He reviewed the process the project has gone through, including the presentation to the planning commission of the environmental assessment worksheet that related to the restoration of the block and the Duluth economic development authority approving the development agreement. Mr. Burns stated that this project provides jobs for the construction community, the developer has voluntarily agreed to the living wage guidelines and there is a commitment from A&L Development to work with the city to develop a site to create a link to the Lakewalk in 2008.

No one else appeared who wished to be heard and the public hearing was closed at 7:35 p.m.

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Councilor Stauber moved to consider at this time Resolution 07-0066, approving the decertification of parcels from Tax Increment Financing District Nos. 2 and 19 within Development District No. 17 of the city of Duluth; Resolution 07-0072, establishing Tax Increment Financing District No. 24 (the Duluth renaissance project) and adopting a tax increment financing plan therefor; and Resolution 07-0073, approving the development agreement between the Duluth economic development authority and A&L Duluth Renaissance, LLC, relating to the old historic district renaissance project, which motion was seconded and unanimously carried.

Councilor Krause stated that this project does not do anything but create short term construction jobs when the city needs to create full time jobs in industries that keep people in Duluth.

Councilor Ness stated that this is an important project for the Downtown area and without some public funding this type of quality development would not be happening in Duluth.

Resolutions 07-0066, 07-0072 and 07-0073 were adopted as follows:

BY COUNCILOR STAUBER:

The city council of the city of Duluth (the city) hereby finds the following:

(a) The city created its tax increment financing district Nos. 2 and 19 (district Nos. 2 and 19) within its Development District No. 17 (the project);

(b) The city desires by this resolution to cause the decertification of parcel numbers 010-0410-00150 and 010-0410-00180 from Tax Increment Financing District No. 2 (TIF District No. 2), therefore reducing the size of TIF District No. 2;

(c) The city desires by this resolution to cause the decertification of parcel numbers 010-0410-00340, 010-0410-00350, 010-0410-00370, 010-0410-00380 and 010-0410-00390 from Tax Increment Financing District No. 19 (TIF District No. 19), therefore reducing the size of TIF District No. 19;

(d) Since the current net tax capacity of the parcels to be eliminated from TIF District No. 2 equals or exceeds the net tax capacity of the parcels in TIF District No. 2's original net tax capacity, the holding of a public hearing is not required pursuant to Minnesota Statutes, Section 469.175, Subd. 4;

(e) Since the current net tax capacity of the parcels to be eliminated from TIF District No. 19 equals or exceeds the net tax capacity of the parcels in TIF District No. 19's original net tax capacity, the holding of a public hearing is not required pursuant to Minnesota Statutes, Section 469.175, Subd. 4.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth that parcel numbers 010-0410-00150, 010-0410-00180, 010-0410-00340, 010-0410-00350, 010-0410-00370, 010-0410-00380 and 010-0410-00390 are hereby eliminated from district Nos. 2 and 19 and the city's staff shall take such action as is necessary to notify the county auditor of the reduction in the geographic area of district Nos. 2 and 19 caused by the elimination of such parcels.

Resolution 07-0066 was adopted upon the following vote:

Yeas: Councilors Gilbert, Little, Ness, Reinert, Stauber and Vice President Johnson -- 6

Nays: Councilor Krause -- 1

Absent: Councilor Stewart and President Stover -- 2

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

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 board of commissioners (the board) of the Duluth economic development authority (DEDA) has heretofore established Development District No. 17 and adopted the development program therefor. It has been proposed by DEDA that the city establish Tax Increment Financing District No. 24 the Duluth renaissance project (the district) therein and adopt a tax increment financing plan (the TIF plan) therefor, said TIF plan on file in the office of the city clerk as Public Document No. 07-0129-20, all pursuant to and in conformity with applicable law, including Minnesota Statutes, sections 469.090 to 469.1082 and sections 469.174 to 469.1799, all inclusive, as amended, (the act) all as reflected in the TIF plan and presented for the council's consideration.

1.02. DEDA and city have investigated the facts relating to the TIF plan and have caused the TIF plan to be prepared.

1.03. DEDA and city have performed all actions required by law to be performed prior to the establishment of the district and the adoption and approval of the proposed TIF plan, including, but not limited to, notification of St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property to be included in the district, a review of and written comment on the TIF plan by the city planning commission, approval of the TIF plan by DEDA on December 11, 2006, and the holding of a public hearing upon published notice as required by law.

1.04. Certain written reports (the reports) relating to the TIF plan and to the activities contemplated therein have heretofore been prepared by staff and consultants and submitted to the council and/or made a part of the city files and proceedings on the TIF plan. The reports include data, information and/or substantiation constituting or relating to the basis for the other findings and determinations made in this resolution including the environmental assessment worksheet and quality board review; the Duluth East Downtown, Hillside Waterfront Charrette report and plan; and an inspection of the buildings and site by LHB Architects. The council hereby confirms, ratifies and adopts the reports, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein.

1.05 The city is not modifying the boundaries of Development District No. 17 or the development program.

Section 2. Findings for the adoption and approval of the TIF plan.

2.01. The council hereby finds that the TIF plan is intended and, in the judgment of this council, the effect of such actions will be, to provide an impetus for development in the public interest and accomplish certain objectives as specified in the TIF plan, which is hereby incorporated herein.

Section 3. Findings for the establishment of Tax Increment Financing District No. 24 the Duluth renaissance project.

3.01. The council hereby finds that the district is in the public interest and is a redevelopment district under Minnesota Statutes, Section 469.174, Subd. 10 (a)(1).

3.02. The council further finds that the proposed redevelopment would not occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site 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 the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the TIF plan, that the TIF plan conforms to the general plan for the development or redevelopment of the city as a whole; and that the TIF plan will afford maximum opportunity consistent with the sound needs of the city as a whole, for the development or redevelopment of the district by private enterprise.

3.03. The council further finds, declares and determines that the city made the above findings stated in this section and has set forth the reasons and supporting facts for each determination in writing, which findings are on file in the office of the city clerk as Public Document No. 07-0129-20.

Section 4. Public purpose.

4.01. The adoption of the TIF plan conforms in all respects to the requirements of the act and will help fulfill a need to develop an area of the city which is already built up, to provide employment opportunities, to improve the tax base and to improve the general economy of the state and thereby serves a public purpose. For the reasons described in the findings referenced in Section 3.03 above, the city believes these benefits directly derive from the tax increment assistance provided under the TIF plan. The developer will receive only the assistance needed to make this development financially feasible. As such, any private benefits received by the developer are incidental and do not outweigh the primary public benefits.

Section 5. Approval and adoption of the TIF plan.

5.01. The TIF plan, as presented to the council on this date, including without limitation the findings and statements of objectives contained therein, is hereby approved, ratified, established, and adopted and shall be placed on file in the office of the executive director of DEDA.

5.02. The staff of the city, the city's advisors and legal counsel are authorized and directed to proceed with the implementation of the TIF plan and to negotiate, draft, prepare and present to this council for its consideration all further plans, resolutions, documents and contracts necessary for this purpose.

5.03 The auditor of St. Louis County is requested to certify the original net tax capacity of the district, as described in the TIF plan, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and DEDA is authorized and directed to forthwith transmit this request to the county auditor in such form and content as the auditor may specify, together with a list of all properties within the district, for which building permits have been issued during the 18 months immediately preceding the adoption of this resolution.

5.04. The executive director of DEDA is further authorized and directed to file a copy of the TIF plan with the commissioner of the Minnesota department of revenue and the office of the state auditor pursuant to Minnesota Statutes, Section 469.175, Subd. 4a.

Resolution 07-0072 was adopted upon the following vote:

Yeas: Councilors Gilbert, Little, Ness, Reinert, Stauber and Vice President Johnson -- 6

Nays: Councilor Krause -- 1

Absent: Councilor Stewart and President Stover -- 2

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city council of the city of Duluth does hereby approve the development agreement on file in the office of the city clerk as Public Document No. 07-0129-21, between the Duluth economic development authority (DEDA) and A&L Duluth Renaissance, LLC, (developer) for the Old Historic District renaissance project.

Resolution 07-0073 was adopted upon the following vote:

Yeas: Councilors Gilbert, Little, Ness, Reinert, Stauber and Vice President Johnson -- 6

Nays: Councilor Krause -- 1

Absent: Councilor Stewart and President Stover -- 2

Approved January 29, 2007

HERB W. BERGSON, Mayor

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### **RESOLUTION RECONSIDERED**

Councilor Stauber moved to reconsider Resolution 07-0050, as amended, requesting that the administration develop and present an ordinance authorizing residential parking permits in metered zones, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Krause, Little, Ness, Stauber and Vice President Johnson -- 6

Nays: Councilor Reinert -- 1

Absent: Councilor Stewart and President Stover -- 2

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

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### **RESOLUTIONS TABLED**

Councilor Stauber moved to remove Resolution 06-0875, confirming assessment roll levied to defray the assessable portion of 3400 Drive Trinity Road sanitary sewer and watermain extension, from the table, which motion was seconded and unanimously carried.

Resolution 06-0875 was adopted as follows:

BY COUNCILOR STAUBER (Introduced by Councilor Stewart):

RESOLVED, that the assessment roll levied to defray the assessable portion of 3400 Drive Trinity Road sanitary sewer and watermain extension (Contract #5402; assessable amount -

\$96,063.76), to be deposited in Fund 325, is hereby confirmed.

Resolution 06-0875 was adopted upon the following vote:

Yeas: Councilors Krause, Little, Ness, Reinert, Stauber and Vice President Johnsonr -- 6

Nays: Councilor Gilbert -- 1

Absent: Councilor Stewart and President Stover -- 2

Approved January 29, 2007

HERB W. BERGSON, Mayor

*[EDITOR'S NOTE: Resolution 06-0875 was reconsidered on February 12, 2007.]*

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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 STAUBER:

RESOLVED, that the assessment roll levied to defray the assessable portion of Denim Drive - full development (Contract #5422; assessable amount - \$271,384.79), to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0035 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech Ojard & Associates, P.A., Engineers and Architects, for the sum of not to exceed \$28,436, from Capital Bond Fund 450, Agency 030, Organization 5520, Project No. OT-0709, for providing certain professional services to the city of Duluth in connection with East Duluth vehicle storage facility, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 07-0129-13.

Resolution 07-0060 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On November 1, 2006, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Black River Mills, Inc. (Norshor Theater), 211 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0129-14;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on January 29, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0129-14 regarding any

suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Black River Mills, Inc. (Norshor Theater), 211 East Superior Street, are adopted.

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 fine the licensee \$500. The commission further recommends that payment of the fine be stayed and if no further violation of the laws regulating the sale of intoxicating beverages occur during the 12 month period from the date of the council's action, that the payment of the fine be forgiven.

Resolution 07-0064 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance amending sections 31, 33, 34, 54(A) and 55 of the City Charter; and

WHEREAS, said Section 410.12, subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance.

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendments to the City Charter is hereby called for February 26, 2007, at 7:00 p.m., in the council chambers at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by the city of Duluth that on February 26, 2007, at 7:00 p.m., in the city council chamber at the Duluth City Hall, the city council of the city of Duluth will conduct a public hearing on the question of the adoption of an ordinance amending sections 31, 33, 34, 54(A) and 55 of the City Charter in the manner hereinafter set forth:

[text of proposed ordinance)

Resolution 07-0078 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment of John Beyer (supervisory unit) and the appointment of Tammy Walsh (basic unit), replacing Jean Mattson, by Mayor Bergson to the deferred compensation plan commission for terms expiring on December 31, 2010, are confirmed.

Resolution 07-0047 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service

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classification of programmer analyst, which were approved by the civil service board on November 7, 2006, and which are filed with the city clerk as Public Document No. 07-0129-15, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at pay ranges 133-136.

Resolution 07-0053 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for stormwater drainage purposes (FN 07003):

Ironton Fourth Division, Block 13, Lots 5-14 inclusive, (Parcel ID 2550-3340, 2550-3350, 2550-3390, 2550-3400, 2550-3410).

Resolution 07-0074 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for recreation purposes (FN 07003):

Ironton Second Division, Block 36, Lots 9-31 inclusive (Parcel ID 2530-7020); and  
Ironton Second Division, Block 53, Lots 1-22 inclusive (Parcel ID 2530-10870).

Resolution 07-0077 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

BE IT RESOLVED, that the city of Duluth (the city) act as the legal sponsor for project contained in the redevelopment grant program application to be submitted on February 1, 2007, and that the mayor and the city clerk are hereby authorized to apply to the department of employment and economic development for a grant in the amount of \$1,231,033 for funding of this project on behalf of the Duluth airport authority (DAA).

BE IT FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate project administration.

BE IT FURTHER RESOLVED, that the city hereby commits to provide up to \$1,231,033 in matching funds for the project if said grant is awarded by the state and accepted by the city, which funds are to be provided by Duluth airport authority, pursuant to a development agreement.

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

BE IT FURTHER RESOLVED, that upon approval of its application by the state, the acceptance thereof shall be subject to further resolution of the council authorizing such acceptance pursuant to approval of the form of the above-referenced development agreement and the commitments contained therein.

BE IT FURTHER RESOLVED, that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements it accepts.

Resolution 07-0081 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Oscar J. Boldt Construction Company for installation of a vertical coal conveyor elevator for the Duluth Steam Cooperative Association in the amount of not to exceed \$42,733, terms net 30, FOB destination, payable from the Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 07-0016 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that the city of Duluth has a long term program to eliminate and manage sanitary sewer overflows which includes construction of storage basins to accommodate peak wet weather flows.

Studies have shown that the city of Duluth must construct multiple storage basins to eliminate sanitary sewer overflows from the Lakeside interceptor.

The estimated cost of the Lakeside interceptor SSO project is \$4,376,000. Fifty percent of the costs will be funded by a grant from the state of Minnesota. The remaining 50 percent of the project costs are the city's responsibility. The Minnesota public facilities authority (PFA) has loan monies available to finance the city's share of the project costs. The PFA loan will have a term of 15 years and carries an annual interest rate of 1.65 percent.

To receive the PFA loan, the city must submit required information and enter into a loan agreement with the Minnesota public facilities authority.

Proper city officials are hereby authorized to enter into a loan agreement with the Minnesota public facilities authority for funding of the Lakeside interceptor sanitary sewer overflow storage facility at Endion pump station as described in the loan application.

The city of Duluth has the legal authority to apply for the loan, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the facility for its design life.

The city of Duluth estimates the loan amount to be \$2,188,000 or local share of the as-bid costs of the project.

FURTHER RESOLVED, that the city hereby expresses its official intent to use proceeds

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of this loan to reimburse engineering and construction expenditures made prior to the issuance of its general obligation bond to the public facilities authority.

Resolution 07-0055 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. (original equipment manufacturer) parts and repairs for Caterpillar equipment as needed for year 2007 for the fleet services division in accordance with the city's specifications at an estimated amount of \$30,000, terms net 30, FOB destination; \$25,000 (parts) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5221 and \$5,000 (repairs) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 07-0061 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that Nortrax Equipment Company be and hereby is awarded a contract for furnishing and delivering O.E.M. (original equipment manufacturer) parts and repairs for John Deere equipment as needed for year 2007 for the fleet services division in accordance with the city's specifications at an estimated amount of \$16,000, terms net 30, FOB destination; \$12,000 (parts) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5221 and \$4,000 (repairs) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 07-0062 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that Venture Fuels be and hereby is awarded a contract for furnishing and delivering approximately 162,000 tons of coal to the Duluth Steam Cooperative District I for three heating seasons, 54,000 tons per year to produce an estimated 850,000 MM BTUs in accordance with specifications on its low bid of \$28.39 per ton for year 2007/2008 with an estimated annual total of \$1,533,060; \$29.41 per ton for year 2008/2009 with an estimated annual total of \$1,588,140; and \$30.43 per ton for year 2009/2010 with an estimated annual total of \$1,643,220, for a three-year estimated total of \$4,764,420, payable from Steam Fund 540, Department/Agency 920, Organization 1490, Object 5387.

Resolution 07-0065 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that NorthStar Ford, LLC, be and hereby is awarded a contract for furnishing and delivering O.E.M. (original equipment manufacturer) parts and repairs for Ford vehicles as needed during year 2007 for the fleet services division in accordance with specifications at an estimated amount of \$25,000, terms net 30, current cost list plus 30 percent, FOB destination;

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\$20,000 (parts) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5221 and \$5,000 (repairs) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 07-0067 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. (original equipment manufacturer) parts and repairs for Elgin and Vactor equipment as needed during year 2007 for the fleet services division in accordance with specifications at an estimated amount of \$30,000, terms net 30, discount ten percent current price list, FOB destination, payable from Fleet Services Fund 660, Department/Agency 015, Object 5221.

Resolution 07-0068 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that Maney International, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. (original equipment manufacturer) Navistar parts and repairs as needed during year 2007 for the fleet services division in accordance with specifications at an estimated amount of \$50,000, terms net 30, discount 35 percent current price list, FOB destination; \$40,000 (parts) payable from Fleet Services Fund 660, Department/Agency 015, Object 5221 and \$10,000 (repairs) payable from fleet services fund 660, Department Agency 015, Object 5404.

Resolution 07-0069 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that Boyer Trucks, Duluth-Superior, Inc., be and hereby is awarded a contract for O.E.M. (original equipment manufacturer) parts and repairs for Ford vehicles as needed during year 2007 for the fleet services division in accordance with specifications at an estimated amount of \$16,000, terms net 30, discount 20 percent current price list, FOB destination; \$14,000 (parts) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5221 and \$2,000 (repairs) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 07-0070 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that Larson Chevrolet-Oldsmobile, Inc., be and hereby is awarded a contract for O.E.M. (original equipment manufacturer) parts and repairs for General Motors vehicles as needed during year 2007 for the fleet services division in accordance with specifications at an estimated amount of \$20,000, terms net 30, discount 25 percent current price list, FOB destination; \$15,000 (parts) payable from the Fleet Services Fund 660, Department/Agency 015,

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Object 5221 and \$5,000 (repairs) payable from the Fleet Services Fund 660, Department/Agency 015, Object 5404.

Resolution 07-0071 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY VICE PRESIDENT JOHNSON:

RESOLVED, that the city of Duluth hereby finds that:

(a) There is a need for all energy consumers to work to conserve valuable energy resources through reduction in demand, especially peak demand for use of those resources;

(b) It is in the best interests of the citizens of the city, both as the owner of a natural gas utility and as a part of the greater Minnesota community to encourage such conservation;

(c) There is no program directed toward the conservation of natural gas resources available to commercial and industrial users thereof in the city;

(d) It is in the best interests of the citizens of the city and of the state of Minnesota and therefore a public purpose for the city to establish and fund a program to encourage the conservation of energy resources, especially natural gas resources, in the city.

RESOLVED, that the city of Duluth does hereby establish the commercial/industrial energy conservation program as described in the program guidelines, a copy of which is on file in the office of the city clerk as Public Document No. 07-0129-16.

RESOLVED, that said program guidelines are hereby approved.

RESOLVED, that the director of public works and utilities or his or her designee is hereby authorized to extend grants to commercial and industrial customers of the city's natural gas utility under the terms and conditions set forth in said program guidelines, up to the amount provided therefore in the city's budget, as amended.

Resolution 07-0083 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are hereby authorized to execute a maintenance agreement with St. Louis County for computer hardware and software associated with participation in NEMESIS (Northeastern Minnesota Enforcement and Safety Information System) for \$27,500.28, terms net 30, FOB destination, payable from General Fund 100, Department/Agency 200, Organization 1610, Object 5404. NEMESIS is a shared integrated criminal justice information system.

Resolution 07-0056 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that St. Louis County department of communications be and hereby is awarded a contract for furnishing computer-aided dispatch system access during year 2007 for the police department in accordance with specifications for an amount of \$26,160, terms net 30,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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FOB destination, payable from General Fund 100, Department/Agency 200, Organization 1610, Object 5441.

Resolution 07-0057 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that Uniform Connection be and hereby is awarded a contract for furnishing and delivering uniforms as needed during year 2007 for the city of Duluth police department in accordance with the city's specifications at an estimated amount of \$20,000, terms net 30, FOB destination, payable from General Fund 100, Department/Agency 200, Organization 1620, Object 5218.

Resolution 07-0058 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that E/S Support Services be and hereby is awarded a contract for furnishing computer hardware and software maintenance as needed during the year 2007 for the police department in accordance with specifications on its proposal of \$17,328, terms net 30, FOB destination, payable from the General Fund 100, Department/Agency 200, Organization 1610, Object 5404.

Resolution 07-0059 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the appropriate city officials are authorized to accept gifts of money donated to the city from time to time for the purpose of purchasing equipment necessary to provide for the recreational activity of disc golf, such funds to be deposited in 210-030-3116-4660.

Resolution 07-0040 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the city of Duluth ratifies and hereby authorizes the execution of the grant agreement filed as Public Document No. 07-0129-17 with the Minnesota department of natural resources under which agreement the city will receive up to \$5,000 to reimburse it for costs incurred in maintaining cross country ski trails in the city of Duluth during the 2006-2007 ski season. The reimbursement should be deposited in General Fund 100, Agency 500, Organization 1920, Revenue Source 4225.

Resolution 07-0075 was unanimously adopted.

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0052, by Councilor Stauber, of the city of Duluth, Minnesota, stating the intent to issue an amount not to exceed \$1,240,000 general obligation capital improvement bonds, Series 2007, was introduced for discussion.

Councilor Stauber stated he will vote against bonding rather than paying up front.

Resolution 07-0052 was adopted as follows:

BY COUNCILOR STAUBER:

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

Section 1. Under and pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Section 475.521 (collectively the act), the city is authorized to issue general obligation capital improvement bonds to provide funds for capital improvements pursuant to a capital improvement plan approved by the council on December 18, 2006 (the plan).

Section 2. The city council held a public hearing on January 29, 2007, on the city's intention to issue bonds in 2007 in an amount not to exceed \$1,240,000 for the purposes set forth in the notice of public hearing. All persons who desired to speak at the public hearing were heard and written comments were accepted.

Section 3. The council hereby finds and determines that it is necessary, expedient, and in the best interests of the city's residents that the city issue, sell and deliver its general obligation capital improvement bonds, Series 2007 (the bonds), in an amount not to exceed \$1,240,000, for the purpose of providing funds for the restoration of the retaining wall and stairs outside of City Hall; remodeling of city offices in City Hall; carpet replacement, energy modifications and ventilation upgrades at the main library; fire department facilities repairs and maintenance including driveways, and the remodeling or relocation of the Park Point fire hall; replacing all emergency warning sirens located throughout the city; and payment of discount and costs of issuance of the bonds.

Section 4. A. The city clerk shall publish a notice of intent to issue capital improvement bonds in substantially the form on file as Public Document No. 07-0129-18 as soon as practicable following the public hearing in the official newspaper of the city;

B. If, within 30 days after the date of adoption of this resolution, a valid petition is filed with the city clerk calling for a vote on the proposition of issuing the bonds signed by voters residing within the boundaries of the city equal to five percent of the votes cast in the city in the last general election, the bonds shall not be issued until the question of their issuance has been authorized by a majority of the voters voting on the question at the next general or special election called to decide the question.

Resolution 07-0052 was adopted upon the following vote:

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert and Vice President Johnson -- 6

Nays: Councilor Stauber -- 1

Absent: Councilor Stewart and President Stover -- 2

Approved January 29, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0063, by Councilor Krause, in the matter of the on sale intoxicating liquor license of Black River Mills, Inc. (Kozy Bar), 129 East First Street, was introduced for discussion.

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

Eric Ringsred requested that the council send the resolution back to the alcohol, gambling and tobacco commission (AGTC) for the following reasons: the city attorney's office made an agreement with Diane Jakubek that any prosecution would be suspended and if there were no offenses for six months the entire matter would be dropped, there would be no guilty record and Ms. Jakubek's personal record would remain unblemished; and the city attorney did not allow affidavits into evidence from the bartender and bar patrons as it was considered hearsay evidence since they were not at the AGTC meeting.

To questioning from Councilor Stauber, Dr. Ringsred replied that the Kozy Bar has been under more scrutiny and singled out by the police department, but much of that evidence was disallowed at the hearing because the commission ruled that it was not an issue and not within the commission's purview. He continued by saying that the Kozy Bar had not had a citation for over 15 years and within a week of him transferring the liquor license his bartender of 33 years got a citation for selling alcohol to an intoxicated person.

Ms. Jakubek explained that the gentleman did not seem intoxicated to her when she served him and when she met with the city attorney, she was told that if she took a deferment she would not have this ticket on her record. She voiced concern that the ticket is still on her record, which makes it look like she pled guilty to the violation.

Councilor Ness stated that if the AGTC did not have complete information and hear Ms. Jakubek's side of the story in their deliberations, which may or may not change their recommendation, the resolution should be sent back to the commission for further review.

Councilor Ness moved to table the resolution and return it to the AGTC for further review, which motion was seconded and failed upon the following vote:

Yeas: Councilors Little, Ness and Stauber -- 3

Nays: Councilors Gilbert, Krause, Reinert and Vice President Johnson -- 4

Absent: Councilor Stewart and President Stover -- 2

Councilor Krause moved to amend the resolution as follows:

(a) In the last paragraph, delete the language: "The commission further recommends that payment of the \$500 fine be paid within 30 days of council action and that payment of the \$750 fine be stayed, and if no further violation of the laws regulating the sale of intoxicating beverages occur during the 12 month period following the date of the council's action, that the payment of the fine \$750 be forgiven";

(b) At the end of the last paragraph, insert the language: "Payment to be made to the city treasurer on or before March 1, 2007,"

which motion was seconded and failed upon the following vote:

Yeas: Councilors Little, Ness and Reinert -- 3

Nays: Councilors Gilbert, Krause, Stauber and Vice President Johnson -- 4

Absent: Councilor Stewart and President Stover -- 2

Councilor Stauber reviewed that the area of the Kozy Bar has had several issues in the past which had not been addressed and since Dr. Ringsred has taken over the ownership of the bar it appears that he is under greater scrutiny than the previous owner.

Resolution 07-0063 was adopted as follows:

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On November 1, 2006, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor

license of Black River Mills, Inc. (Kozy Bar), 129 East First Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0129-19;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on January 29, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0129-19 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Black River Mills, Inc. (Kozy Bar), 129 East First Street, are adopted.

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 fine the licensee \$500 for the first offense and \$750 for the second offense. The commission further recommends that payment of the \$500 fine be paid within 30 days of council action and that payment of the \$750 fine be stayed, and if no further violation of the laws regulating the sale of intoxicating beverages occur during the 12 month period following the date of the council's action, that the payment of the fine \$750 be forgiven.

Resolution 07-0063 was adopted upon the following vote:

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert and Vice President Johnson -- 6

Nays: Councilor Stauber -- 1

Absent: Councilor Stewart and President Stover -- 2

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the Duluth News Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 2007, 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 contract rate of \$1.98 per inch, this being the legal rate for the state of Minnesota. The estimated total annual cost is \$30,000. The billing is to be on the inch rate, terms net 30, and payable from various funds, departments/agencies, organizations and objects.

Resolution 07-0079 was adopted upon the following vote:

Yeas: Councilors Gilbert, Krause, Ness, Stauber and Vice President Johnson -- 6

Nays: None -- 0

Abstention: Councilor Little -- 1

Absent: Councilor Stewart and President Stover -- 2

Approved January 29, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0076, by Councilor Stauber, authorizing an agreement with St. Louis County pursuant to which the city shall reimburse the county for a professional services contract related to the completion of the Duluth/St. Louis County ten year plan to end homelessness in an amount not to exceed \$10,000, was introduced for discussion.

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

Yeas: Councilors Gilbert, Krause, Little, Reinert and Stauber -- 5

Nays: Councilor Ness and Vice President Johnson -- 2

Absent: Councilor Stewart and President Stover -- 2

- - -

Resolution 07-0087, by Councilor Stauber, calling a public hearing on proposed amendments to sections 21 and 102 of the Duluth City Charter, was introduced for discussion.

Councilors Krause and Stauber expressed concern that it would be bad public policy to allow an employee working in house to campaign for office who may have leverage over other employees.

Councilors Ness and Gilbert reviewed that this is only a resolution calling for a public hearing on issues that the Charter commission will be considering at their next meeting.

Resolution 07-0087 failed upon the following vote (Public Document No. 07-0129-23):

Yeas: Councilors Gilbert, Ness and Vice President Johnson -- 3

Nays: Councilors Krause, Little, Reinert and Stauber -- 4

Absent: Councilor Stewart and President Stover -- 2

- - -

Resolution 07-0048, by Vice President Johnson, awarding a contract to Ulland Brothers, Inc., for the construction of Airport Road from the Duluth city limits to 2,226 feet easterly on its low specification bid of \$492,100, was introduced for discussion.

There being no objection, Resolution 07-0048 was removed from the agenda at the administration's request.

- - -

Resolution 07-0054, by Councilor Reinert, authorizing the city to enter into an agreement with Willard Enterprises, Inc., providing for a lease and operating agreement of the Indian Point Campground, was introduced for discussion.

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

Yeas: Councilors Krause, Little, Stauber and Vice President Johnson -- 4

Nays: Councilors Gilbert, Ness and Reinert -- 3

Absent: Councilor Stewart and President Stover -- 2

- - -

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

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

07-005 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2007 BY REPLACING LANGUAGE IN SECTION 10 OF ORDINANCE 9810 AND RESCINDING THE LANGUAGE PREVIOUSLY APPROVED.

- - -

BY VICE PRESIDENT JOHNSON

07-003 - ORDINANCE AUTHORIZING THE SALE OF CERTAIN CITY PROPERTY AT PUBLIC AUCTION AND CERTIFICATE OF SALE OF TAX FORFEIT LANDS AND CITY LANDS.

- - -

The following entitled ordinance was read for the second time:

BY VICE PRESIDENT JOHNSON (INTRODUCED BY PRESIDENT STOVER)  
07-002 (9816) - AN ORDINANCE AUTHORIZING THE SALE OF CITY OWNED PROPERTY  
NEAR THE INTERSECTION OF MESABA AVENUE AND CENTRAL ENTRANCE TO MARIA A.  
IALLONARDO FOR \$20,757.

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

- - -

The meeting was adjourned at 8:45 p.m.

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

- - -

**ORDINANCE NO. 9816**

BY VICE PRESIDENT JOHNSON (Introduced by President Stover):  
AN ORDINANCE AUTHORIZING THE SALE OF CITY OWNED  
PROPERTY NEAR THE INTERSECTION OF MESABA AVENUE  
AND CENTRAL ENTRANCE TO MARIA A. IALLONARDO FOR  
\$20,757.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into a certificate  
of sale of tax forfeited lands and city lands, a copy of which is on file in the office of the city clerk  
as Public Document No. 07-0129-22 with St. Louis County and Maria A. Iallonardo (purchaser)  
authorizing the combined sale of tax forfeited land and city-owned land near the intersection of  
Mesaba Avenue and Central Entrance, which city-owned land, located in St. Louis County,  
Minnesota, legally described below, shall be sold for \$20,757 to be deposited in General Fund  
100-700-1407-4640:

Lots 24, 26 and 28 except northerly 17 feet for boulevard, Block 128, DULUTH  
PROPER THIRD DIVISION.

Section 2. This ordinance shall take effect 30 days from and after its passage and  
publication. (Effective date: March 11, 2007)

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

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber and Vice President  
Johnson -- 7

Nays: None -- 0

Absent: Councilor Stewart and President Stover -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed January 29, 2007  
Approved January 29, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, February 12, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on December 18, 2006, were approved upon a unanimous vote.

- - -

**REPORTS FROM OTHER OFFICERS**

07-0212-01 Assessor letter regarding confirmation of the assessment roll levied to defray the assessable portion of 2006 sidewalk patch project (Contract 5417, assessable: \$12,423.15). -- Received

07-0212-02 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from:

- (a) Ducks Unlimited - UMD Chapter on March 1, 2007;
- (b) Holy Family Catholic Church on September 8, 2007. -- Received

07-0212-03 Parks and recreation department:

- (a) Lease agreements pursuant to Section 2-35, Duluth City Code, as follows:
  - (1) Jason Brandt and Walter Carlson for the Chester Bowl apartment;
  - (2) Travis Hill for the Enger Park Golf Course apartment. -- Mayor for

execution

- (b) Lake Superior zoological society minutes of:
  - (1) November 15, 2006;
  - (2) January 9, 2007:
    - (A) Annual;
    - (B) Business meetings. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-0212-04 Board of zoning appeals minutes of:

- (a) October 24;
- (b) November 28, 2006, meeting. -- Received

07-0212-05 Charter commission minutes of November 29, 2006, meeting. -- Received

07-0212-06 Civil service board minutes of December 5, 2006, meeting. -- Received

07-0212-07 Duluth airport authority balance sheet of November 30, 2006. -- Received

07-0212-08 Duluth transit authority:

- (a) Income statement of October, 2006;
- (b) Minutes of November 29, 2006, meeting. -- Received

07-0212-09 Housing and redevelopment authority minutes of September 26, 2006, meeting. -- Received

07-0212-10 Library board minutes of November 28, 2006, meeting. -- Received

- - -

**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Ronald Miller, Daniel Fanning, Andy Anderson and Barb Olson urged the council to pass a resolution in support of troop withdrawal from Iraq for the following reasons: this is the correct forum for citizens to express their opinions on the Minnesota National Guard going to Iraq; it is the right time and place to support this resolution; the issue is not being addressed at the federal level; councilors need to voice their conscience and not their political stand; the United States is not being effective in Iraq; a petition signed by hundreds of residents support no more troops being deployed and the National Guard needs to keep the troops in Minnesota to do what they are supposed to be doing here.

- - -

John Sanford and Alison Clarke voiced concern that the public is being denied access to the shoreline between 20th Avenue East and 26th Avenue East until the Lakewalk is constructed, even though the city owns the land, and questioned if the expense to build the Lakewalk will prevent it from ever being constructed.

- - -

Ken Buehler, representing the St. Louis County Heritage and Arts Center (Depot), thanked the city for their continued support of the Depot through the hotel-motel tax and stated that attendance has increased because of the multiple uses the Depot provides to the public.

- - -

KL Lewis stated she would like to see the troops brought home from Iraq and questioned if there is a safety protocol for the public to view on how to evacuate the Duluth Entertainment Convention Center (DECC) if there is a disaster.

- - -

**RESOLUTION RECONSIDERED**

Councilor Reinert moved to reconsider Resolution 06-0875, confirming assessment roll levied to defray the assessable portion of 3400 Drive Trinity Road sanitary sewer and watermain extension, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Councilor Reinert stated that his understanding of the issue was that the LeMay's appeal process was to go to the special assessment board and he has since then found out they would have to appeal to district court, which would be costly. He went on to say that he felt the LeMay's were treated unfairly and since he voted yes on erroneous information, he wants to change his vote and vote against the resolution.

Resolution 06-0875 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the assessment roll levied to defray the assessable portion of 3400 Drive Trinity Road sanitary sewer and watermain extension (Contract #5402; assessable amount - \$96,063.76), to be deposited in Fund 325, is hereby confirmed.

Resolution 06-0875 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Stauber, Stewart and President Stover -- 7

Nays: Councilors Gilbert and Reinert -- 2

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

## RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 07-0050, requesting that the administration develop and present an ordinance authorizing residential parking permits in metered zones, from the table, which motion was seconded and unanimously carried.

Chief Administrative Officer Hall stated that the administration understands the need for parking in the area and is working hard to resolve the issue. He continued by saying that after meeting with the residents of the area, a resolution is on this agenda which changes the enforcement hours for the residents which will make it more manageable and has the support of the affected parties. Mr. Hall also stated that the administration is also working hard to procure properties for the affected parties and that parking permits are not a solution that the city thinks will work.

Councilor Ness moved to amend the resolution by deleting the second paragraph, which would take away the enforcement of the meters but still require the administration to develop a parking permit program, which motion was seconded for discussion.

Councilor Stauber expressed concern that by removing the paragraph the administration could sit on this problem indefinitely and that the administration has no plans on developing a parking permit plan at the present time.

Councilor Ness' amendment carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Stewart and President Stover -- 6

Nays: Councilors Little and Stauber -- 2

Abstention: Councilor Reinert -- 1

Resolution 07-0050, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city council hereby requests that the administration develop a program to allow the issuance of residential parking permits to be issued residents living in residential properties adjacent to streets upon which parking meters have been placed and that an ordinance be drafted and presented for approval implementing said program.

Resolution 07-0050, as amended, was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Stauber moved to remove Resolution 07-0076, authorizing an agreement with St. Louis County pursuant to which the city shall reimburse the county for a professional services contract related to the completion of the Duluth/St. Louis County ten year plan to end homelessness in an amount not to exceed \$10,000, from the table, which motion was seconded and unanimously carried.

Councilor Stauber reviewed that St. Louis County had contracted with a company in 2006 to develop a plan that should have been completed in November 2006 and questioned why the city would spend this much money for more planning.

Resolution 07-0076 was adopted as follows:

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. 07-0212-11, with St. Louis County pursuant to which the city will reimburse the county for half the cost of a professional services contract between St. Louis County and Whitney Crettol to

complete the planning process for the Duluth/St. Louis County ten year plan to end homelessness, at a total cost not to exceed \$10,000, payable from Fund 262-020-5434-CD06CD-ADMC-AD01.

Resolution 07-0076 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Reinert moved to remove Resolution 07-0054, authorizing the city to enter into an agreement with Willard Enterprises, Inc., providing for a lease and operating agreement of the Indian Point Campground, from the table, which motion was seconded and unanimously carried.

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

- - -

### **MOTIONS AND RESOLUTIONS**

The following entitled resolution was read for the first time:

BY COUNCILOR STAUBER

07-0091R - RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE JOB OPPORTUNITY BUILDING ZONE (JOBZ) BUSINESS SUBSIDY AGREEMENT WITH AMERICAN ENGINEERING TESTING, INC., CORRECTING THE OMISSION OF A PROPERTY TAX IDENTIFICATION NUMBER.

- - -

### **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 STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of sidewalk patch 2006 (Contract #5417; assessable amount - \$12,423.15) to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0092 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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. 07-0212-12, with the Historic Union Depot, Inc. (Depot), in an amount not to exceed \$151,807, payable from Fund 258-030-5436-03.

Resolution 07-0096 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to contract with Xerox Corporation for copier rental and maintenance in various departments and divisions during year 2007 in accordance with specifications, for an estimated amount of \$86,000, payable from various funds, departments/agencies, organizations, objects.

Resolution 07-0093 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Pro-West and Associates, Inc., for professional services related to the development of digital plat and parcel data mapping, in accordance with its November 4, 2004, proposal, beginning December 1, 2006, and ending December 31, 2007, for an estimated \$90,000, payable as follows: \$70,000 from the Special Projects Fund 210, Department/Agency 030, Organization 3154, Object 5319; \$5,000 from the Water Fund 510, Department/Agency 500, Organization 1915, Object 5310; \$5,000 from the Gas Fund 520, Department/Agency 500, Organization 1915, Object 5310; \$5,000 from the Sewer Fund 530, Department/Agency 500, Organization 1915, Object 5310; and \$5,000 from the Stormwater Fund 535, Department/Agency 500, Organization 1915, Object 5310.

Resolution 07-0113 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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
Multiple Sclerosis Society	Norshor Experience, 211 East Superior Street

Resolution 07-0114 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Ducks Unlimited - University of Minnesota Duluth Chapter, 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 2007

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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 07-0115 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to award a contract to Henry A. Anderson Agency, Inc., for furnishing boiler insurance from February 16, 2007, through February 15, 2008, covering 40 city locations (including two for the Duluth Steam Cooperative Association for which the city is reimbursed) that have steam boilers and other equipment in accordance with its bid of \$10,353, terms net 30, payable as follows: \$8,696.52 (84 percent), from the Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1651, Object 5360; \$1,552.95 (15 percent) from the Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1652, Object 5360; and \$103.53 (one percent) from the Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1653, Object 5360. This contract has four possible one-year renewal options.

Resolution 07-0124 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that city officials are hereby authorized to award a contract to Liscomb-Hood-Mason Company for furnishing property insurance from February 16, 2007, through February 15, 2008, covering 40 city-owned structures and miscellaneous pieces of equipment in accordance with its bid of \$74,375, terms net 30, payable as follows: \$1,487.50 (two percent) from the Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1650, Object 5360; \$63,218.75 (85 percent) from the Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1651, Object 5360; \$7,437.50 (ten percent) from the Self Insurance Liabilities Fund 0610, Department Agency 036, Organization 1652, Object 5360; \$1,487.50 (two percent) from the Self Insurance Liabilities Fund 0610, Department/Agency 036, Organization 1653, Object 5360; and \$743.75 (one percent) from the Self Insurance Liabilities Fund 0610, Department/Agency 036, and Organization 1654, Object 5360. This contract has four possible one-year renewal options.

Resolution 07-0125 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment of Julie McDonnell (at large) and the appointment of Jesse Anderson (environmental), replacing Rosie Leoffler-Kemp, by Mayor Bergson to the environmental advisory council for terms expiring on January 5, 2010, are confirmed.

Resolution 07-0090 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Mary Ruth Rennie, replacing Glenn Fitzgerald, to the housing and redevelopment authority for a term expiring on January 2, 2012, is confirmed.

Resolution 07-0108 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Cindy Hall, replacing Jim Mohn, to the joint airport zoning board for a term expiring on January 2, 2008, is confirmed.

Resolution 07-0109 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of James W. Larson, replacing George C. Kirk who resigned, to the tree commission for a term expiring on August 31, 2007, is confirmed.

Resolution 07-0112 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointments by Mayor Bergson of Ricky W. DeFoe and Brian C. Wilson, Jr., replacing CJ Bird and Edye Howes who resigned, to the American Indian commission for terms expiring on May 12, 2008, are confirmed.

FURTHER RESOLVED, that the appointment by Mayor Bergson of Beatrice A. Kitto, replacing Evelyn Tanner Campbell who resigned, to the American Indian commission for a term expiring on May 12, 2009, is confirmed.

Resolution 07-0120 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointments by Mayor Bergson of Theresa Bobula, replacing Patricia D. Thorson, and Irina A. Johnson, replacing Charles Thompson who resigned, to the community development committee for terms expiring on March 1, 2009 and 2010, respectively, are confirmed.

Resolution 07-0121 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to accept the quit claim deed, a copy of which is on file in the office of city clerk as Public Document No. 07-0212-13, from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Meridian Duluth Limited Partnership, of the below-described property located in St. Louis County, Minnesota, for open space and wetland purposes at no cost to the city of Duluth:

Outlots B and C, Miller Creek Division, according to the recorded plat thereof.

Resolution 07-0084 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

A sufficient petition was filed with the city clerk requesting the vacation of the alley located on the west side of 50th Avenue West, 100 feet south of Wadena Street, legally described as; Alley adjoining Lots 1, 2, 3, 4, 4-1/2 and 5, Block 186, West Duluth Seventh Division; and

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

The city planning commission approved unanimously the vacation petition at its October 25, 2006, 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. 07-0212-14.

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

Resolution 07-0111 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of the contract on file in the office of the city clerk as Public Document No. 07-0212-15, with, and accept funds from, the Minnesota department of employment and economic development to provide services under Title I of the Workforce Investment Act, the Minnesota youth program services, Minnesota state dislocated worker program services and the older American program as defined in the local workforce investment plan, for the term beginning April 1, 2007, and ending March 31, 2010. Program funds will be accepted upon receipt of notices of funds available. For Title I Workforce Investment Act, Minnesota youth program services and Minnesota state dislocated worker program services funds will be deposited into and paid from Fund 268. For older American program, funds will be deposited into and paid from Fund 270.

Resolution 07-0088 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that draft contract on file in the office of the city clerk as Public Document No. 07-0212-16, with, and accept funds from,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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St. Louis County to provide Minnesota family investment program and diversionary work program employment and training services, in the amount of \$957,535 for the period January 1, 2007, to December 31, 2007. Monies received under this agreement will be deposited in Fund 268, Agency 031, Organization 6235 (MFIP) and 6236 (DWP).

Resolution 07-0089 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

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. 07-0212-17, and receive funding from Duluth public schools for the provision of services related to the Children Succeeding in School Initiatives for the period of January 1, 2007, through September 30, 2007, in an amount not to exceed \$20,800. Funds to be received from Revenue Source 4260 and deposited in Fund 268, Agency 031, Organization 6228, Project WD28 SOOS.

Resolution 07-0099 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, in substantially the form on file with the office of the city clerk as Public Document No. 07-0212-18, with Noah Dennis, independent licensed teacher to provide part time basic education services to participants in the Children Succeeding in School Initiatives for the period January 1, 2007, to September 30, 2007, at a cost not to exceed \$20,800, payment to be made from Fund 268, Agency 031, Organization 6228, Project WD28 SOOS.

Resolution 07-0100 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to amend Contract No. 20675, in substantially the form of the amendment on file with the city clerk as Public Document No. 07-0212-19, with St. Louis County to provide food support employment and training (FSET) services at costs not to exceed \$49,986 for the period October 1, 2006, through September 30, 2007; said monies under this agreement shall be received from Funding Source 4260 (St. Louis County) and deposited in Fund 268, Agency 031, Organization 6237 (FSET).

Resolution 07-0118 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that, in accordance with M.S.A. Section 410.12, subd. 7, the council shall, upon two weeks published notice, hold a public hearing on March 12, 2007, in the council chambers at City Hall at 7:00 p.m., or as soon thereafter as hearing can be commenced, on a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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proposed ordinance amending Section 69 of the Charter, to eliminate penalties and interest on assessments which are levied on a property after it is forfeited for nonpayment of taxes.

BE IT FURTHER RESOLVED, that the city clerk shall cause to be published in the Duluth News Tribune a notice of said hearing, and containing the text of the proposed ordinance, as required by law; the notice to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by city of Duluth that on March 12, 2007, at 7:00 p.m., or as soon thereafter as hearing can be commenced, in the City Council Chamber at Duluth City Hall the city council of Duluth will conduct a public hearing on the question of adoption of an ordinance amending Section 69 of the City Charter in the manner set forth as follows:

[text of proposed ordinance]

Resolution 07-0110 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to acquire from Stephen M. Shelby and Mary Ann S. Shelby a utility easement described as the southerly 37 feet of Lot 163 and the southerly 37 feet of the easterly 25 feet of Lot 165, Block 42 Duluth Proper, Third Division, as shown on file with the city clerk as Public Document No. 07-0212-20, for the amount of \$12,207, payable from Fund 0535, Agency 500, Organization 1905, Object 5533.

Resolution 07-0080 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Acme Tools to furnish and deliver uniforms as needed during year 2007 in accordance with specifications at an estimated amount of \$42,700, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations, and objects. The contract period is January 1, 2007, through December 31, 2007, with four additional one-year extension options.

Resolution 07-0094 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Gopher State One-Call, Inc., for one-call system services as needed during year 2007 for the utility operations division in accordance with specifications, at an estimated total of \$11,020, terms net 30, payable as follows: \$2,755 (25 percent) from the Water Fund 510, Department/Agency 500, Organization 1930-2330, Object 5486; \$2,755 (25 percent) from the Gas Fund 520, Department/Agency 500, Organization 1930-2330, Object 5486; \$2,755 (25 percent) from the Sewer Fund 530, Department/Agency 500, Organization 1930-2330, Object 5486; and \$2,755 (25 percent) from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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the Stormwater Fund 535, Department/Agency 500, Organization 1930-2330, Object 5486. Participation in this state of Minnesota contract is mandatory.

Resolution 07-0102 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to contract with Rick's Tree and Stump Removal, LLC, for tree removal services during 2007 in accordance with its low bid of \$17,295, terms net 30, payable from the General Fund 0100, Department/Agency 500, Organization 1920-2560, Object 5454. The contract runs from January 1, 2007, through December 31, 2007, and has four possible one-year renewal options.

Resolution 07-0119 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to accept a grant from the state of Minnesota, department of public safety, in the amount of \$8,000 for increased impaired and drunk driving enforcement during the period October 1, 2006, to September 30, 2007, and to execute the grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-0212-21; grant funds to be deposited in Fund 100, Agency 200, Organization 1620, Revenue Source 4220.

Resolution 07-0116 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to accept a grant from the state of Minnesota, commissioner of public safety, office of justice programs, in the amount of \$121,500 for the purpose of supporting the Duluth police department's participation in the Minnesota financial crimes task force, and to execute the grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-0212-22. Grant funds to be deposited in Fund 215, Agency, 200, Organization 2260, Revenue Source 4220.

Resolution 07-0117 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are authorized to enter into a one-year contract (with four one-year renewal options) with Inter-City Oil Company, Inc., to furnish and deliver both station and bulk fuels as needed from March 1, 2007, through December 31, 2007, for various departments/divisions in accordance with specifications, at an estimated amount of \$1,000,000, terms

net 30, FOB destination, payable from the Fleet Services Fund 660, Department/Agency 015, Object 5212.

Resolution 07-0101 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0126, by Councilor Little, authorizing the proper city officials to award a contract to Elk River Ford for ten marked patrol vehicles, all Ford Crown Victorias, in the amount of \$209,900, was introduced for discussion.

Councilor Gilbert voiced concern that the city is purchasing vehicles from a dealer outside the Duluth area and explained that if the city purchases locally, the dollar is reinvested into the local economy and builds the community rather than money being taken away from it. He stated that he would like to help develop a purchasing system that is fair to the local businesses rather than those located outside of Duluth.

Resolution 07-0126 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that city officials are authorized to award a contract to Elk River Ford for furnishing and delivering ten marked patrol cars, all Ford Crown Victorias, for the police department in accordance with its bid of \$209,900, terms net 30, FOB destination, payable from the Capital Equipment Fund 0250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-V703.

Resolution 07-0126 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Gilbert -- 1

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0106, by Councilor Reinert, authorizing execution of a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2007 Grandma's Marathon at a cost of not to exceed \$15,000, plus in-kind services, was introduced for discussion.

Councilor Reinert urged support of the resolution as it is a major event in the community.

Resolution 07-0106 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2007 Grandma's Marathon to be held June 14-16, 2007, which agreement is on file in the office of the city clerk as Public Document No. 07-0212-24 at a cost to the city not to exceed \$15,000 plus in-kind services, which shall be paid from Fund 258-030-5436-06.

Resolution 07-0106 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0140, by Councilor Stewart, approving a collective bargaining agreement between city of Duluth and Local 101 International Association of Firefighters for years 2007-2009, was introduced for discussion.

Councilor Reinert moved to table the resolution for consideration at a special council meeting on February 22, which motion was seconded and unanimously carried.

- - -

Resolution 07-0107, by Councilor Krause, authorizing a contract with Lake Superior Area Family Services for the operation of an outreach gambling program during year 2007 in an amount not to exceed \$100,000, was introduced for discussion.

Councilor Stauber stated that it is wrong for the city to promote gambling and at the same time spend \$100,000 to try and demote it.

Resolution 07-0107 was adopted as follows:

BY COUNCILOR KRAUSE:

RESOLVED, that the city is 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. 07-0212-23, with Lake Superior Area Family Services, doing business as Gamblers Intervention Services, for the operation of an outreach gambling program during year 2007, in an amount not to exceed \$100,000, which shall be payable from Fund 256.

Resolution 07-0107 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stewart and President Stover -- 7

Nays: Councilor Stauber -- 1

Abstention: Councilor Little -- 1

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0136, by Councilor Stauber, transferring \$2,000,000 from community investment trust fund to other post employment benefits fund, was introduced for discussion.

Councilor Stauber voiced his frustration that although the task force's recommendation to establish an irrevocable trust was supported by the council and the mayor, nothing has been done yet and this resolution would start the fund with a transfer from the community investment trust fund.

Mr. Hall stated that progress has been made in the legislature for the irrevocable trust and that the mayor is working hard to get the trust funded. He urged the council to wait and let the bill pass in the legislature establishing the trust.

Councilor Reinert moved to table the resolution for a committee meeting on February 26, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stewart and President Stover -- 7

Nays: Councilors Little and Stauber -- 2

- - -

Resolution 07-0122, by Councilor Ness, calling a public hearing on proposed amendment to Section 102 of the Duluth City Charter, was introduced for discussion.

Councilor Krause stated that the Charter should not be changed for one business and this change would not be good for the community.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Resolution 07-0122 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, said Section 410.12, subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance.

BE IT RESOLVED, that on the 12th day of March, 2007, at 7:00 p.m., or as soon thereafter as the hearing can be commenced, the city council shall conduct a public hearing regarding the adoption of an ordinance amending Section 102 of the Charter 102 pertaining to alcoholic beverages.

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendments to the City Charter is hereby called for March 12, 2007, at 7:00 p.m., in the council chambers at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by the city of Duluth that on March 12, 2007, at 7:00 p.m., in the City Council Chamber at the Duluth City Hall, the city council of the city of Duluth will conduct a public hearing on the question of the adoption of an ordinance amending Section 102 of the City Charter in the manner hereinafter set forth:

[text of proposed ordinance]

Resolution 07-0122 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0130, by Councilor Little, amending Resolution 06-0756 establishing metered parking on First Street, Second Street, Third Street, Third Avenue East and Fourth Avenue East in Duluth, was introduced for discussion.

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

Ken Small thanked the council for their strong leadership and support for the residents and thanked the administration for helping to find a resolution to the conflict, but stated that a more comprehensive and permanent solution is needed.

Resolution 07-0130 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that Resolution 06-0756 be amended as follows:

Metered parking shall be applicable between 10:00 AM and 4:00 PM on the north side of First Street between Third Avenue East and Fourth Avenue East, on the north side of Third Street between Third Avenue East and Fourth Avenue East, on the south side of First Street

between Eighth Avenue East and Ninth Avenue East and on the west side of Fourth Avenue East between First Street and Second Street.

Resolution 07-0130 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Reinert -- 1

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

The city council finds as follows:

(a) The first criteria listed on the governor's fit city application states a city must adopt a resolution affirming fit-friendly commitments by community leaders and elected officials; and

(b) Active living is a way of life that integrates physical activity into daily routines. The goal is to accumulate at least 30 minutes of activity each day. Individuals may do this in a variety of ways such as walking or bicycling for transportation, exercise or pleasure; playing in the park; working in the yard; taking the stairs and using recreational facilities; and

(c) The city of Duluth affirms activity-friendly commitments such as:

(1) Develop and maintain its cohesive system of parks and trails, incorporating accessible neighborhood parks;

(2) Establish processes to access and improve existing local active infrastructure (e.g., by using design guidelines);

(3) Require that neighborhood streets be designed with pedestrians and bicyclists in mind (e.g., by using design guidelines);

(4) Continue to support recreation programs that encourage active living;

(5) Continue to ensure that physical activity facilities (youth/senior centers, trails, etc.) are accessible and affordable;

(6) Create and maintain walkable routes to existing schools;

(7) Introduce active living issues, such as walkable communities, into public dialogue;

(8) Increase measures for pedestrian and bicyclist safety.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth is committed to providing an activity-friendly community to its residents.

BE IT FURTHER RESOLVED, that the city council hereby authorizes proper city officials to apply for approval to participate in the governor's fit city program and take part if accepted.

Resolution 07-0131 was unanimously adopted.

Approved February 12, 2007

HERB W. BERGSON, Mayor

- - -

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

07-006 - AN ORDINANCE AMENDING SECTIONS 31, 33, 34, 54(A) AND 55 OF THE DULUTH CITY CHARTER, ALL INVOLVING THE CITY PURCHASING FUNCTION.

- - -

BY COUNCILORS STAUBER AND STEWART  
07-004 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2007 BY APPROPRIATING MONIES FOR THE PAYMENT OF OPEB COSTS - NO INCREASE IN TOTAL EXPENDITURES.

- - -

The following entitled ordinances were read for the second time:  
BY COUNCILOR STAUBER  
07-005 (9817) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2007 BY REPLACING LANGUAGE IN SECTION 10 OF ORDINANCE 9810 AND RESCINDING THE LANGUAGE PREVIOUSLY APPROVED.

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

- - -

BY COUNCILOR JOHNSON  
07-003 (9818) - ORDINANCE AUTHORIZING THE SALE OF CERTAIN CITY PROPERTY AT PUBLIC AUCTION AND CERTIFICATE OF SALE OF TAX FORFEIT LANDS AND CITY LANDS.

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

- - -

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

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

- - -

**ORDINANCE NO. 9717**

BY COUNCILOR STAUBER:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2007 BY REPLACING LANGUAGE IN SECTION 10 OF ORDINANCE 9810 AND RESCINDING THE LANGUAGE PREVIOUSLY APPROVED.

The city of Duluth does ordain:

Section 1. That Ordinance 9810 passed and approved December 18, 2006, is hereby amended by replacing language in Section 10 as follows:

Any amendments to the capital improvement plan - general fund support projects that exceed ten percent of the plan total will require council approval. Any amendments to the capital equipment plan will be noted in the statement of purpose in the resolution authorizing the purchase.

Section 2. That this ordinance shall rescind the language in Section 10 of Ordinance 9810 and take effect immediately upon its passage and publication. (Effective date: April 1, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed February 12, 2007  
Approved February 12, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9818**

BY COUNCILOR JOHNSON:

ORDINANCE AUTHORIZING THE SALE OF CERTAIN CITY  
PROPERTY AT PUBLIC AUCTION AND CERTIFICATE OF SALE OF  
TAX FORFEIT LANDS AND CITY LANDS.

The city of Duluth does ordain:

Section 1. That the city council hereby finds that the city-owned property located in St. Louis County, Minnesota, and legally described below is surplus to the city's needs and available for disposal:

Lot 23, Block 154, DULUTH PROPER THIRD DIVISION, except the southerly 17 feet thereof for boulevard.

Section 2. That, notwithstanding the provisions of Section 2-176 of the Duluth City Code, 1959, as amended, the proper city officials are hereby authorized to offer the above described-property for sale at public auction through St. Louis County in conjunction with adjacent tax forfeited lands and to sell the same to highest bidder subject to receiving a minimum bid therefore of at least \$15,150, the proceeds of which shall be deposited in the General Fund 100-700-1420-4640.

Section 3. That upon the request of the successful bidder therefore, the proper city officials are hereby authorized to enter into a certificate of Sale with such bidder and St. Louis County, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0212-25, and upon receipt by the city of the total amount of the purchase price therefore to execute a quit claim deed conveying said property to said high bidder.

Section 4. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: April 1, 2007)

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed February 12, 2007  
Approved February 12, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, February 22, 2007, 5:35 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Absent: Councilor Krause -- 1

- - -

**RESOLUTION TABLED**

Councilor Stewart moved to remove Resolution 07-0140, approving a collective bargaining agreement between city of Duluth and Local 101 International Association of Firefighters for years 2007-2009, from the table, which motion was seconded and unanimously carried.

Councilor Little opposed the resolution because there has not been a detailed itemization and listing of the savings with this new contract.

Resolution 07-0140 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement with Local 101 International Association of Firefighters, containing the same terms and conditions, and being in the same form (except for typographic or insubstantial corrections) as the contract on file with the city clerk as Public Document No. 07-0222-01, covering the years 2007-2009.

Resolution 07-0140 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Little -- 1

Absent: Councilor Krause -- 1

Approved February 22, 2007

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 5:53 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, February 26, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0226-01 Jack Strom, et al., (three signatures) petition to vacate the southerly 33 feet of Waseca Street between 65th Avenue West and the plotted alley between 64th and 65th avenues West. -- Assessor

07-0226-02 Minnesota state auditor submitting audit report for Lake Superior Center authority for the year ended December 31, 2005. -- Received

07-0226-11 Minnesota state retirement system data regarding the deferred compensation plan (07-0097R and 07-0098R). -- Received

07-0226-08 The following communications regarding the Iraq war (07-0181R): (a) Luann Kleppe; (b) Rosemarie Mitchell; (c) Helen Snider. -- Received

07-0226-09 The following communications regarding a change in policy and management of Bayfront Festival Park (07-0177R): (a) Bayfront Reggae Festival; (b) Jodi Chambers; (c) Scott Miller; (d) Steve Sloan; (e) Linda Wyant. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0226-03 Assessor for confirmation the assessment rolls levied to defray the assessable portions of:

(a) Contract No. 7084, SIP06 Cody Southwest (assessable amount: \$130,364.53);

(b) Contract No. 7085, SIP06 Duluth Heights - Maple Grove (assessable amount: \$248,010.09);

(c) Contract No. 7086, SIP06 Lakeside Central West (assessable amount: \$364,642.52);

(d) Contract No. 7088, SIP06 Norton Park (assessable amount: \$92,129.40);

(e) Contract No. 7089, SIP06 Vernon Street (assessable amount: \$46,656.90);

(f) Contract No. 7090, SIP06 Third Street from 19 -1/2 to 21st avenues West (assessable amount: \$3,081.12). -- Received

07-0226-04 Clerk applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from:

(a) National Wild Turkey Federation on March 22, 2007 (bingo and raffle);

(b) Order of AHERA, Sam G. Solon Chapter #263, on March 18 and November 18, 2007 (bingo). -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

07-0226-10 Charter commission minutes of January 10, 2007, meeting. -- Received

07-0226-05 Commission on disabilities minutes of January 3, 2007, meeting. -- Received

07-0226-06 Duluth human rights commission: (a) 2006 year end report; (b) Minutes of January 10, 2007, meeting. -- Received

07-0226-07 Spirit Mountain recreation area authority board minutes of: (a) May 18; (b) October 19; (c) November 30; (d) December 20, 2006, (e) January 18, 2007, meetings. -- Received

- - -

At this time, 7:03 p.m., the public hearing on the Charter amendments regarding the city purchasing function was declared opened.

No one appeared who wished to be heard and the public hearing was declared closed at 7:04 p.m.

- - -

At this time, 7:05 p.m., the public hearing on a JOBZ amendment with American Engineering Testing, Inc., was declared opened.

No one appeared who wished to be heard and the public hearing was declared closed at 7:06 p.m.

- - -

### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Donald Dass presented to the council an update on the implementation of the Bob Dylan Way that was approved by the council last May (Public Document No. 07-0226-26). He noted: a tentative final design; a request for bids will be sent out shortly; requests for funding of approximately \$8,000 to cover the cost of the signs and installation will be sent out shortly and the goal is to have the signs installed by Bob Dylan's birthday on May 24.

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Kay L. Lewis commented on: the good job done by the snow removal staff; that relative to state funding to the Duluth Entertainment Convention Center (DECC) that there be funds to stop the erosion and that safety fencing be installed; that there be information as to how many new full time jobs will be established with the DECC expansion, new Heritage Center and Kroc Center and that possibly the Blues Festival is losing customers with the high priced food being sold there.

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### **MOTIONS AND RESOLUTIONS**

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0226-25, to the JOBZ business subsidy agreement with American Engineering Testing, Inc., to correct the inadvertent omission of a property tax identification number in the agreement.

Resolution 07-0091 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

**CONSENT AGENDA**

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

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

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of 2006 SIP for Cody Southwest (Contract #7084; assessable amount - \$130,364.53), to be deposited in Fund 330, is hereby confirmed.

Resolution 07-0161 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of 2006 SIP for Lakeside Central West (Contract #7086; assessable amount - \$364,642.52), to be deposited in Fund 330, is hereby confirmed.

Resolution 07-0163 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of 2006 SIP for Norton Park (Contract #7088; assessable amount - \$92,129.40), to be deposited in Fund 330, is hereby confirmed.

Resolution 07-0164 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of 2006 SIP for Vernon Street (Contract #7089; assessable amount - \$46,656.90), to be deposited in Fund 330, is hereby confirmed.

Resolution 07-0165 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of 2006 SIP for Third Street from 19-1/2 to 21st avenues West resurfacing (Contract #7090; assessable

amount - \$3081.12), to be deposited in Fund 330, is hereby confirmed.

Resolution 07-0166 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that city officials are hereby authorized to enter into a contract with Insight Public Sector, Inc., for the purchase and delivery of computer hardware and related products as needed during year 2007 in accordance with state of Minnesota Contract #436388, Release C-813 (5) specifications and pricing, not to exceed the budget allocation of \$80,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations, objects.

Resolution 07-0103 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that city officials are hereby authorized to enter into a contract with Hewlett Packard Company for the purchase and delivery of computer hardware and related products as needed during year 2007 in accordance with state of Minnesota Contract #432980, Release C-873 (5) specifications and pricing, not to exceed the budget allocation of \$50,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations, objects.

Resolution 07-0104 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that city officials are hereby authorized to enter into a contract with Software House International (SHI) for the purchase and delivery of computer software products as needed during year 2007 in accordance with state of Minnesota Contract 436392, Release C-816(5) specifications and pricing, not to exceed the budget allocation of \$50,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations and objects.

Resolution 07-0105 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officers hereby authorized to amend Contract #19937 with Stanius Johnson Architects, in an amount not to exceed \$52,910, from Fund 0450, Agency 030, Object 5520, CP2007-OT0708, for providing certain additional professional interior design and architectural services to the city of Duluth in connection with continued renovation of City Center West, branch library and continuity of design and materials at the Duluth main library, said services and payment therefore to be substantial as outlined in the agreement on file in the office of the city clerk as Public Document No. 07-0226-12.

Resolution 07-0133 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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 and approves the application of a late entertainment license and a 2:00 a.m. beverage license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

Pioneer Investments of Duluth, LLC (Hero's), 323 West First Street, with Elizabeth Harstad, 51 percent stockholder and Rodger Harstad, 49 percent stockholder, transferred from Scanlon River Inn, Inc. (Pioneer Bar), same address.

Resolution 07-0137 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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 4, 2007, with Marlene David, manager.

Resolution 07-0139 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Associated General Contractors of Minnesota 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 07-0175 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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
Multiple Sclerosis Society	VFW Post #137, 2024 West Michigan Street

Resolution 07-0176 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of purchasing agent, which were approved by the civil service board on February 6, 2007, and which are filed with the city clerk as Public Document No. 07-0226-13, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1100, \$4,940 to \$6,027 per month.

Resolution 07-0135 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointment by Mayor Bergson of Nancy Kastelic (finance representative) to the building appeal board for a term expiring on February 1, 2010, is confirmed.

Resolution 07-0141 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed specifications for the new civil service classification of administrator, land use regulations, which were approved by the civil service board on February 6, 2007, and which are filed with the city clerk as Public Document No. 07-0226-14, 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 138. 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 07-0142 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior planner, which were approved by the civil service board on February 6, 2007, and which are filed with the city clerk as Public Document No. 07-0226-15, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 134 to Pay Range 136. 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 07-0143 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of Planner I, which were approved by the civil service board on February 6, 2007, and which are filed with the city clerk as Public Document No. 07-0226-16, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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employees, that the pay range will change from Pay Range 127 to Pay Range 129. 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 07-0144 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of Planner II, which were approved by the civil service board on February 6, 2007, and which are filed with the city clerk as Public Document No. 07-0226-17, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 131 to Pay Range 133. 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 07-0145 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointment by Mayor Bergson of Carole Newkumet (District 1) to the parks and recreation commission for a term expiring on February 13, 2010, is confirmed.

FURTHER RESOLVED, that the appointments by Mayor Bergson of Nicholas K. Lansing (at large) and Karen Erickson (District 4), replacing Jeremy M. Downs and Jennifer Wutz who both resigned, to the parks and recreation commission for terms expiring on February 13, 2008 and 2010, respectively, are confirmed.

Resolution 07-0146 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson of Jessica L. Durbin, William Flannagan, Bridget Riversmith and Glenn A. Tridgell to the commission on disabilities for terms expiring on November 1, 2009, are confirmed.

Resolution 07-0149 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that a sufficient petition was filed with the city clerk requesting a public utility easement vacation within Helm Street east of 32nd Avenue West and legally described as part of vacated Helm Street, Marine Division of Duluth, lying between the easterly line of 32nd Avenue West and a line drawn from the northeast corner of Lot 27, Block 3, Marine Division of Duluth, to the southeast corner of Lot 12, Block 4, Marine Division of Duluth; and

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

The city planning commission unanimously approved the vacation of a portion of a public utility easement vacation within Helm Street, east of 32nd Avenue West, as requested by CMA Management, LLC, at its meeting on February 13, 2007, (FN 07010) legally described as follows:

the portion of the public utility easement which lies between the easterly line of 32nd Avenue West and a line drawn from the northeast corner of Lot 21, Block 3, Marine Division of Duluth, to the southeast corner of Lot 5, Block 4, Marine Division of Duluth.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a public utility easement within the portion of Helm Street as described above and as more particularly described on Public Document No. 02-0226-18.

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

Resolution 07-0152 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of Lakeview Avenue east of Hawthorne Road (FN 07006);

(b) 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, the city planning commission found that the northerly 13 feet and southerly 33 feet of the petitioned street is useless for the purpose of a roadway, based on the following findings:

(1) That the street is not likely to be needed for roadway purposes as Congdon Park Boulevard has been closed to traffic for 15 years and vehicular connections to this park can be made from nearby streets;

(c) Vacating these two portions of the street will narrow the right-of-way to  $\pm 20$  feet, which would still accommodate the construction of an alley in the future, but more importantly, retains necessary space to maintain a 27 inch diameter storm sewer pipe and provides for the possible pedestrian connection between the neighborhood and Congdon Park;

(d) The planning commission, at its February 13, 2007, regular meeting, did approve, unanimously, vacating the northerly 13 feet and southerly 33 feet;

(e) That the city council of the city of Duluth approves the vacation of the northerly 13 feet and southerly 33 feet of Lakeview Avenue between the northeasterly line of Hawthorne Road, extended, and the northeasterly lines, extended, of Lot 4, Block 5, Congdon Park Division and Lot 22, Block 6 of Second Rearrangement of Congdon Park Division, and as more particularly described on Public Document No. 07-0226-19;

(f) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated.

Resolution 07-0153 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city hereby accepts a utility easement hereinafter described from Charles McQuinn, CMA Management, LLC (FN 07011):

A permanent easement for drainage and utility purposes over, under and across Lots 6-12, Block 4, Marine Division of Duluth, and the northerly 75 feet of Lot 22 and Lot 23, the northerly 65 feet of Lot 24, the northerly 50 feet of Lot 25, the northerly 35 feet of Lot 26, and the northerly 20 feet of Lot 27, Block 3, Marine Division of Duluth, and that part of vacated Helm Street lying easterly of a line drawn from the northwest corner of Lot 22, Block 3 to a the southwest corner of Lot 6, Block 4, to a line drawn from the northeast corner of Lot 27, Block 3 to the southeast corner of Lot 12, Block 4, Marine Division of Duluth, and that part of the southerly half of vacated Huron Street lying easterly of the northerly extension of the westerly line of Lot 6, Block 4, and lying westerly of the northerly extension of the easterly line of Lot 12, Block 4, Marine Division of Duluth (Public Document No. 07-0226-20).

Resolution 07-0154 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of a 13 foot by 110 foot portion of East Austin Street adjacent to the Woodland Liquor Store, and retaining a utility easement over the easterly 12 feet (FN 07013);

(b) 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, the city planning commission found that the petitioned portion of East Austin Street will be useless as a street, upon relocation of the existing fire hydrant, electric power and natural gas facilities, based on the following findings:

(1) That the roadway has, for more than 20 years, been barricaded at the east end of the proposed vacation area, preventing through vehicle movement;

(2) That the applicant has made arrangements for the relocation, at the applicant's cost, of a fire hydrant, natural gas pipe and electric power facilities currently existing in the vacation area;

(c) That the remaining street, which will be ±53 feet wide, does contain all of the necessary utilities, roadway and sidewalk needed to serve the area and can accommodate the relocated utilities;

(d) The planning commission, at its February 13, 2007, regular meeting, did approve, unanimously, vacating the petitioned portion of street, while retaining the proposed utility easement;

(e) That the city council of the city of Duluth approves the vacation of that part of East Austin Street south of a line drawn 13 feet parallel to and north of the south line of said street and adjacent to Lots 5, 6 and the easterly 35 feet of Lot 7, all in Block 3, WOODLAND PARK SECOND DIVISION, and as more particularly described on Public Document No. 07-0226-21, retaining for the public a utility easement over the easterly 12 feet of the vacation area, all subject to the following actions transpiring before the vacation will be completed:

- (1) That the applicant relocate, at their cost, the electric power facilities;
- (2) That the applicant relocate, at their cost, the fire hydrant;
- (3) That the applicant relocate, at their cost, the natural gas line;

(f) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated and utility easement to be retained upon written communication from the director of planning and development that the conditions in (e)(1), (e)(2) and (e)(3) above have been met.

Resolution 07-0158 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires field and laboratory testing and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

American Engineering and Testing has submitted a fee schedule for field and laboratory testing services in connection with the work.

The proper city officials are hereby authorized to enter into an agreement with American Engineering and Testing to provide the city with such field and laboratory testing services.

FURTHER RESOLVED, that the cost of said field and laboratory testing services, at a total estimated cost of \$15,000, will be paid from the various funds, departments, agencies, organizations and objects.

Resolution 07-0127 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires field and laboratory testing and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

Golder Associates, Inc., has submitted a fee schedule for field and laboratory testing services in connection with the work.

The proper city officials are hereby authorized to enter into an agreement with Golder Associates, Inc., to provide the city with such field and laboratory testing services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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FURTHER RESOLVED, that the cost of said field and laboratory testing services, at a total estimated cost of \$10,000, will be paid from the various funds, departments, agencies, organizations and objects.

Resolution 07-0128 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires field and laboratory testing and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

EPC Engineering and Testing has submitted a fee schedule for field and laboratory testing services in connection with the work.

The proper city officials are hereby authorized to enter into an agreement with EPC Engineering and Testing to provide the city with such field and laboratory testing services.

FURTHER RESOLVED, that the cost of said field and laboratory testing services, at a total estimated cost of \$10,000, will be paid from the various funds, departments, agencies, organizations and objects.

Resolution 07-0129 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Pomp's Tire Service for the purchase and delivery of vehicle and equipment tires and repairs as needed during year 2007 for the fleet services division in accordance with state of Minnesota Contract Release T-525(5) specifications and pricing at an estimated amount of \$30,000, terms net 30, FOB destination, payable as follows: \$24,000 from the Fleet Services Fund 660, Department/Agency 015, Object 5221 and \$6,000 from the Fleet Services Fund 660, Department/Agency 015, Object 5404. The contract period runs March 1, 2007, through February 28, 2008, and has a renewal option of up to 24 months.

Resolution 07-0150 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to enter into a contract with Duncan Parking Technologies for the purchase and delivery of parking meter replacement parts during year 2007 for the maintenance operations division in accordance with specifications, in the amount of \$30,988 plus sales tax of \$2,014.22, for a total of \$33,002.22, terms net 30, FOB destination, payable from the General Fund 100, Department/Agency 700, Organization 1407, Object 5406.

Resolution 07-0156 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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RESOLVED, that city officials are hereby authorized to contract with BFI-Lake Area Landfill for the disposal of hazardous materials during year 2007 at an estimated amount of \$15,000, terms net 30, payable as follows: \$9,000 (60 percent) from the Sewer Fund 530, Department/Agency 500, Organization 1945, and Object 5384 and \$6,000 (40 percent) from the Stormwater Fund 535, Department/Agency 500, Organization 1945, and Object 5384. BFI - Lake Area Landfill, Chicago, Illinois, is the only known site closest to Duluth that is approved for the disposal of hazardous materials.

Resolution 07-0160 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to enter into an agreement with St. Joseph's Equipment, Inc., for the purchase and delivery of a Case model 580SM-2 tractor loader backhoe for the public works department in accordance with state of Minnesota Contract #435537, Release T-622(5) specifications and pricing in the amount of \$92,658 plus sales tax of \$6,022.77 for a total amount of \$98,680.77, terms net 30, FOB destination, payable as follows: \$19,736.15 (20 percent) from the Water Fund 510, Department/Agency 500, Organization 1905, and Object 5580 and \$78,944.62 (80 percent) from the Gas Fund 520, Department/Agency 500, Organization 1905, and Object 5580. This contract includes a five-year maintenance agreement.

Resolution 07-0167 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to enter into an agreement with St. Joseph's Equipment, Inc., for the purchase and delivery of a Case Model 420 skid steer loader for the fleet services division in accordance with state of Minnesota Contract #435755, Release T-631(5) specifications and pricing in the amount of \$33,083 plus sales tax of \$2,150.40, for a total amount of \$35,233.40, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-V710. This contract includes a seven-year maintenance agreement.

Resolution 07-0168 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to enter into an agreement with St. Joseph's Equipment, Inc., for the purchase and delivery of a Case Model 621-D wheel loader for the fleet services division in accordance with state of Minnesota Contract #436273, Release L-331(5) specifications and pricing in the amount of \$123,100 plus sales tax of \$8,001, for a total amount of \$131,101, terms net 30, FOB destination, payable from the Capital Equipment Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-V709. This contract includes a seven-year maintenance agreement.

Resolution 07-0169 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is hereby established: on West Eighth Street in front of 5730 West Eighth Street.

Resolution 07-0132 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to enter into a joint powers agreement with the University of Minnesota-Duluth providing for emergency responses to hazardous material events and related training. The agreement to be substantially in the form of Public Document No. 07-0226-22 on file in the office of the city clerk.

Resolution 07-0148 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 07-0097, authorizing the execution of an administrative services agreement with Nationwide Retirement Solutions, Inc., relating to the city's deferred compensation plan; and Resolution 07-0098, authorizing the execution of an administrative services agreement with Acclaim Benefits, Inc., relating to the city's deferred compensation plan, by Councilor Krause, were introduced for discussion.

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

David Wright, representing the state of Minnesota deferred compensation program, noted in materials submitted (Public Document No. 07-0226-11) the nature of the program he represents. He further expressed concerns about: the administration fees charged by other companies programs; those firms that are financial planners will be charging more than the existing companies; no other employers, that he knows, has five programs and these programs will be expensive to administer.

Councilor Gilbert moved to table the resolutions for further information from the administration, which motion was seconded and unanimously carried.

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BY COUNCILOR KRAUSE:

RESOLVED, that city officials are hereby authorized to enter into a contract with Leef Services for laundry services and the rental of miscellaneous items such as coveralls, uniforms, floor mats, and towels during year 2007, for various departments/divisions at an estimated amount

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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of \$50,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations, and objects. This is the third year of a three-year contract.

Resolution 07-0155 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0162, by Councilor Stewart, confirming assessment roll levied to defray the assessable portion of SIP 2006 for Duluth Heights-maple Grove., was introduced for discussion.

Councilor Krause expressed concerns relative to the assessment process for property owners on side streets, over 1,000 feet from the improved street. In particular he noted that: this project was not normal, in that it required extensive rework — some areas had over three feet of excavation, some areas went through swamp land that were built up to six feet or more and there is a church in this area.

Resolution 07-0162 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of 2006 SIP for Duluth Heights-Maple Grove (Contract #7085; assessable amount - \$248,010.09), to be deposited in Fund 330, is hereby confirmed.

Resolution 07-0162 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0147, by Councilor Stauber, amending Resolution 06-0714 increasing by up to \$56,250 the amount authorized to be accepted for reimbursement from the Duluth economic development authority for construction expenses related to the Marine Iron portion of the Baywalk, was introduced for discussion.

Councilor Krause expressed concerns that: initially this was supposed to be a natural, best traffic flow route in case the slip bridge would not work; businesses in this area find this proposed best traffic flow route unacceptable; the slip bridge has to be working and this is now having an add on cost.

Resolution 07-0147 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that Resolution 06-0714 is hereby amended to increase by up to \$56,250 the amount authorized to be accepted for change orders related to the construction of the Baywalk along the Minnesota Slip adjacent to Marine Iron & Shipbuilding Company (Marine Iron), also

known as the Meierhoff property, for a total amount authorized for reimbursement to the city in an amount up to \$281,250, payable into Fund 255.

Resolution 07-0147 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Stauber, Stewart and President Stover -- 6

Nays: Councilors Krause, Little and Reinert -- 3

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0174, by Councilor Reinert, amending Resolution No. 06-0773 to modify time requirements for the Heritage Sports Center project, was introduced for discussion.

Councilor Krause wanted it noted that he would support this at this time, but would not support any further extensions.

Resolution 07-0174 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that Resolution No. 06-0773 is hereby amended by substituting Public Document No. 07-0226-24 for Public Document No. 06-1113-25(a) and by substituting Public Document No. 07-0226-24 for Public Document No. 06-1113-25(b) to extend the time allowed to provide required preconstruction documentation from February 28, 2007, to May 15, 2007, to extend the time for construction from October 1, 2007, to October 31, 2007, and to terminate the city's funding obligations if construction is not commenced by May 15, 2007.

Resolution 07-0174 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0177, by Councilor Stewart, to change policy and to terminate contract with Secret Service Entertainment, LLC, was introduced for discussion.

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

Joel Sipress, member of the citizen advisory committee for the design of Bayfront Park, expressed concern relative to passage of this resolution, noting that those donating funds for Bayfront were understanding it was to be a multi-use public facility, never intended to be solely or primarily a concert venue. He stated that one of the benefits was that it could be a concert venue as one of its many public purposes and that the Bayfront Blues Festival was viewed as a model of how the park could be used for broader public benefit. Mr. Sipress expressed concern that the city is taking a stance that will result in the city losing an event which has a tremendous benefit to the city.

Councilor Stewart reported that there has been a meeting with the administration, Mr. Samborski and Mr. Mackey and while there is still are some issues to be resolved, all parties would support the council tabling this resolution at this time.

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

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Resolution 07-0181, by Councilors Stewart and Johnson, supporting all of our troops, especially those serving in combat roles around the world, and urging the president to continue planning a strategic end to occupation of Iraq. was introduced for discussion.

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

Kathryn Anderson, Gary Sorensen, Ronald Miller, Sharla Gardner, Joel Sipress, Joan Najbar, Ed Thompson, Daniel Fanning, Carl Sack, Kenneth Appleton and Susan Daily spoke in support of the resolution for reasons of: it has more weight when a city council contacts the elected officials; the United States wastes its resources and is towards the bottom in the list of developed countries that offer economic and human welfare; the economic costs of the war has affected other areas that need attention; the large number of Iraq deaths would not be there if the United States was not there; the war is an unethical and immoral foreign policy; we should withdraw and expand our options; this war is transcending normal political views; federal auditors estimate that \$10 billion has been wasted in rebuilding Iraq; funding this war is adversely affecting the amount of money that is available for local government aid; local national guard units that have been needed for local emergencies have not been available because they are in Iraq; the resolution puts the council on record supporting the goal of a comprehensive withdrawal of American forces from Iraq; this is an important issue to citizens because, over half of the national guard troops in Iraq are from Minnesota; troop assignments in Iraq have been extended and there is an alarming number of suicides reported; supporting this resolution shows interest in the future of our children and their children; patriotic soldiers question why we are in Iraq; the question needs to be asked, "how many deaths are enough, before we say, this idea is a failure and we need to try something else"; the American people have spoken loudly in the last election and the Iraq study group and generals have stated that an expansion of force will not work.

Ronald Hanson, John Rathe and David Ross, executive director of the Duluth Area Chamber of Commerce, spoke in opposition to the resolution for reasons of: too many people get their information from sources other than those who are over there or have been there; soldiers that have been to Iraq have said that the United States is doing a good job and the regular residents of Iraq like us being there; the media is misrepresenting what is actually happening; wait until the 148th Fighter Wing of the Minnesota Air National Guard comes back and talk to them; this resolution is a slap in the face to the soldiers; it is not fit that the nine member council speaks for the 85,000+ residents on such a nationally divided issue; concerned individuals should contact their congressman or senator; there should be concern as to the possible, unintended consequences of this initiative, in that it is noted as to what communities have voiced a position that could affect a local airbase closure and military representatives have said that this initiative will be detrimental to the status of the 148th in Duluth.

Councilors Krause and Little opposed the resolution for reasons of: this is not city business, nor pertains to city business; the council is not in the position to second guess or to dictate to the federal government; by voting against this, it is not showing a lack of support for the troops; while citizens may not support the war, they feel the council is arrogant in leaving out the viewpoint of so many and citizens do not support the council addressing this issue.

Councilor Reinert stated that as an active officer in the Naval Reserve that he would be abstaining from voting on this resolution.

Resolution 07-0181 was adopted as follows:

BY COUNCILORS STEWART AND JOHNSON:

The city council finds as follows:

(a) The Duluth City Council supports the more than one million brave men and women deployed in Iraq and Afghanistan since 2001, honors the memory of those who have lost their lives in the war, and supports the families who have lost their loved ones; further, the Duluth City Council considers the men and women who serve in our armed forces to be an extraordinary gift,

for they volunteered to leave their homes and families and risk their lives everyday in the line of duty, and they do it with honor; and

(b) Throughout the state members of the emergency medical services, and local police and fire departments, many of whom have been called to serve, are our first line of defense against terrorism and our first responders in emergencies and disasters; and

(c) The United States military occupation of Iraq has placed strains on the capacity of the United States armed forces, both active duty and reserve and the National Guard; and

(d) Many volunteer members of the armed forces are entering into their third and fourth deployments to Iraq; and

(e) The war in Iraq, now in its fourth year, has caused:

(1) The deaths of more than 3,140 service men and women and tens of thousands of Iraqis;

(2) The physical and psychological wounding and disabling of more than 23,530 service men and women and hundreds of thousands of Iraqis; and

(3) The destruction of the homes, communities, and livelihoods of hundreds of thousands of Iraqis; and

(f) More than \$378 billion (nearly \$9 billion every month) has been appropriated by congress to fund military operations and reconstruction in Iraq when the congressional budget office (CBO), prior to commencement of military action in Iraq, estimated the costs of the conflict at \$21 to \$33 billion; and

(g) The war has resulted in the devastation of Iraqis' physical and social infrastructure and threatens the lives of Iraqi civilians and the men and women who compose the ranks of U.S. and other occupying forces; and

(h) Hundreds of similar resolutions have been enacted and registered throughout the country; and

(i) It is the duty of the city council to act on behalf and in the best interest of the citizens of Duluth; and

(j) The city council is empowered to make such resolutions as may be necessary to protect the public interest and for the preservation of health, welfare, peace, and order; and

(k) Just this month, more than 20,000 additional American sons and daughters, mothers and fathers, have been ordered into battle.

THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth that the city of Duluth urges the United States government to:

(a) Commence planning an orderly and comprehensive withdrawal of United States military personnel from Iraq; and

(b) Support our troops by ensuring that returning veterans receive compensation and care, including full mental and physical health, education, disability, and rehabilitation benefits; and

(c) Provide the people of Iraq with appropriate non-military aid as shall be necessary for the security of Iraqis citizens and for the rebuilding of Iraq; and

(d) Establish a plan for the ongoing transition of responsibility for internal security activities to the military forces of the Iraqi government; and

(e) Pursue security and stability in Iraq through diplomacy.

BE IT FURTHER RESOLVED, that a copy of this resolution is forwarded immediately to United States President George W. Bush, Senator Norm Coleman, Senator Amy Klobuchar,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Representative Jim Oberstar, and members of the Minnesota State House and Senate representing Duluth.

Resolution 07-0181 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Stauber, Stewart and President Stover -- 6

Nays: Councilors Krause and Little -- 2

Abstention: Councilor Reinert -- 1

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the monthly salary schedule for the equal opportunity representative is established as follows:

<b>Effective January 1, 2007</b>				
Step A	Step B	Step C	Step D	Step E
4,138	4,343	4,559	4,790	5,028
<b>Effective January 1, 2008</b>				
Step A	Step B	Step C	Step D	Step E
4,262	4,473	4,696	4,934	5,179
<b>Effective January 1, 2009</b>				
Step A	Step B	Step C	Step D	Step E
4,390	4,607	4,837	5,082	5,334

The person employed in this position shall initially be placed at Step A of such schedule, unless placement at a higher step is approved by the mayor, and shall advance one step in the schedule at the beginning of the next pay period after completion of six months service in the position, and shall advance one further step in the schedule at the beginning of the next pay period after completion of each additional 12 months of service in such position.

The equal opportunity representative shall be entitled to the same longevity award and fringe benefits as the supervisory employees of the city.

RESOLVED FURTHER, that the equal opportunity representative shall, in addition to the monthly pay prescribed elsewhere in this resolution and effective January 1, 2008, receive, monthly, an amount equal to one percent of his/her basic monthly pay deposited into a Minnesota health care savings plan post employment health care savings plan account, administered by the Minnesota state retirement system, established by the employer in the name of the employee.

Resolution 07-0042 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city occasionally receives gifts and donations of cash or securities that have not been designated for any particular purpose; and

WHEREAS, the city would get more value from undesignated gifts and donations if they are directed to the Duluth legacy endowment fund, which is a fund set up for the purpose of making effective use of gifts and donations.

NOW, THEREFORE, BE IT RESOLVED, that any undesignated gifts and donations of cash or securities received by the city of Duluth shall be deposited with the Duluth legacy endowment fund.

Resolution 07-0180 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0157, by Councilor Stauber, denying a rezoning petition for property located on north side of Arrowhead Road west of Rice Lake Road, was introduced for discussion.

Councilor Stauber moved to table the resolution to consider it with the corresponding rezoning ordinance in two weeks, which motion was seconded and unanimously carried.

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BY COUNCILOR STAUBER:

RESOLVED, that the city council finds the following:

(a) Robert Bissell has submitted to the city council, a special use permit request for a low density planned development on 16 acres of property legally described as follows:

(1) Lots 32, 33 and 34, Block 3, Hyde Park and that part of Government Lot 2, Section 26, Township 51 North, Range 13 West, Saint Louis County, Minnesota, described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Saint Louis and Lake County Railroad authority right-of-way (f.k.a. D.M.&I.R. Railroad) and the east line of said Government Lot 2; thence south 51 degrees 26 minutes 36 seconds west, along said southerly right-of-way line a distance of 1,037.71 feet to the point of beginning; thence north 51 degrees 26 minutes 36 seconds east, along said southerly right-of-way line a distance of 422.90 feet; thence south 20 degrees 33 minutes 24 seconds east a distance of 199.79 feet; thence south 51 degrees 26 minutes 36 seconds west a distance of 348.37 feet to the point of intersection with a line that bears south 42 degrees 20 minutes 11 seconds east from the point of beginning; thence south 42 degrees 20 minutes 11 seconds east a distance of 446.0 feet to the northerly right-of-way line of Congdon Boulevard (Scenic Highway 61); thence westerly, along said northerly right-of-way line a distance of 1,162.0 feet to the west line of said Government Lot 2; thence northerly, along said west line a distance of 655.0 feet to the southerly right-of-way line of the Saint Louis and Lake County Railroad authority right-of-way (f.k.a. D.M.&I.R. Railroad); thence north 51 degrees 26 minutes 36 seconds east, along said southerly right-of-way line a distance of 679.0 feet to the point of beginning.

Subject to and together with any valid easements, restrictions and reservations, if any;

(b) Said permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on February 13, 2007, and the commission has subsequently reported its recommendation of conditional approval to the city council;

(c) The applicant's compliance with conditions set out in this permitting resolution will remedy any shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents, and that compliance with the conditions contained herein, will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32 (reference Planning Commission File No. 07008);

(d) That a special use permit is hereby granted to Robert Bissell to construct five two-family dwellings each with two-car attached garages, five detached two-car garages, and landscaping along a private roadway that accesses Congdon Boulevard approximately 1/2 mile east of the Lakewood pumping station, with the following terms and conditions:

(1) That the project be limited to, developed and maintained according to plans entitled, "Condominium Development - Robert Bissell," sheets S1 - New Site Plan (Revised 2/13/2007), S2 - Water Resource Management Plan (submitted 2/13/2007), and A1 (dated 1/3/2007) all as submitted by Helstrom Architects and identified as Public Document No. 07-0226-23;

(2) That the property sign near Congdon Boulevard consist of two sign faces, each no larger than 20 square feet in area, and that the signs be set back from the right-of-way at least ten feet and that the sign faces not be illuminated.

Resolution 07-0159 was unanimously adopted.

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0123, by President Stover, calling a public hearing on proposed amendment to Section 21 of the Duluth City Charter, was introduced for discussion.

Councilors Reinert and Krause stated that they will not be supporting this resolution because they will not be supporting the ordinance when it comes up for consideration.

Resolution 07-0123 was adopted as follows:

BY PRESIDENT STOVER:

WHEREAS, said Section 410.12, subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance.

BE IT RESOLVED, that on the 26th day of March, 2007, at 7:00 p.m., or as soon thereafter as the hearing can be commenced, the city council shall conduct a public hearing regarding the adoption of an ordinance amending Section 21 of the Charter pertaining to city employees running for office.

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendments to the City Charter is hereby called for March 26, 2007, at 7:00 p.m., in the council chambers at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by the city of Duluth that on March 26, 2007, at 7:00 p.m., in the City Council Chamber at the Duluth City Hall, the city council of the city of Duluth will

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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conduct a public hearing on the question of the adoption of an ordinance amending Section 21 of the City Charter in the manner hereinafter set forth:

[text of proposed ordinance]

Resolution 07-0123 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Stauber, Stewart and President Stover -- 7

Nays: Councilors Krause and Reinert -- 2

Approved February 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Ulland Brothers, Inc., of Cloquet, Minnesota, be and hereby is awarded a contract for the construction of Airport Road (MSAS 199) from the Duluth city limits to 2,226 feet easterly, in accordance with its low specification bid of \$492,100 terms net 30 days, FOB job site, payable from Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, City Project No. 0526TR, S.P. 118-199-002, Minnesota Project No. HPPH H178(001).

Resolution 07-0048 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires field and laboratory testing, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

Twin Ports Testing, Inc., has submitted a fee schedule for field and laboratory testing services in connection with the work.

The proper city officials are hereby authorized to enter into an agreement with Twin Ports Testing, Inc., to provide the city with such field and laboratory testing services.

FURTHER RESOLVED, that the cost of said field and laboratory testing services, at a total estimated cost of \$15,000, will be paid from the various funds, departments, agencies, organizations and objects.

Resolution 07-0095 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved February 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0178, by Councilor Little, authorizing the proper city official to enter into a contract with Car Truck City for the purchase of nine Chevrolet Impalas, to be used as unmarked police cars, in the amount of \$141,307.65, was introduced for discussion.

Councilor Gilbert felt that city should make purchases from local dealers.

Resolution 07-0178 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Car Truck City for the purchase and delivery of nine 2007 Chevrolet Impalas for the fleet services division and police department in accordance with state of Minnesota Contract #436647, Release A-175(5) specifications and pricing in the amount of \$141,307.65, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-V703. The vehicles will be used as unmarked police cars. The order is due March 1, 2007, in order to obtain year 2007 vehicles.

Resolution 07-0178 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Gilbert -- 1

Approved February 26, 2007

HERB W. BERGSON, Mayor

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

The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

07-015 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2006 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

BY COUNCILOR STEWART

07-017 - AN ORDINANCE AMENDING ARTICLE XXXII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED (HOUSING INVESTMENT FUND), AMENDING RESOLUTION NO. 05-0269 AND FUNDING RETIREE HEALTHCARE BENEFITS.

- - -

BY COUNCILOR KRAUSE

07-009 - AN ORDINANCE AMENDING CHAPTER 5, SECTIONS 5-17, 5-19 AND 5-21, OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LOCATION AND OPERATION OF ADULT BOOKSTORES AND ADULT ENTERTAINMENT ESTABLISHMENTS.

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BY COUNCILOR KRAUSE

07-014 - AN ORDINANCE PURSUANT TO MINNESOTA STATUTES §462.355, SUBD. 4, TO PRESERVE THE STATUS QUO PENDING THE COMPLETION AND REPORT OF A STUDY AND POSSIBLE ACTION ON THE STUDY INCLUDING AMENDING THE CITY'S ZONING ORDINANCE AND SIGN ORDINANCE REGULATING ADVERTISING SIGNS AND BUSINESS SIGNS AS THEY MAY PERTAIN TO SIGNS WITH DIGITAL OR ELECTRONIC PANELS.

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BY COUNCILOR GILBERT

07-016 - AN ORDINANCE AMENDING SECTION 10A-20 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO EXPENDITURE OF PROFITS FROM CHARITABLE GAMBLING.

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BY COUNCILOR STAUBER

07-010 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR THE SEAWAY HOTEL TO CONSTRUCT A FIRE ESCAPE IN THE ALLEY AT 2001 WEST SUPERIOR STREET.

- - -

BY COUNCILOR STAUBER

07-011 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO WATERFRONT PLAZA BUILDING AT 325 LAKE AVENUE SOUTH TO CONSTRUCT SEVEN BALCONIES OVER THE SIDEWALK.

- - -

BY COUNCILOR STAUBER

07-012 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A TO C-5 PROPERTY LOCATED ON ARROWHEAD ROAD WEST OF RICE LAKE ROAD.

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BY COUNCILOR NESS

07-007 - AN ORDINANCE REPEALING SECTION 102 OF THE DULUTH CITY CHARTER PERTAINING TO RESTRICTIONS ON ALCOHOL SALES.

- - -

BY PRESIDENT STOVER

07-008 - AN ORDINANCE AMENDING SECTION 69 OF THE DULUTH CITY CHARTER RELATING TO PENALTIES AND INTEREST ON TAX FORFEIT PROPERTY.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR KRAUSE

07-006 (9819) - AN ORDINANCE AMENDING SECTIONS 31, 33, 34, 54(A) AND 55 OF THE DULUTH CITY CHARTER, ALL INVOLVING THE CITY PURCHASING FUNCTION.

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

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BY COUNCILOR STAUBER

07-004 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2007 BY APPROPRIATING MONIES FOR THE PAYMENT OF OPEB COSTS - NO INCREASE IN TOTAL EXPENDITURES.

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

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The meeting was adjourned at 9:17 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9819**

BY COUNCILOR KRAUSE:

AN ORDINANCE AMENDING SECTIONS 31, 33, 34, 54(A) AND 55 OF THE DULUTH CITY CHARTER, ALL INVOLVING THE CITY PURCHASING FUNCTION.

The city of Duluth does ordain:

Section 1. That Section 31 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Section 31. Within one of the departments authorized in Section 20 of this Charter the council shall by ordinance, establish a division of procurement and purchases to be managed by the purchasing agent, or the city may contract with the state or any local governmental subdivision for the services of any existing purchasing and procurement agency, or to establish a joint purchasing and procurement agency.

The council shall regulate the making of bids and the letting of contracts by ordinance subject to limitations as outlined in Minnesota Statute 471.345 (Uniform Municipal Contracting Law).

Section 2. That Section 33 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Section 33. The council shall annually provide, by resolution, for the publication of all matters required by this Charter to be published, and to that end shall annually designate the official paper in which all such publications shall be made. The city may choose to publish any such notices or items on the city's internet website so long as this is allowed by Minnesota statutes or is not expressly forbidden by state statutes.

Section 3. That Section 34 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Section 34. The fiscal year shall be the calendar year. At the end of each year the council shall cause a complete examination and audit of all books and accounts of the city to be made by competent accountant, who shall not otherwise be an officer or employee of the city, unless such examination is to be made by the state public examiner. In either event a summary of the audit in a form required by Minnesota Statute 471.697, or its successor, shall be published by such means as allowed or required by state law.

Section 4. That Section 54(A) of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Section 54(A). The city's accounting system shall present fairly and fully disclose the financial position and results of financial operations of the funds and account groups of the city in conformity with generally accepted accounting principles, as established by the Governmental Accounting Standards Board and the American Institute of Certified Public Accountants.

The requirements of the federal general accounting office, and OMB Circular A-133, or its successor, shall be followed in reporting all federal revenues and expenditures, as required, which will demonstrate compliance with finance-related legal and contractual provisions.

The accounting system of the city shall be organized and operated on a fund basis, which is a self-balancing accounting entity, recording cash and other financial

resources together with related liabilities and residual equities or balances, which are segregated for the purpose of specific activities or objectives.

The city shall maintain a fund structure that includes:

(1) A general fund to account for all financial resources, except those to be accounted for in another fund;

(2) Special revenue funds, including a permanent improvement fund, to account for the proceeds of specific revenue sources, other than special assessments, expendable trusts, and major capital projects, which are legally restricted to expenditure for specified purposes;

(3) Capital project funds to account for financial resources to be used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds, special assessment funds and trust funds;

(4) Debt service funds to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest;

(5) Enterprise funds to account for operations that are financed and operated in a manner similar to private business enterprises, where the intent of the city is that the costs, including depreciation, of providing goods or services to the general public, be financed through user fees, or where the city has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for public policy, management control, capital maintenance, accountability or other purposes.

An enterprise fund shall be maintained for the acquisition, construction, support, maintenance and operation of each public utility owned and operated by the city, including the payment on any bonds or other indebtedness which may be a lien on such utility. There shall be paid into these funds all monies derived from the sale of bonds issued on account of any such utilities, and from the operation of such utility, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of these funds the cost of the purchase, construction, extension, operation, maintenance and repair of any such utility, including the interest upon all bonds or other indebtedness which may be a lien upon such utility. Any surplus in such funds may be used for the purchase of any bonds or certificates of indebtedness issued upon said utilities, and for the payment of such bonds or other indebtedness upon their maturity;

(6) Internal service funds to account for the financing of goods or services provided by one department or agency to other departments or agencies within the city on a cost reimbursement basis;

(7) Agency funds to account for assets held by the city as an agent for individuals, private organizations or other governmental units.

The city shall establish and maintain those funds required by law and sound financial administration consistent with legal and operating requirements, which should be established to avoid unnecessary funds which would result in inflexibility, complexity and inefficient financial administration.

An annual budget shall be adopted by the city of Duluth which allows the accounting system to provide the basis for appropriate budgetary control. Budgetary comparisons should be included in the appropriate financial statements and schedules, for which an annual budget has been adopted

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 5. That Section 55 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Section 55. The city of Duluth may issue bonds or certificates of indebtedness by ordinance for the following purposes:

- (1) To pay, fund or refund any debts of the city;
- (2) To purchase, construct, extend, improve and maintain public utility plants. Such bonds or certificates of indebtedness so issued shall be a specific lien upon such plants named in such ordinance authorizing the issuance of said bonds or certificates of indebtedness;

(3) Any purpose authorized by state law.

Section 6. That this ordinance shall take effect 90 days after its passage and publication. (Effective date: June 7, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed February 26, 2007  
Approved February 26, 2007  
HERB W. BERGSON, Mayor

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**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, March 12, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Johnson, Krause, Little, Ness, Stauber, Stewart and President Stover -- 7

Absent: Councilors Gilbert and Reinert -- 2

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0312-01 Grandma's Restaurant Company application for a concurrent use permit to add additional seating on the deck at Little Angie's Cantina and Grill located on Lots 2 and 4, St. Croix Avenue, Cowells Addition to Duluth (11 East Buchanan Street). -- Planning commission

07-0312-02 Shelley Kuszler concurrent use permit application for remodeling of existing home at 3801 Lake Avenue South. -- Planning commission

07-0312-03 Sherman and Associates, Inc., application for a concurrent use permit to construct canopies and awnings and install flagpoles at the Sheraton Duluth Hotel and the 311 Superior Condominiums at 311 East Superior Street. -- Planning commission

07-0312-04 The following communications regarding contract with Secret Services Entertainment, LLC, for management of Bayfront Festival Park (07-0177R): (a) Andrew Berryhill; (b) Carrie Brown; (c) Rose Hoene-Laurich; (d) Cheryl Olson; (e) Jim Rigstad; (f) Jon and Leanne Stanley; (g) Bill and Denette Lynch; (h) Charles Stephan; (i) Chip Stewart; (j) Tracey Tellor. -- Received

07-0312-12 The following communications regarding the proposed ordinance amending Article XXXII of Chapter 2 of the Duluth City Code, 1959, as amended (housing investment fund, amending Resolution No. 05-0269, and funding retiree health care benefits (07-017-O): (a) Neighborhood Housing Services of Duluth; (b) Charlotte Unger. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0312-05 Assessor letter of sufficiency of petition to vacate the southerly 33 feet of Waseca Street between 65th Avenue West and the plotted alley between 64th and 65th avenues West. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

07-0312-06 Duluth airport authority minutes of January 30, 2007, meeting. -- Received

07-0312-07 Duluth/North Shore Sanitary District minutes of January 10, 2007. -- Received

07-0312-08 Duluth transit authority: (a) Income statement for November 2006; (b) Minutes of January 3, 2007, meeting. -- Received

07-0312-09 Entertainment and convention center authority minutes of: (a) December 18, 2006, regular; (b) January 18, 2007, building committee, meetings. -- Received

07-0312-10 Library board minutes of January 23, 2007, meeting. -- Received

07-0312-11 Seaway Port authority of Duluth financial report of February 22, 2007. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Harry Munger and Rachel Kincad, representing Light House, spoke about Councilor Stauber's issue of the mayor soliciting complimentary tickets and the distribution of them. They felt that: the mayor has always been concerned for the underprivileged and poor; this issue has been taken out of context; it takes away all of the good things the mayor has done to assist those at Light House and a job of the mayor is to make connections to serve the under-represented so that they can be given opportunities that others have and enjoy.

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Kay L. Lewis requested: a report on how many new full time jobs would be created with the Duluth Entertainment Convention Center (DECC) expansion, Heritage Center and Kroc Center; a report on the utilization of parking ramps; that when a promoter uses a public facility, the record keeping must be clean; there be an established protocol to handle the secondary activities of a public event.

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At this time, 7:15 p.m., the public hearing on the Charter amendment pertaining to restrictions on alcohol sales began.

Carol Valentini, Bruce Wyman, executive director of the Hillside Business Association, and Andy Peterson, representing the chamber of commerce, spoke in support of the Charter amendment, citing reasons of: by not eliminating this language, it strengthens the argument that the process of truly determining what is a city "park" is cumbersome, time consuming, expensive and unnecessary for a new business; a more logical and effective avenue of the existing liquor and zoning regulations should be used relative to making decisions relative to liquor locations; a no vote on this change will not have any effect on the concerns raised; everyone should take into consideration, when they vote, the potential fallout and consequences that could occur for existing businesses near parks; those in the business have an interest in serving their customers responsibly and are very invested in making sure the rules are followed; researching all the city records relative to properties near all the liquor establishments would tie up the city attorney's office for some time; one simple set of regulations is needed and the Hillside Business Association has invested \$20,000 in the building at 14th Avenue East and Fourth Street to create the appropriate type of business, which needs this type of license for a successful business.

At this time, 7:20 p.m., the public hearing was declared closed.

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At this time, 7:21 p.m., the public hearing on the Charter amendment pertaining to penalties and interest on tax forfeit properties began.

At this time, 7:22 p.m., the public hearing was declared closed and the regular order of business was resumed..

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### **RESOLUTIONS TABLED**

Councilor Stewart moved to remove Resolution 07-0177, to change policy and to terminate contract with Secret Service Entertainment, LLC, fro the table, which motion was seconded and unanimously carried.

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

John Rathe expressed opposition for the resolution, noting that by terminating the contract and losing the Blues Festival it would end it and we need to do everything we can to save the Blues Festival, because it rivals anything else that comes to Duluth.

Craig Samborski, Secret Service Entertainment, commented that he has met with Mr. Mackey, Bayfront Blues Festival organizer, to have the contract work. He stated that he also had discussions with the city for some alternative ideas to make this contract work. Mr. Samborski noted that this contract also contains Fourth Fest and two other free events and if some of the events were removed, the contract would have to be renegotiated. In conclusion, he noted that under the contract with the Blues Festival, he would not receive any revenue streams, i.e. per ticket rent, from the festival.

Chief Administrative Officer Hall noted that issues raised relative to the accounting issues from past years needs to be addressed.

President Stover expressed concerns that he hoped that the differences could be worked out without terminating this contract.

Resolution 07-0177 was adopted as follows:

BY COUNCILOR STEWART:

The city council finds as follows:

(a) The city is administering Bayfront Park usage through the services of a private contractor, Secret Service Entertainment, LLC; and

(b) The city could benefit from an alternative method of operation.

THEREFORE, BE IT RESOLVED, that the council requests the administration to recommend alternative methods of administering the use of Bayfront Park for entertainment events.

BE IT FURTHER RESOLVED, that the city shall terminate the contract between city of Duluth, Lake Superior Center authority, Duluth economic development authority and Secret Service Entertainment, LLC (Auditor's Contract No. 20288 dated December 21, 2006) by giving the written notice referred to in paragraph 24.1 thereof.

Resolution 07-0177 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Stauber and Stewart -- 6

Nays: President Stover -- 1

Absent: Councilors Gilbert and Reinert -- 2

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Krause moved to remove Resolution 07-0097, authorizing the execution of an administrative services agreement with Nationwide Retirement Solutions, Inc., relating to the city's deferred compensation plan; and Resolution 07-0098, authorizing the execution of an administrative services agreement with Acclaim Benefits, Inc., relating to the city's deferred compensation plan, 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 issue.

David Wright, representing the state agency that runs one of the existing deferred compensation plans that the city offers currently, spoke of his concerns, noting that: he does not work on commission; that his plans are not run for profit; that there likely will be increased costs with adding additional plans; that there could be employee confusion with this many plans and that many St. Louis County employees are waiting for the county to open a transfer window to allow them to transfer their funds out of one of the companies the city is considering in these resolutions.

Larry Jeneson, chair of the city's deferred compensation plan commission, noted that the city of Duluth has one deferred compensation plan as approved by the internal revenue service and what is being discussed here is to add additional contractors to administer that plan to the

employees. He noted that there is approximately a 75 percent participation rate by employees and that the addition of two new providers/administrators will not add a substantial cost. He added that the approval of these providers is recommended by the commission, which is comprised of bargaining unit employees.

Resolutions 07-0097 and 07-0098 were adopted as follows:

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to execute an administrative services agreement and Amendment A with Nationwide Retirement Solutions, Inc., which will permit such company to provide its financial products to city employees under the city's deferred compensation plan, which agreement is on file in the office of the city clerk as Public Document No. 07-0312-13.

Resolution 07-0097 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to execute an administrative services agreement that includes schedules A and B with Acclaim Benefits, Inc., which will permit such company to provide certain financial products to city employees under the city's deferred compensation plan, which agreement is on file in the office of the city clerk as Public Document No. 07-0312-14.

Resolution 07-0098 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Stauber moved to remove Resolution 07-0157, denying a rezoning petition for property located on north side of Arrowhead Road west of Rice Lake Road, from the table, which motion was seconded and unanimously carried.

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### **INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-012 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 33, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-A TO C-5 PROPERTY LOCATED ON ARROWHEAD ROAD WEST OF RICE LAKE ROAD.

Councilor Stauber moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

- - -

Councilor Krause expressed concern relative to the issue of 40 acres of land that the school district owns across the road and that the position of the school district on this issue is unknown.

Councilor Stauber moved to table the resolution and ordinance so that the council can be informed as to the school district's position, 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 Stover moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STEWART:

RESOLVED, that whenever any claim for damages or worker's compensation benefits is filed against the city, or whenever the city has a claim for damages against any party, or whenever the city has a dispute with any party over the interpretation of a contract, other than a collective bargaining agreement, the city attorney shall investigate such claim or contract dispute and, if he shall be of the opinion that such claim or contract dispute shall be settled and compromised, he shall make written recommendation of settlement to the chief administrative officer; and if such recommendation is approved by the chief administrative officer, or such other officer of the city that the chief administrative officer has so designated by written instrument, such settlement may be implemented without city council approval.

RESOLVED FURTHER, that whenever it is necessary for the city to sign a release or any other document in order to implement a settlement made under authority of this resolution, the chief administrative officer, or such other officer of the city that the chief administrative officer has so designated by written instrument, or the city attorney is hereby authorized to sign such release or other document on behalf of the city.

RESOLVED FURTHER, that the chief administrative officer, or such other officer of the city that the chief administrative officer has so designated by written instrument, is hereby given authority to settle and compromise grievances brought under the provision of any collective bargaining agreement entered into by the city and such settlements may be implemented without city council approval.

RESOLVED FURTHER, that no settlement of any contract dispute, grievance or any claim, except a claim for workers' compensation benefits, providing for payment of more than \$10,000 either to or by the city shall be made under authority of this resolution.

RESOLVED, that all prior resolutions authorizing the settlement of claims, contract disputes or grievances by the city administration are hereby superseded.

Resolution 07-0179 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor license for the period beginning July 1, 2007, and ending April 30, 2008, and approves issuance of an on sale wine license for the period beginning July 1, 2007, and ending August 31, 2007, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Rose Garden Enterprises, LLC (Valentini's Vicino Lago), 1400 London Road, with Carol Valentini, 50 percent stockholder, and Sonja Baertsch, 50 percent stockholder.

Resolution 07-0138 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR KRAUSE:

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

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

Licensee	Gambling Site
Irving Community Association	Hero's, 323 West First Street
Lester Park Hockey Association	Round Up Bar and Grill, 415 East Fourth Street

Resolution 07-0204 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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 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 07-0205 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Philip Monson (Planning District 2) to the community development committee for a term expiring on March 1, 2008, replacing Wallace Pfister who resigned, is confirmed.

Resolution 07-0183 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Lisa Kane to the Duluth human rights commission for a term expiring on April 20, 2008, replacing Kerry Gauthier who resigned, is confirmed.

Resolution 07-0184 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed specifications for the new civil service classification of human resource benefits technician, which were approved by the civil service board on March 6, 2007, and which are filed with the city clerk as Public Document No. 07-0312-16, are approved; that said classification shall be subject to the city's collective bargaining unit with its confidential unit employees; and that pay range for said classification shall be Range 9. 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 07-0208 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to contract with St. Louis County public health and human services for the purchase and delivery of approximately 48,500 hot catered meals from January 1, 2007, through December 31, 2007, for the parks and recreation department in accordance with specifications on its proposal of \$3.56 per regular meal for estimated amount of \$172,851, payable as follows: \$129,850 (meals) from the Senior Dining Fund 272, Department/Agency 031, Project No. SD04, Object 5310; \$41,401 (meals) from the Senior Dining Fund 272, Department/Agency 031, Project No. SD06, Object 5310; \$50 (supplies) from the Senior Dining Fund 272, Department/Agency 031, Project No. SD04, Object 5211; \$850 (supplies) from the Senior Dining Fund 272, Department Agency 031, Project No. SD04, Object 5219; and \$700 (supplies) from the Senior Dining Fund 272, Department/Agency 031, Project No. SD06, Object 5219. This is the second year of a potential five-year agreement.

Resolution 07-0186 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the proper city officials are authorized to execute and implement an employment contract with Robert Grytdahl for the position of equal opportunity representative, which contract is on file with the city clerk as Public Document No. 07-0312-17.

Resolution 07-0203 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Neenah Foundry Company for the purchase and delivery of replacement castings as needed during year 2007 for the utility operations division in accordance with specifications and a quote of \$28,652 plus sales tax of \$1,800, for a combined total of \$30,452, terms net 30, FOB destination, payable as follows: \$29,217 from the Sewer Fund 530, Department/Agency 500, Organization 1945, Object 5227 and \$1,235 from the Stormwater Fund 535, Department/Agency 500, Organization 1945, Object 5227.

Resolution 07-0190 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are authorized to contract with Demolition Landfill Services, LLC, for the disposal of excavation and landfill debris as needed during year 2007 for utility operations crews in accordance with specifications and an estimated total of \$19,800, terms net 30, payable as follows:

(a) \$7,920 (40 percent) from Water Fund 0510, Department/Agency 500, Organization 1945, Object 5384;

(b) \$2,970 (15 percent) from Gas Fund 520, Department/Agency 500, Organization 1945, Object 5384;

(c) \$4,950 (25 percent) from the Sewer Fund 530, Department/Agency 500, Organization 1945, Object 5384;

(d) \$3,960 (20 percent) from the Stormwater Fund 535, Department/Agency 500, Organization 1945, Object 5384.

Resolution 07-0193 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into a one year contract, with four one-year renewal options, substantially the same as that on file with the city clerk as Public Document No. 07-0312-18, for fuel and delivery services of both bulk and station fuel during year 2007 in an amount not to exceed \$1,120,000, terms net 30, FOB destination, payable from Fleet Services Fund 660-015-5212.

RESOLVED FURTHER, that this resolution supercedes and replaces Resolution 07-0101.

Resolution 07-0194 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to increase the original purchase order to Service Electric, Inc., for labor and materials provided as part of the Lakewood switchgear project, by \$51,685 (\$50,275 plus sales tax of \$1,410 on materials), for a new total of \$65,637, terms net 30, payable as follows:

(a) \$28,625 (labor) from the Water Fund 0510, Department/Agency 500, Organization 1955, Object 5404;

(b) \$23,060 (\$21,650 in materials plus sales tax of \$1,410) from the Water Fund 0510, Department/Agency 500, Organization 1955, Object 5220.

Resolution 07-0196 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires survey and field data collection, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

LHB, Inc., has submitted a fee schedule for survey and field data collection services in connection with the work. The proper city officials are hereby authorized to enter into an agreement with LHB, Inc., to provide the city with such survey and field data collection services.

FURTHER RESOLVED, that the cost of said survey and field data collection services, at a total estimated cost of \$15,000, will be paid from the various appropriate funds, departments, agencies, organizations and objects.

Resolution 07-0197 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires survey and field data collection, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

Krech Ojard & Associates has submitted a fee schedule for survey and field data collection services in connection with the work. The proper city officials are hereby authorized to enter into an agreement with Krech Ojard & Associates to provide the city with such survey and field data collection services.

FURTHER RESOLVED, that the cost of said survey and field data collection services, at a total estimated cost of \$15,000, will be paid from the various appropriate funds, departments, agencies, organizations and objects.

Resolution 07-0198 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires survey and field data collection, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

SEH, Inc., has submitted a fee schedule for survey and field data collection services in connection with the work. The proper city officials are hereby authorized to enter into an agreement with SEH, Inc., to provide the city with such survey and field data collection services.

FURTHER RESOLVED, that the cost of said survey and field data collection services, at a total estimated cost of \$15,000, will be paid from the various appropriate funds, departments, agencies, organizations and objects.

Resolution 07-0199 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires survey and field data collection, and desires to

hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

Salo Engineering has submitted a fee schedule for survey and field data collection services in connection with the work. The proper city officials are hereby authorized to enter into an agreement with Salo Engineering to provide the city with such survey and field data collection services.

FURTHER RESOLVED, that the cost of said survey and field data collection services, at a total estimated cost of \$15,000, will be paid from the various appropriate funds, departments, agencies, organizations and objects.

Resolution 07-0200 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires survey and field data collection, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

Ayres Associates has submitted a fee schedule for survey and field data collection services in connection with the work. The proper city officials are hereby authorized to enter into an agreement with Ayres Associates to provide the city with such survey and field data collection services.

FURTHER RESOLVED, that the cost of said survey and field data collection services, at a total estimated cost of \$15,000, will be paid from the various appropriate funds, departments, agencies, organizations and objects.

Resolution 07-0201 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires survey and field data collection, and desires to hire professional consulting firms to provide the services required to support the construction, operation and maintenance of city systems.

RLK Kuusisto LTD has submitted a fee schedule for survey and field data collection services in connection with the work. The proper city officials are hereby authorized to enter into an agreement with RLK Kuusisto LTD to provide the city with such survey and field data collection services.

FURTHER RESOLVED, that the cost of said survey and field data collection services, at a total estimated cost of \$15,000, will be paid from the various appropriate funds, departments, agencies, organizations and objects.

Resolution 07-0202 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to accept the donation of an easement for utility purposes located southeast of Haines Road and Morris Thomas Road, a copy

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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of which is on file in the office of the city clerk as Public Document No. 07-0312-19, from D. Joseph Properties, Inc., at no cost to the city.

Resolution 07-0210 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are hereby authorized to apply for and, if approved, accept with the state of Minnesota, through the Minnesota department of safety, department of homeland security and emergency management, a contract in the amount of up to \$45,000, to be deposited into Fund 100, Agency 100, Organization 1505, Revenue Source 4210-02, in accordance with that request for proposals pertaining thereto published in the Minnesota State Register in Volume 31, No. 34, page 1152, on February 20, 2007, to provide services as a hazardous materials chemical assessment team.

FURTHER RESOLVED, that said officials are hereby authorized to apply for and, if approved, accept with the state of Minnesota, through the Minnesota department of safety, department of homeland security and emergency management, a contract in the amount of up to \$120,000, to be deposited into Fund 100, Agency 100, Organization 1505, Revenue Source 4210-02, in accordance with that request for proposals pertaining thereto published in the Minnesota State Register in Volume 31, No. 34, page 1152, on February 20, 2007, to serve as a hazard materials emergency response team.

FURTHER RESOLVED, that John Strongitharm, chief of the city's fire department, is hereby designated to administer any contract and any grant offered to the city pursuant to either of both of the above applications.

Resolution 07-0189 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Cushman Motor Company, Inc., for the purchase and delivery of one 2007 Westward Industries Interceptor III patrol vehicle for the Duluth police department (parking enforcement unit) in accordance with its quote of \$23,215, terms net 30, FOB destination, payable from the General Fund 100, Department/Agency 700, Organization 1407, Object 5406.

Resolution 07-0192 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with RAE Systems, Inc., for the purchase and delivery of one RAE RDK (rapid deployment kit) system package for the fire department in accordance with its quote of \$35,100, terms net 30, FOB destination, payable from

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Special Projects Fund 210, Department/Agency 30, Organization 3171, Object 5580. This purchase is funded by Homeland Security Grant #2005-SHSP-00472 (05-0364R, adopted June 13, 2005, by the city council).

Resolution 07-0206 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to execute and implement an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0312-20, with the Duluth airport authority (DAA) relating to the distribution of fine money generated by parking violations at the Duluth International Airport.

Resolution 07-0195 was unanimously adopted.

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0182, by Councilor Gilbert, confirming the appointments of John W. Hammack and Matthew L. Munger to the alcohol, gambling and tobacco commission, replacing Robert Hendrickson and Arnold C. Johnson, was introduced for discussion.

Councilor Krause expressed concerns relative to one of the persons who continued to serve for the last two years without being reappointed and then was being replaced by the resolution.

Resolution 07-0182 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the appointments by Mayor Bergson of John W. Hammack and Matthew L. Munger to the alcohol, gambling and tobacco commission for terms expiring on March 20, 2008, replacing Robert Hendrickson and Arnold C. Johnson, are confirmed.

Resolution 07-0182 was adopted upon the following vote:

Yeas: Councilors Johnson, Little, Ness, Stauber, Stewart and President Stover -- 6

Nays: Councilor Krause -- 1

Absent: Councilors Gilbert and Reinert -- 2

Approved March 12, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0213, by Councilor Ness, declaring policy and plan for retiree health care program reform, was introduced for discussion.

Councilor Ness moved to table the resolution until a worksheet can be reflected in a replacement resolution, which motion was seconded and unanimously carried.

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

#### **ORDINANCES TABLED**

BY COUNCILOR STAUBER

07-004 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2007 BY APPROPRIATING MONIES FOR THE PAYMENT OF OPEB COSTS - NO INCREASE IN TOTAL EXPENDITURES.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Councilor Stauber moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Little, Stauber, Stewart and President Stover -- 4

Nays: Councilors Johnson, Krause and Ness -- 3

Absent: Councilors Gilbert and Reinert -- 2

- - -

BY COUNCILOR STEWART

07-017 - AN ORDINANCE AMENDING ARTICLE XXXII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED (HOUSING INVESTMENT FUND), AMENDING RESOLUTION NO. 05-0269 AND FUNDING RETIREE HEALTHCARE BENEFITS.

Councilor Stauber moved to suspend the rules to consider Ordinance 07-017 at this time, which motion was seconded and unanimously carried.

- - -

Relative to Ordinance 07-004, Councilors Ness, Krause and President Stover opposed the ordinance for reasons of: the council would be taking pretty extraordinary measures to recapture those dollars; it would have a dramatic effect on city services; in many areas of city government, it is down to the bone already; decisions like this should be in the upcoming budget cycle so that decisions can be based on sound judgment instead of imposing this on the administration at this time; something like this would create more inefficiencies, because departments have established their 2007 budgets, now they would have to redo them and with nobody wanting to see the public safety areas of police and fire being cut and then what happens is that the parks and recreation and public works and utilities departments get cut.

Councilors Stauber and Stewart supported Ordinance 07-004 because: for the last three years the administration has over spent the budget; tonight there is a budget ordinance to amend last years budget by \$600,000, so it shows that they can find the money; in 2005 this council made a commitment to put \$600,000 a year into the retiree health care fund; in December 2006 the council approved a \$600,000 property tax increase and the mayor vetoed it at the last hour, with no opportunity for the council to override the veto and the council has talked about doing something to address the retiree health care issue and then this past year it took action, which was vetoed by the mayor.

Mr. Hall stated that the administration will not be able to find an extra \$600,000 because of the higher costs to the city in the expense areas such as: motor fuels, blacktop expenses, utility expenses, overtime, retiree insurance premiums and larger vacation payoffs due to larger than normal retirement numbers. He noted that there will be a noticeable decrease in service delivery if this passes.

Ordinance 07-004 failed upon the following vote (Public Document No. 07-0312-15):

Yeas: Councilors Little, Stauber and Stewart -- 3

Nays: Councilors Johnson, Krause, Ness and President Stover -- 4

Absent: Councilors Gilbert and Reinert -- 2

- - -

Councilor Stewart moved remove Ordinance 07-017 from the agenda, which motion was approved without objections.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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The following entitled ordinance was read for the first time:

BY PRESIDENT STOVER

07-018 - AN ORDINANCE AMENDING DULUTH CITY CHARTER, SECTION 21, PERTAINING TO CITY EMPLOYEES RUNNING FOR OFFICE.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

07-015 (9820) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2006 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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

Yeas: Councilors Johnson, Krause, Ness and President Stover -- 4

Nays: Councilors Little, Stauber and Stewart -- 3

Absent: Councilors Gilbert and Reinert -- 2

- - -

BY COUNCILOR KRAUSE

07-009 (9821) - AN ORDINANCE AMENDING CHAPTER 5, SECTIONS 5-17, 5-19 AND 5-21, OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LOCATION AND OPERATION OF ADULT BOOKSTORES AND ADULT ENTERTAINMENT ESTABLISHMENTS.

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

Yeas: Councilors Johnson, Krause, Little, Ness, Stauber and President Stover -- 6

Nays: Councilor Stewart -- 1

Absent: Councilors Gilbert and Reinert -- 2

- - -

BY COUNCILOR KRAUSE

07-014 - AN ORDINANCE PURSUANT TO MINNESOTA STATUTES §462.355, SUBD. 4, TO PRESERVE THE STATUS QUO PENDING THE COMPLETION AND REPORT OF A STUDY AND POSSIBLE ACTION ON THE STUDY INCLUDING AMENDING THE CITY'S ZONING ORDINANCE AND SIGN ORDINANCE REGULATING ADVERTISING SIGNS AND BUSINESS SIGNS AS THEY MAY PERTAIN TO SIGNS WITH DIGITAL OR ELECTRONIC PANELS.

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

Matt Harrold, representing Lamar Advertising, Todd Johnson, representing Todd Signs and Andy Peterson, representing Duluth Area Chamber of Commerce, addressed their concerns about the ordinance, noting: that the owners of the sign on Central Entrance has had its brightness toned down; the length of the proposed moratorium of 12 months is extensive and requested that it be shortened; businesses that are involved in this profession are here to work with and help the council; wording in the ordinance does not define what a "business sign" or "billboard" is; churches and schools want this new type of electronic sign; with this ordinance, gas station pricing signs would be affected and the chamber of commerce would like to work with the council, if the moratorium period could be shortened to six months.

Councilors discussed at the length: that this type of moratorium is being done throughout the state and country; that a moratorium against private businesses is a pretty dramatic action for a council to take; there is a lot of new information available about these types of signs; to have a six month moratorium versus 12 months; that there is a maximum period of six months that a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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moratorium can be extended; that signs serve a purpose and that by having this type of moratorium, it sends a message to a new business that this community is not business friendly.

Councilor Ness moved to amend the ordinance to change the moratorium from "one year" to "six months," which motion was seconded and carried unanimously.

Councilor Krause moved to table the amended ordinance, which motion was seconded and carried upon the following vote:

Yeas: Councilors Johnson, Krause, Ness, Stauber and President Stover -- 5

Nays: Councilors Little and Stewart -- 2

Absent: Councilor Gilbert and Reinert -- 2

- - -

BY COUNCILOR GILBERT

07-016 - AN ORDINANCE AMENDING SECTION 10A-20 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO EXPENDITURE OF PROFITS FROM CHARITABLE GAMBLING.

Councilor Ness moved to table the ordinance, which motion was seconded and carried upon a unanimous vote.

- - -

BY COUNCILOR STAUBER

07-010 (9822) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR THE SEAWAY HOTEL TO CONSTRUCT A FIRE ESCAPE IN THE ALLEY AT 2001 WEST SUPERIOR STREET.

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

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At this time, Councilor Stewart left his seat.

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BY COUNCILOR STAUBER

07-011 (9823) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO WATERFRONT PLAZA BUILDING AT 325 LAKE AVENUE SOUTH TO CONSTRUCT SEVEN BALCONIES OVER THE SIDEWALK.

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

Yeas: Councilors Johnson, Little, Ness, Stauber and President Stover -- 5

Nays: Councilor Krause -- 1

Absent: Councilors Gilbert, Reinert and Stewart -- 3

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At this time, Councilor Stewart returned to his seat.

- - -

BY COUNCILOR NESS

07-007 - AN ORDINANCE REPEALING SECTION 102 OF THE DULUTH CITY CHARTER PERTAINING TO RESTRICTIONS ON ALCOHOL SALES.

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

- - -

BY PRESIDENT STOVER

07-008 - AN ORDINANCE AMENDING SECTION 69 OF THE DULUTH CITY CHARTER RELATING TO PENALTIES AND INTEREST ON TAX FORFEIT PROPERTY.

President Stover moved to table the ordinance, which motion was seconded and unanimously carried.

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**COUNCILOR QUESTIONS AND COMMENTS**

Councilor Stauber expressed his concern and disappointment that the resolution that he requested, relative to the mayor soliciting complimentary tickets and the distribution of them, was not on the agenda.

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The meeting was adjourned at 9:14 p.m

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9820**

BY COUNCILOR STEWART:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2006 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 9761 passed and approved December 19, 2005, is hereby amended by appropriating an additional \$600,000 from the general fund's excess revenues in investment earnings in the amount of \$600,000 as follows:

Department 100 - fire .....	\$200,000
Department 200 - police .....	\$275,000
Department 300 - library .....	\$ 20,000
Department 400 - parks and recreation .....	\$ 40,000
Department 500 - public works .....	\$ 65,000

Section 2. That this ordinance shall take effect immediately upon its passage. (Effective date: April 29, 2007)

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

Yeas: Councilors Johnson, Krause, Ness and President Stover -- 4

Nays: Councilors Little, Stauber and Stewart -- 3

Absent: Councilors Gilbert and Reinert -- 2

Passed March 12, 2007

ATTEST:

JEFFREY J. COX, City Clerk

Approved March 12, 2007

HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9821**

BY COUNCILOR KRAUSE:

AN ORDINANCE AMENDING CHAPTER 5, SECTIONS 5-17, 5-19 AND 5-21, OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LOCATION AND OPERATION OF ADULT BOOKSTORES AND ADULT ENTERTAINMENT ESTABLISHMENTS.

The city of Duluth does ordain:

Section 1. That Section 5-17 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 5-17. Definitions.

For the purpose of this Article, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

(a) Adult bookstore. As used in this Article, means a retail establishment which is in the business of selling books, pamphlets, magazines or other pictorial or printed material and which:

(1) Advertises or holds out in any manner that the printed or pictorial matter sold therein is for adults only or is distinguished or characterized by a principal emphasis on nudity, sado-masochistic abuse, sexual conduct, or sexual excitement; and/or

(2) Has 40 percent or more of its gross sales in books, pamphlets, magazines or other pictorial or printed material which are distinguished or characterized by a principal emphasis on nudity, sado-masochistic abuse, sexual conduct, or sexual excitement; and/or

(3) Has 30 percent or more of books, pamphlets, magazines or other pictorial or printed material displayed for sale on the premises distinguished or characterized by a principal emphasis on nudity, sado-masochistic abuse, sexual conduct or sexual excitement;

(b) Adult entertainment establishment has the meaning set out in M.S.A. Section 617.242, or its successor, which currently reads as follows: A business that is open only to adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of sexual conduct or sexually-oriented entertainment;

(c) Nudity. The showing of the post-pubertal human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of a post-pubertal female breast with less than a fully opaque covering of any portion thereof below the top of the nipple or the depiction of covered male genitals in a discernibly turgid state;

(d) Sado-masochistic abuse. Scenes involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons;

(e) Sexual conduct. Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such a person be a female, her breast, and the meaning set out in M.S.A. Section 617.241, or its successor;

(f) Sexual excitement. The condition of the human male or female genitals or the breasts of the female when in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity;

(g) Residential zone. Any zone provided in Chapter 50 of the Duluth City Code, 1959, as amended, that is designated R-1-a, R-1-b, R-1-c, R-2, R-3, R-4, S or S-2;

(h) Public skywalk. Any place within the city public skywalk system. For the purpose of this Article, the city council shall, by resolution, designate those areas which constitute the public skywalk system;

(i) Pedestrian plaza. A man-made structure upon which have been placed amenities such as walking surfaces, plantings, street furniture or other similar improvements which is substantially open to the elements and held open to the general public.

Section 2. That Section 5-19 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 5-19. License required--hours of operation.

No person shall own or operate an adult bookstore within the city without first having obtained a license to do so. No person shall own or operate an adult entertainment establishment in any area where it is prohibited by Section 5-21, or its successor. An adult entertainment establishment may operate only during the hours that an on sale licensed premises may operate as set out in Section 8-19, or its successor, and state statute governing sales of alcoholic beverages.

Section 3. That Section 5-21 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 5-21. Licenses not to be issued and operation prohibited in certain places.

No license for the ownership or operation of an adult book store shall be issued and operation of any adult entertainment establishment shall not be allowed within the following areas:

(a) Within 600 feet of a church, school, public park or building in which programmed, scheduled or supervised educational activity, recreational activity, religious training, behavioral guidance/correction activity or personal guidance counseling is regularly provided to children 12 years of age or younger;

(b) Within 600 feet of a residential zone;

(c) In an area that is within or fronts on public skywalk;

(d) Within 400 feet of a pedestrian plaza.

For purposes of this Section, distance shall be measured from the center of the closest doorway giving ingress or egress to the adult book store or adult entertainment establishment along a straight line to the closest boundary of the lot or parcel of property upon which is located the thing to which the measurement is made.

The restrictions of (a) thru (d), above, and M.S.A. Section 617.242, or its successor, shall not apply to a location where an adult entertainment establishment that operated in a premises duly licensed for on sale intoxicating liquor sales had, on or before May 26, 2006, been legally operating at that location.

Section 4. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: April 29, 2007)

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

Yeas: Councilors Johnson, Krause, Little, Ness, Stauber and President Stover -- 6

Nays: Councilor Stewart -- 1

Absent: Councilors Gilbert and Reinert -- 2

Passed March 12, 2007

Approved March 12, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9822**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR THE SEAWAY HOTEL TO CONSTRUCT A FIRE ESCAPE IN THE ALLEY AT 2001 WEST SUPERIOR STREET.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter setforth, permission is hereby granted to the Seaway Hotel, Inc., their successors and interests, referred to herein as the permittee, to occupy, erect and maintain a fire escape into and over that part of alley of 2001 West Superior Street, Lots 321 and 323, Block 53, as the same was dedicated to the use of the public and the plat of Duluth Proper Second Division, on file and of record in the office of the register of deeds in and for St. Louis County, Minnesota, described as follows:

All of that part of the alley located within Block 53, Duluth Proper Second Division, city of Duluth, St. Louis County, Minnesota, more particularly described as follows:

All of the easterly 80 feet of the southerly four feet of said alley lying adjacent to the north line of Lots 321 and 323, 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, streets 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 before this resolution 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 resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittee has in force insurance meeting the following requirements:

(a) A comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition;

(b) That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(1) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition;

(c) This permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(1) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said fire escape 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 fire escape shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said alley located at 2001 West Superior Street and agree that the city of Duluth shall not be liable for damage

caused to such fire escape 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 fixed fire escape in said alley of 2001 West Superior Street.

Section 6. That the permittee shall further observe the following conditions:

- (a) All required building permits shall be obtained for said fire escape;
- (b) The fire escape is to be counter balanced with the lowest part is greater than 13 feet six inches above grade;
- (c) No part of the fire escape is to decrease the width of the alley so as to not allow for the passage of emergency vehicles.

Section 7. That this ordinance shall not be valid if the above cited permits in Section 6 are not issued and improvements completed within 12 months from the effective date of this ordinance.

Section 8. The term of this permit shall expire with the sale of the property by the permittee and said fire escape and all fixtures of every kind whatsoever attached thereto shall be removed from the tract of land described above within 60 days, unless the new property owner applies for and received a replacement ordinance within 60 days.

Section 9. 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.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 29, 2007)

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

Yeas: Councilors Johnson, Krause, Little, Ness, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Absent: Councilors Gilbert and Reinert -- 2

Passed March 12, 2007

Approved March 12, 2007

HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9823**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO  
WATERFRONT PLAZA BUILDING AT 325 LAKE AVENUE SOUTH  
TO CONSTRUCT SEVEN BALCONIES OVER THE SIDEWALK.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the City of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the CIC #29 Waterfront Plaza Condominium, their successors and interests, referred to herein as the permittee, to occupy, erect and maintain seven balconies into and over that part of a public sidewalk at 325 Lake Avenue South, Lots 11-15, Transfer Division, as the same was dedicated to the use of the public and the plat of Transfer

Division, on file and of record in the office of the register of deeds in and for St. Louis County, Minnesota, described as follows:

All of that part of the sidewalk located within Lots 11-15, Transfer Division, city of Duluth, St. Louis County, Minnesota, more particularly described as follows:

Beginning at a point 19'7" south of the northeast corner of Building A, for a distance of 10' to 20'7" from 43'6" to 53'6", from to 68'0" to 78'0", from 97'5" to 107'5", from 119'2" to 129'2" from 146'1" to 156'1", from 171'1" to 181'1" south of the northeast corner of Building A, seven balconies would be constructed, each extending five feet over the public sidewalk at those locations lying adjacent to the north line of east line of Lots 11-15, Transfer Division, city of Duluth at a height of 28 feet from grade.

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, streets 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 before this resolution 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 resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittee has in force insurance meeting the following requirements:

(a) A commercial general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition;

(b) That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(1) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30

days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition;

(c) That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(1) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

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 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 5. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said balconies 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 6. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such balconies 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 avenue located at 325 Lake Avenue South and agree that the city of Duluth shall not be liable for damage caused to such balconies 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 balconies in said avenue of 325 Lake Avenue South.

Section 7. That the permittee shall further observe the following conditions:

- (a) All required building permits shall be obtained for said balconies;
- (b) Construction of seven balconies per plans submitted dated December 27, 2006, with a height of 28 feet above grade;
- (c) That current and all subsequent owners of the units affected by this permit at 325 Lake Avenue South must comply with the terms of this permit as a condition of purchase;
- (d) That the sidewalk area below the balconies shall remain open to the general public use at all times unless closure is otherwise permitted;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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(e) That the use and maintenance of the balconies does not compromise or negatively impact the public use of the right-of-way beneath them, in any way, including but not limited to impacts of water runoff, snow, ice, litter or other obstructions;

(f) That the attachment or hanging of anything from the structure of the balconies is prohibited;

Section 8. That this ordinance shall not be valid if the above cited permits in Section 6 are not issued and improvements completed within 12 months from the effective date of this ordinance.

Section 9. The term of this permit shall expire with the sale of the property by the permittee and said balconies and all fixtures of every kind whatsoever attached thereto shall be removed from the tract of land described above within 60 days, unless the new property owner applies for and received a replacement ordinance within 60 days.

Section 10. 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.

Section 11. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 29, 2007)

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

Yeas: Councilors Johnson, Little, Ness, Stauber and President Stover -- 5

Nays: Councilor Krause -- 1

Absent: Councilors Gilbert, Reinert and Stewart -- 3

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 12, 2007  
Approved March 12, 2007  
HERB W. BERGSON, Mayor

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**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Monday, March 19, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Ness, Reinert, Stewart and President Stover -- 6

Absent: Councilors Krause, Little and Stauber -- 3

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0319-01 The following communications regarding proposed contract with Bayfront Blues Festival, Inc. (07-0238R): (a) Debby Kerschner; (b) Gary Kyllonen; (c) Scott Peterson; (d) Joel Sipress. -- Received

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**MOTIONS AND RESOLUTIONS**

Resolution 07-0237, by Councilor Gilbert, authorizing a contract with Bayfront Blues Festival, Inc., for use of Bayfront Park in year 2007, was introduced for discussion.

Councilor Gilbert moved to remove the resolution, which he had requested, from the agenda, which motion was approved without objection.

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Resolution 07-0238, by Councilor Reinert, approving contract for Bayfront Blues Festival, Inc. for an event in 2007; flat fee format in the amount of \$27,500, was introduced for discussion.

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

David Ross, executive director of the Duluth Area Chamber of Commerce, expressed the business community's great concern over the loss of this event in Duluth.

Mike Lien, attorney representing Bayfront Blues Festival, Inc., stated that his clients are in agreement with this contract, in principle, with the major aspects of the contract having to do with the dollar amounts and that there are no changes requested.

Mr. Lien presented and explained the following contract amendments requested by his clients:

(a) Contract Section 3. Change starting time from 11:00 a.m. to 10:00 a.m.;

(b) Contract Section 11. Replace Section 11 to read as follows: BBF shall allow the Explorer Unit of the Duluth police department (Explorers) to serve as the parking attendant for Lots A, C and D. The Explorers shall be entitled to keep all proceeds from tickets sales for Lots A, C and D;

(c) Contract Section 29. Replace Section 29 to read as follows: BBF agrees that, as provided in Minnesota Statutes 16C.05, subdivision 5, all BBF books, records, documents and accounting procedures and practices that are relevant to the contract are subject to examination by the city or the state auditor for six years from the date of execution of this agreement. Upon reasonable advanced notice by the city, BBF shall provide all requested financial information;

(d) Contract Section 31. Replace typos with the word "possession";

(e) Contract Section 38. Replace Section 38 to read as follows: This agreement may be terminated by the city upon material breach of any of the terms and conditions of this agreement by BBF and the failure to rectify or correct any such breach within 30 days of the transmission of written notice to the BBF of said breach;

(f) Contract Section 43. Change the name and address of the party at the city and DEDA to receive notice to city clerk and insert address for notices to BBF to 1027 Tower Avenue, Superior, WI;

(g) Take out all references in the contract to Secret Service Entertainment, LLC, including but not limited to the title, Section 25, Section 43 and signature line.

City Attorney Brown noted to the council that this contract was prepared by the administration through negotiations, which was presumed to be completed. He also noted that the council's role is to either approve or disapprove a contract and it is not their role or within their power to negotiate contracts.

The council discussed Mr. Brown's concerns within the context of how they could proceed at this time and get this resolved for the best interest of the city.

Chief Administrative Officer Hall stated that he was not aware of these requested changes prior to the meeting, but stated that the administration would not object to these amendments.

Councilor Stewart moved to amend the contract, with the requested items presented by Mr. Lien, which motion was seconded and carried as follows:

Yeas: Councilor Gilbert, Johnson, Ness, Stewart and President Stover -- 5

Nays: Councilor Reinert -- 1

Absent: Councilors Krause, Little and Stauber -- 3

Resolution 07-0238, as amended, was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement a contract, substantially the same as that on file with the city clerk as Public Document No. 07-0319-02, providing for use of Bayfront Park for an entertainment event August 7-13, 2007, in the amount of \$27,500; payment to Fund 237-015-4623.

Resolution 07-0238, as amended, was unanimously adopted.

Approved March 19, 2007

HERB W. BERGSON, Mayor

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The meeting was adjourned at 7:38 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, March 26, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on January 8, 16, 25 and 29, 2007, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0326-12 Richard Paulson communication regarding policy and plan for retiree health care program reform (07-0213R). -- Received

07-0326-01 The following communications regarding repeal of Section 102 of the Duluth City Charter pertaining to restrictions on alcohol sales (07-007-O): (a) Greg Benson; (b) Grandma's, Inc.; (c) Rose Hoene-Laurich; (d) Dennis and Rosemarie Mitchell; (e) Michelle Peterson. -- Received

07-0326-13 The following communications regarding plan to end homelessness (07-0240R): (a) Steve O'Neil; (b) Erik Torch; (c) Jeff Woolverton. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

07-0326-02 Assessor affidavit of mailing of notice of informational meeting at 5:00 p.m. on March 29, 2007, and a Duluth City Council public hearing at 7:00 p.m. on April 9, 2007, both to be held in the Council Chamber, Third Floor, City Hall, regarding the proposed 2008 street improvement program – Morley Heights, Lakeside-Rockview and Fairmount North. -- Clerk

07-0326-03 Clerk application to the Minnesota gambling control board for exemption from lawful gambling licenses from St. James Home of Duluth, dba Woodland Hills, on August 20, 2007 (raffle). -- Received

07-0326-04 Parks and recreation department director minutes of Lake Superior zoological society meetings of January 24, 2007, meeting. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-0326-05 Alcohol, gambling and tobacco commission minutes of: (a) January 3; (b) February 7; (c) February 20, 2007, meetings. -- Received

07-0326-06 Commission on disabilities minutes of February 7, 2007, meeting. -- Received

07-0326-07 Duluth human rights commission minutes of: (a) February 14; (b) February 27, 2007, meetings. -- Received

07-0326-08 Environmental advisory council minutes of: (a) July 5; (b) August 2; (c) September 6; (d) October 4; (e) November 1, 2006; (f) January 3, 2007, meetings. -- Received

07-0326-09 Parks and recreation commission minutes of January 10, 2007, meeting. -- Received

07-0326-10 Planning commission minutes of: (a) February 13; (b) February 28, 2007, meetings. -- Received

07-0326-11 Spirit Mountain recreation area authority minutes of February 15, 2007, meeting. -- Received

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### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

KL Lewis voiced: disappointment that the Kroc Center would not be built and suggested the city focus on the Heritage Center; that when the city is doing street work this summer and bus routes need to be changed, seniors need to be considered; and there should be a new railing along the waterfront behind the Duluth Entertainment Convention Center (DECC) to prevent accidents.

- - -

John Sanford, Jackie Falk and Alison Clarke voiced concerns about the Lakewalk along the Ledges development: that the construction of the Lakewalk infrastructure in that area will be very expensive because of the rocky ledge along the waterfront and questioned if that expenditure would receive public support; that there will be no tables or benches to sit along that part of the Lakewalk; that there is no agreement to use the easement to do maintenance on that portion of the Lakewalk and questioned whether the Lakewalk will fall under the water management ordinance.

- - -

Dave Barschdorf expressed frustration that parking meters are not properly placed on the street so people do not know which parking spot is for which meter.

- - -

At this time, 7:18 p.m., President Stover called the public hearing regarding the qualified allocation plan (QAP) for the low income housing tax credit program (07-0222R) to order.

Keith Hamre, community development division manager, explained how housing tax credits are awarded and distributed and added that the Duluth housing commission has recommended approval of this plan.

No one else appeared who wished to be heard and the public hearing was closed at 7:22 p.m.

- - -

At this time, 7:22 p.m., the public hearing regarding the Charter amendment pertaining to city employees running for office (07-018-O) was called to order.

No one appeared who wished to be heard.

President Stover closed the public hearing at 7:23 p.m. and the regular order of business was resumed.

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### **RESOLUTIONS TABLED**

Councilor Stauber moved to remove Resolution 07-0136, transferring \$2,000,000 from community investment trust fund to other post employment benefits fund, from the table, which motion was seconded and unanimously carried.

Councilor Stauber reviewed that the council in 2005 agreed with the retiree healthcare task force's recommendation to take money from the trust fund and put it in the retiree healthcare fund and the council has failed to do so. He continued by saying that it appears that the irrevocable trust fund is close to being a reality and the council needs to start allocating money into that fund.

Councilor Ness explained he would like the council to pass a larger policy as it relates to revenue before passing individual initiatives in addressing the issue.

Councilor Gilbert stated that the council needs to be stable and patient and have a coherent plan instead of rushing into putting money into the fund.

Mayor Bergson stated that Councilor Ness's resolution is the closest to the administration's proposal. He added that the irrevocable trust fund should pass this week in the legislature and the council should wait until the law is passed to get a higher interest rate in the fund.

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

Yeas: Councilor Ness and President Stover -- 2

Nays: Councilors Gilbert, Johnson, Krause, Little, Reinert, Stauber and Stewart -- 7

Resolution 07-0136 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials shall transfer the amount of \$2,000,000 from the Community Investment Trust Fund 256, created by Section 54(E) of the Charter, to the Other Post Employment Benefits Fund 280, transfer to take place within 30 days of passage of this resolution.

Resolution 07-0136 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Stauber moved to remove Resolution 07-0157, denying a rezoning petition for property located on north side of Arrowhead Road west of Rice Lake Road, from the table, which motion was seconded and unanimously carried.

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## INTRODUCTION AND CONSIDERATION OF ORDINANCE

### ORDINANCE TABLED

BY COUNCILOR STAUBER

07-012 (9824) - 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 R-1-A TO C-5 PROPERTY LOCATED ON ARROWHEAD ROAD WEST OF RICE LAKE ROAD.

Councilor Stauber moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

- - -

Resolution 07-0157 failed upon a unanimous vote (Public Document No. 07-0326-14).

- - -

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

BY COUNCILOR GILBERT:

RESOLVED, that the proposed specifications for the new civil service classification of industrial painter, which were approved by the civil service board on November 7, 2006, and which are filed with the city clerk as Public Document No. 07-0326-15, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 29. 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 07-0215 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of assistant storekeeper, which were approved by the civil service board on March 6, 2007, and which are filed with the city clerk as Public Document No. 07-0326-16, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 24.

Resolution 07-0216 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of library assistant II, including a title change to library assistant, which were approved by the civil service board on March 6, 2007, and which are filed with the city clerk as Public Document No. 07-0326-17, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 119.

Resolution 07-0217 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

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. 07-0326-18 to the low income housing tax credit program joint powers agreement with the Minnesota housing finance agency (MHFA) extending the term thereof.

Resolution 07-0223 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

The city council of the city of Duluth hereby finds the following:

(a) The Duluth City Council adopted Resolution No. 03-0731 which authorized the arrowhead regional development commission to act as job opportunity building zone (JOBZ) zone sponsor and administrator and to make program commitments on behalf of the city of Duluth;

(b) The Minnesota department of employment and economic development (DEED) approved the northeast Minnesota regional JOBZ application for 4,031 acres, including 351.12 acres within the city of Duluth;

(c) The Duluth City Council adopted Resolution No. 04-0236 designating those 351.12 acres within the city of Duluth into 11 subzones, including 70 acres in the Duluth Seaway port authority Duluth Harbor Subzone Number 104;

(d) The Duluth Seaway port authority wishes to reallocate 20,000 square feet from Block 110, Rice's Point (PID #010-3910-7360-110) to a 4.41 acre project site located at 1108 Port Terminal Drive legally described below (PID #010-9080-00110) and further wishes to provide JOBZ benefits to a business whose expansion shall occur on the 4.41 acre project site;

(e) The JOBZ program created in Minnesota Session Laws 2003, First Special Session, Chapter 21, Article 1, allows for the formation of tax free zones and for subzone boundaries to be amended with the approval of all taxing authorities.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth approves an amendment to Duluth Seaway port authority Duluth Harbor Subzone Number 104 as follows:

(a) Remove a total of 20,000 square feet from Block 110, Rice's Point, St. Louis County, Minnesota (PID #010-3910-7360-110);

(b) Add 20,000 square feet to a 4.41 acre site located at 1108 Port Terminal Drive (PID #010-9080-00110) which property is legally described as follows:

That part of the original plat of Rice's Point on file and of record in the office of the St. Louis County recorder, state of Minnesota, described as follows:

Commencing at the intersection of the platted centerline of Culpepper Street with the platted centerline of Pine Avenue in said plat of Rice's Point, thence north 27°-34'-11" west, along said centerline of Culpepper Street, a distance of 207.34 feet; thence north 62°-25'-49" east a distance of 159.72 feet to the point of beginning of the land to be described; thence north 62°-27'-15" east a distance of 428.70 feet; thence south 27°-44'-11" east, along a line 8.50 feet distant and parallel with the centerline of a railroad spur, a distance of 475.03 feet; thence south 62°-15'-49" west a distance of 390.45 feet; thence north 27°-35'-01" west, along a line 8.50 feet distant and parallel with the centerline of a railroad track, a distance of 174.08 feet; thence northerly and westerly, along said line 8.50 feet distant and parallel with the centerline of a railroad track, being a tangential curve concave to the south, having a radius of 532.60 feet and a central angle of 22°-07'-39", a distance of 205.69 feet and the chord of said curve bears north 38°-38'-50"

west; thence north 27°-44'-47" west, along the edge of an existing road, a distance of 101.66 feet to the point of beginning, containing 4.41 acres and subject to easements of record.

Resolution 07-0226 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

St. James Home of Duluth, Inc., (Woodland Hills) has submitted to the city council a request for a special use permit for a residential care facility for up to eight residents on property described as Lots 13 and 14, Block 3, Coleman Park Division of Duluth, and located at 4210 St. James Avenue; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

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 (FN07017).

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to St. James Home of Duluth (Woodland Hills) to allow for the operation of a residential care facility for up to eight residents at 4210 St. James Avenue, subject to the following conditions:

- (a) Development as per submitted plans of January 25, 2007;
- (b) Building permits are to be secured prior to construction;
- (c) Compliance to the requirements of WLSSD;
- (d) Ground vegetation is to be replaced following construction.

Resolution 07-0229 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

WHEREAS, based on the recent history of actual sewer system overflows and the estimated flow of clear groundwater to the city's sanitary sewer system originating in each of its sewer basins, the availability of city resources to reduce such flows under the city's I&I program and the results anticipated from so allocating such resources, the director of public works and utilities has recommended that sewer basins 7 and 8 be added to sewer basins 1, 2, 3, 4, 5, 6, 10, 11, 25 and 26 as basins designated for inspection as provided for in Section 43-33 of the Code; and

WHEREAS, the council accepts said recommendation.

RESOLVED, that pursuant to the provisions of Section 43-33 of the Code, sanitary sewer basins 7 and 8 are hereby designated as 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 and said basins are therefore designated as districts within which the city shall focus its enforcement efforts under Chapter 43 of the Code.

FURTHER RESOLVED, that the director of public works and utilities is hereby directed to notify, in writing, the owners and persons in control of premises connected with the sanitary sewer

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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within said districts to disconnect any prohibited drain or device within 90 days after the date of such notice in the manner prescribed for such notices in said Section 43-33.

Resolution 07-0185 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Hoffman & McNamara Company be and hereby is awarded a contract for tree planting for the 2006 street improvement program at various locations for the engineering division in accordance with its low specification bid of \$64,677.50, terms net 30, FOB job site, payable out of Street Improvement Fund 0440, Agency 038, Object 5530.

Resolution 07-0209 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to execute the second year option of Agreement No. C-20150 with the Duluth Entertainment Convention Center (DECC) for the year 2007 operation of the Minnesota Slip pedestrian draw bridge for an estimated amount of \$32,400, payable from General Fund 0100, Department/Agency 500, Organization 1930-2310, Object 5455.

Resolution 07-0218 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to contract with Stout Mechanical, Inc., for the installation of a steam line extension to Berkshire Apartments, located at Eighth Avenue East and First Street, for the city of Duluth Steam Utility District No. 1 in accordance with specifications and its low bid of \$112,000, terms net 30, payable from the Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 07-0219 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to accept for public purposes, specifically for sanitary sewer and Lakewalk purposes, from the Minnesota department of transportation the real property located in St. Louis County, Minnesota, described as follows:

Lots 1 through 8, inclusive, Block 8, and Lots 1 through 6, inclusive, BLOCK 10, ENDION DIVISION OF DULUTH, including the easterly 1/2 of vacated 18th Avenue East.

Resolution 07-0220 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 05-0537, passed on August 8, 2005, to RLK Kuusisto LTD for engineering services for year 2006 Minnesota turnback project for Michigan Street from 13th Avenue West to 11th Avenue West (City Project No. 0133TR) be amended to increase the amount as follows: \$2,475 for an increase in the scope of work and the resulting increase in project duration.

FURTHER RESOLVED, that this increase is to be paid from the Permanent Improvement Fund 0411, Agency 035, Object 5530.

Resolution 07-0221 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Duluth Superior Erection, Inc., for the 2007 downtown brick restoration for the engineering division for the apparent low bid of \$61,000, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Agency 035, Object 5403, Requisition No. 07-0236, City Project No. 0236TR.

Resolution 07-0224 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 05-0721 is amended and the proper city officials are authorized to contract with Como Oil and Propane Company for an additional 12 months, through October 31, 2007, to furnish and deliver liquid propane for the public works department in the amount of \$63,349 plus sales tax of \$4,117.69 for a new total of \$67,466.69, terms net 30, FOB destination, and payable as follows:

(a) \$57,872.10 (Lakewood location) from the Water Fund 0510, Department/Agency 500, Organization 1955, Object 5390;

(b) \$1,918.92 (Garfield) from the Water Fund 0510, Department/Agency 500, Organization 1940-2410, Object 5212; and

(c) \$7,675.67 (Garfield) from the Gas Fund 0520, Department/Agency 500, Organization 1940-2410, Object 5212.

Resolution 07-0225 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Contract C-20237 awarding a contract to LHB Engineers and Architects, Inc., for professional engineering services for a condition and rehabilitation study for Bridge No. 69812 at 27th Avenue West over BNSF Railroad be amended in the amount of \$91,233 to implement the final design, construction plans and specifications for the reconstruction and widening of Bridge No. 69812, for a new total of \$94,765. This increase is eligible for MSA funding

and will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, City Project No. 0496TR.

Resolution 07-0230 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 05-0046 to Camp, Dresser & McKee, Inc., for engineering services for the development of a long term plan for the evaluation and elimination of sanitary sewer overflows in the city's sanitary sewer system be amended to increase the amount by an estimated amount of \$21,800 to implement Phase 2 using data collected in Phase 1 to develop a long term program to eliminate sanitary sewer overflows in the Lakeside interceptor area (basins 1 through 6) and East interceptor area (basins 7 through 14), for a new total of \$367,373. The increase of \$21,800 will be payable from Sewer Fund 0530, Agency 500, Organization 1930-2330, Object 5303, City Project No. 0511SN.

Resolution 07-0231 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 06-0424 is amended and city officials are authorized to contract with Duluth Ready Mix, Inc., for 12,200 additional tons of Class 5 gravel, at an estimated increase of \$98,752, terms net 30, FOB destination, and payable as follows:

(a) \$64,752 (8,000 tons), from the Water Fund 510, Department/Agency 500, Organization 1945, Object 5224; and

(b) \$34,000 (4,200 tons), from the General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5224.

Resolution 07-0232 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Chris and Kim Burke the sum of \$14,991.75 in full and final settlement of the claim which arose out of a break in a city watermain occurring on December 15, 2006; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 07-0234 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Koller Consultants, Inc., for professional services relating to water tower engineering and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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inspection services, payment not to exceed \$41,800, payable from Water Fund 510, Department/Agency 500, Organization 1905, Object 5536, City Project No. 0591WA.

Resolution 07-0235 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Contract C-20082 to Short Elliot Hendrickson, Inc., awarded on May 2, 2006, for professional services for replacement of Birch Street storm sewer be increased in the amount of \$9,300.75 for a new total of \$14,100.75, payable out of Storm Sewer Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5533, City Project No. 0258ST.

Resolution 07-0236 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 05-0752 to Short Elliot Hendrickson, Inc., for the engineering services required for Bristolwood First Addition (Chinook Drive) be amended to increase the amount by \$16,660.46 for a new total of \$64,660.46, payable from the Public Improvement Fund 0411, Department/Agency 035, Object 5530, City Project No. 0465TR.

Resolution 07-0239 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to accept the donation of easements for utility purposes located southeast of Arrowhead Road and Kenwood Avenue, a copy of which is on file in the office of the city clerk as Public Document No. 07-0326-31, from Billman Construction, Inc., at no cost to the city.

Resolution 07-0242 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into an agreement with ISD No. 709 to provide law enforcement officers in the public schools, said agreement to be substantially in the form of Public Document No. 07-0326-19 on file in the office of the city clerk; payments from the school district to be deposited in Fund 100, Agency 200, Organization 1610, Source 4261.

Resolution 07-0227 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to enter into Amendment No. 4, a copy of which is on file in the office of the city clerk as Public Document No. 07-0326-20, to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Grant Contract No. 2000-9748 with the state of Minnesota, department of public safety, division of homeland security and emergency management, for terrorism prevention exercise, equipment and training for the police department, extending the term thereof through March 31, 2007.

Resolution 07-0228 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement with Willard Enterprises, Inc., for year 2007 (with four one-year renewal options), providing for the lease and operation of the Indian Point Campground, located at 7000 Pulaski Street; said agreement to be substantially in the form of Public Document No. 07-0326-21 on file in the office of the city clerk; said monies to be deposited into General Fund 0100, Department/Agency 400, Organization 1812, Revenue Source 4626.

Resolution 07-0054 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the Duluth City Council hereby memorializes the Minnesota state legislature to amend Laws of Minnesota, 1984, Chapter 390, Section 1, as set forth in Public Document No. 07-0326-22 on file in the office of the city clerk, to correct errors in the legal description of the property included in the Spirit Mountain Recreation Area.

Resolution 07-0171 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement for year 2007, with four one-year renewal options, with Bernick's Pepsi of Duluth, providing for a catering business and building rental operation within the Park Point Beach House Building located at 5000 Minnesota Avenue; said agreement to be substantially in the form of Public Document No. 07-0326-23 on file in the office of the city clerk; said monies to be deposited into General Fund 0100, Department/Agency 400, Organization 1812, Revenue Source 4627-01.

Resolution 07-0187 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement for year 2007, with four one-year renewal options, with Northwoods Children's Services, providing for retail vending and concession operations within the Park Point Beach House Building located at 5000 Minnesota Avenue; said agreement to be substantially in the form of Public Document No. 07-0326-24 on file in the office of the city clerk; said monies to be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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deposited into General Fund 0100, Department/Agency 400, Organization 1812, Revenue Source 4627-01.

Resolution 07-0188 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute a partial release of public recreational trail easement, a copy of which is on file in the office of the city clerk as Public Document No. 07-0326-25, for the following-described properties in St. Louis County, Minnesota, which are restricted by a recreational trail easement adjacent to Tischer Creek which is not located on them:

Lot 13, Block 35, Lots 6 through 10, inclusive, Block 36; Lots 9 through 16, inclusive, Block 37; Lots 5 and 6, Block 38; Lots 14, 15 and 16, Block 39; and Lots 3, 4 and 5, Block 50, all in REARRANGEMENT OF THE PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH.

Resolution 07-0211 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0241, by Councilor Krause, transferring funds from community investment trust fund to other post employment benefits fund in amount of \$7,200,000, was introduced for discussion.

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

Meg Bye stated that the city's retiree healthcare debt is not related to the current employees but is a debt of the retirees, and questioned why the city is not talking to the retirees and working with them to reduce their cost. She also stated her disappointment that the councilors have not moved faster on more of the task force's recommendations.

Councilor Krause explained that since the Kroc Center is not going to happen, it would be responsible to put that dedicated project money into the retiree healthcare fund.

Resolution 07-0241 failed upon the following vote (Public Document No. 07-0326-26):

Yeas: Councilor Krause -- 1

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

- - -

Resolution 07-0245, by Councilor Gilbert, creating a task force relating to public safety, was introduced for discussion.

Councilor Gilbert explained that he has been working with County Commissioner Kron to coordinate an effort to address the question of whether people are moving to Duluth in order to get generous welfare payments and committing crimes. He continued by saying much of the city

and county's resources are spent on repeat offenders and there is no action plan to get them to stop committing the crimes. Councilor Gilbert stated that this task force will help establish a policy to bring all components together and share information on this problem.

In response to councilor questioning, Mayor Bergson replied that this resolution will require a lot of staff time and expense and would not resolve any problems as it would not stop crime.

President Stover expressed concern that this task force would be an extra expense for the city and take up staff time when there already are boards and commissions in place that could handle this problem.

Councilor Krause suggested that the courts and correction system be added to the list of task force representatives, which was agreed to by Councilor Gilbert.

Resolution 07-0245 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, many of the violent crimes and drug related crimes in the city of Duluth are committed by a small group of repeat offenders; and

WHEREAS, costs relating to police enforcement, criminal prosecution and detention of these repeat offenders has become an unduly burdensome drain on St. Louis County and city of Duluth financial resources; and

WHEREAS, St. Louis County Board of Commissioners and city of Duluth City Council desire to improve the effectiveness of action being taken to reduce the crime committed by repeat offenders of serious crimes; and

WHEREAS, effective action to reduce serious crimes committed by repeat offenders requires collecting, processing and evaluating a broad range of information from a variety of sources which makes this appropriate for joint and collaborate action by St. Louis County and the city of Duluth.

NOW, THEREFORE, BE IT RESOLVED, that St. Louis County Commissioners and Duluth City Council shall establish a joint task force to collect information about repeat offenders of violent crimes, and make recommendations to the St. Louis County Board of Commissioners and the city of Duluth for reducing serious crimes committed by repeat offenders.

BE IT FURTHER RESOLVED, that the task force shall consist of 13 members, including representation from St. Louis County Board of Commissioners, Duluth City Council, Duluth police department, St. Louis County sheriff's office, the Lake Superior gang task force, St. Louis County court administrator's office, St. Louis County attorney's office, St. Louis County department of health and human services, courts and corrections system, and the general public.

BE IT FURTHER RESOLVED, that the city and county shall provide staffing for the task force. The task force shall report back to the St. Louis County Board of Commissioners and Duluth City Council with its findings and recommendations no later than September 30, 2007.

Resolution 07-0245 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber and Stewart -- 7

Nays: Councilor Little and President Stover -- 2

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

---

WHEREAS, the city of Duluth, as a suballocator, is authorized to administer 2008 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 2008; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 2008 (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 March 20, 2007.

NOW, THEREFORE, BE IT RESOLVED, that the 2008 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 07-0326-27, is hereby approved.

Resolution 07-0222 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber and President Stover -- 8

Nays: Councilor Stewart -- 1

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0240, by Councilor Stauber, amending the 2005-2009 consolidated plan adding additional strategies for implementation and to adopt "heading home St. Louis County: a ten year plan to end homelessness," as a part of the 2005-2009 consolidated plan for housing and community development, was introduced for discussion.

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

Mayor Bergson introduced Philip Mangano, who has been appointed by President Bush to direct the United States interagency council on homelessness, and thanked him for coming to Duluth to be part of the discussion.

Mr. Mangano commended the council for considering this plan as over 300 other communities are moving forward in creating and adopting ten year plans to end homelessness. He stated that this has been made possible over the past several years through the development of better research, better data and most importantly through the development of better and innovative ideas in putting an end homelessness. Mr. Mangano continued by saying that the economic impact of chronic homelessness is driving the political will because of the cost to social services, the courts and jails, but the promise of these plans is to reduce the number of people on the street with cost savings for the tax payers in the community. He stated that the cost of ending homelessness by providing people a place to live and the support services necessary to support them in housing is less than people randomly going through health, court and incarceration systems.

Councilor Stewart thanked the agencies for developing a good plan, but expressed his fear that there will be a request for money for all the programs that need to be created instead of using existing resources to create programs that will be effective.

Resolution 07-0240 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city council hereby amends the 2005-2009 consolidated plan to add the following strategies to the strategic plan section, as recommended by the community development committee:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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1A-2: Support the implementation of better discharge planning protocols for persons transitioning out of public systems.

1A-3: Develop protocols and transition plan for implementing Housing First philosophy.

2A-7: Plan and develop 15 family and four individual units of permanent supportive housing.

Also, the council hereby adopts the "Heading Home St. Louis County: A Ten Year Plan to End Homelessness," as part of the appendices to 2005-2009 consolidated plan for housing and community development, as recommended by the community development committee.

Resolution 07-0240 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Little and Stewart -- 2

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into a one-year contract with the Housing and Redevelopment Authority (HRA), substantially the same as that on file with the city clerk as Public Document No. 07-0326-28, for professional right-of-way and easement acquisition services for year 2007 transportation and utility improvement projects for at an estimated amount of \$20,000, payable from various funds.

Resolution 07-0191 was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0214, by Councilor Johnson, ordering the temporary closure of the southbound lane of Eklund Avenue at Swan Lake Road for a period of 60 days, was introduced for discussion.

Councilor Johnson moved to amend the title, body and statement of purpose of the resolution to change the phrase "60 days" to "six months," which motion was seconded and unanimously carried.

Resolution 07-0214, as amended, was adopted as follows:

BY COUNCILOR JOHNSON:

RESOLVED, that the city council of the city of Duluth directs the public works and utilities department to physically close the southbound lane of Eklund Avenue at Swan Lake Road for a period of six months, the exact time and location to be determined by appropriate city personnel.

Resolution 07-0214, as amended, was unanimously adopted.

Approved March 26, 2007

HERB W. BERGSON, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**ORDINANCES TABLED**

BY COUNCILOR KRAUSE

07-014 - AN ORDINANCE PURSUANT TO MINNESOTA STATUTES §462.355, SUBD. 4, TO PRESERVE THE STATUS QUO PENDING THE COMPLETION AND REPORT OF A STUDY AND POSSIBLE ACTION ON THE STUDY INCLUDING AMENDING THE CITY'S ZONING ORDINANCE AND SIGN ORDINANCE REGULATING ADVERTISING SIGNS AND BUSINESS SIGNS AS THEY MAY PERTAIN TO SIGNS WITH "DIGITAL" OR "ELECTRONIC" PANELS.

Councilor Krause 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 speakers on the ordinance.

Todd Johnson and Matt Harrold expressed their interest in working with the city to help write a new city code regarding electronic signs and added that they have already made some compromises by modifying the existing signs.

Councilor Krause moved passage of the ordinance and the same failed upon the following vote (Public Document No. 07-0326-29):

Yeas: Councilor Krause -- 1

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

- - -

BY COUNCILOR GILBERT

07-016 - AN ORDINANCE AMENDING SECTION 10A-20 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO EXPENDITURE OF PROFITS FROM CHARITABLE GAMBLING.

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

Councilor Gilbert moved to remove the ordinance from the agenda to allow the alcohol, gambling and tobacco commission time to study this issue, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR NESS

07-007 (9825) - AN ORDINANCE REPEALING SECTION 102 OF THE DULUTH CITY CHARTER PERTAINING TO RESTRICTIONS ON ALCOHOL SALES.

Councilor Ness 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 speakers on the ordinance.

Richard Ward stated that the citizens of the city are tired of the lack of civility and leadership of the administration and council and how hard the city makes it for a new business to come to Duluth and be successful.

Andy Peterson, Duluth Area Chamber of Commerce, urged the council to create a positive business climate and make it possible for businesses to operate and make money in Duluth.

Dave Barschdorf stated that there will be a loss of revenue for the city if the council pushes these businesses out of town.

Dan Hartman clarified that Chester Park is not involved in the revisions that Councilor Krause will be proposing.

Councilor Ness reviewed that a provision in the City Charter prohibiting the sale of liquor within 400 feet of a park affects a large number of existing businesses and unless the council is proactive and changes the language in the Charter, there will be great risk to many existing businesses that have liquor licenses and their ability to operate as they have been doing. He continued by saying that the primary question before the council is whether or not the current language in the Charter is an appropriate use of the City Charter, as the Charter is the city's constitution and sets out the form and function of city government. Councilor Ness stated that the appropriate place to regulate private business is through the zoning laws and City Code where regulations can be put in place and can be adapted to changing times. He continued by saying that this Charter change requires a 9-0 vote, and if that vote is not reached, he will request that a referendum be held for the public to vote on it.

Councilor Krause reviewed that this issue began months ago when one councilor brought forward language to change the Charter for one individual which will have a far reaching, citywide impact and stated that he cannot support changing the constitution of Duluth for one business. He explained that when the council voted to allow unlimited liquor licenses in Duluth, it opened the door for restaurant/bars to go into an area which could be next to a park. Councilor Krause stated that he hears from families that this change would put children at risk, which is unacceptable and he went on to say that his proposed change to the Charter would continue to protect children and families. He stated his plan would define where the residents live, where the city has established park programs and where children are without adult supervision. Councilor Krause moved an amendment to Section 102, which failed for a lack of a second. He stated that his intent was never to put anyone out of business and since his amendment failed for a lack of second, he would support this ordinance and requested City Attorney Brown to bring forward his amendment as an ordinance for the next council meeting.

Several councilors thanked Councilor Krause for his due diligence and concern for the families in the community.

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

- - -

BY PRESIDENT STOVER

07-008 (9826) - AN ORDINANCE AMENDING SECTION 69 OF THE DULUTH CITY CHARTER RELATING TO PENALTIES AND INTEREST ON TAX FORFEIT PROPERTY.

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

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

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR STAUBER

07-019 - AN ORDINANCE GRANTING TO A&L PROPERTIES A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A RETAINING WALL, PARKING SPACES AND STAIRWAY, FOR PRIVATE USE, IN THE RIGHT-OF-WAY OF 22ND AVENUE EAST.

Councilor Stauber moved to amend the ordinance by striking subparagraph (g) in Section 9 to be consistent with the city staff's recommendation, which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

---

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Little -- 1

- - -

The following entitled ordinance was read for the second time:

BY PRESIDENT STOVER

07-018 - AN ORDINANCE AMENDING DULUTH CITY CHARTER, SECTION 21, PERTAINING TO CITY EMPLOYEES RUNNING FOR OFFICE.

President Stover moved passage of the ordinance and the same failed [*needs 9-0 vote to pass*] upon the following vote (Public Document No. 07-0326-30):

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stewart and President Stover -- 7

Nays: Councilors Little and Stauber -- 2

- - -

The meeting was adjourned at 9:30 p.m.

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

- - -

**ORDINANCE NO. 9824**

BY COUNCILOR STAUBER:

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 R-1-A TO C-5 PROPERTY LOCATED ON ARROWHEAD ROAD WEST OF RICE LAKE ROAD.

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 at end of meeting]*

(Reference File No. 06112)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 6, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 26, 2007  
Approved March 26, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9825**

BY COUNCILOR NESS:

AN ORDINANCE REPEALING SECTION 102 OF THE DULUTH CITY CHARTER PERTAINING TO RESTRICTIONS ON ALCOHOL SALES.

The city of Duluth does ordain:

Section 1. That Section 102 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby repealed.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective date: July 5, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

Passed March 26, 2007

Approved March 26, 2007

HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9826**

BY PRESIDENT STOVER:

AN ORDINANCE AMENDING SECTION 69 OF THE DULUTH CITY CHARTER RELATING TO PENALTIES AND INTEREST ON TAX FORFEIT PROPERTY.

The city of Duluth does ordain:

Section 1. That Section 69 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Section 69. Each assessment not paid on or before 40 days after the publication of the notice directing payment shall be deemed delinquent except as hereinafter provided for, and a penalty of ten percent shall thereupon be added, unless an extension of the assessment shall have been made by the council, as provided for in the next preceding Section. All installments of extended assessments shall be deemed delinquent if not paid at the time fixed for payment in the extension, and when delinquent a ten percent penalty shall in each case be added except as hereinafter provided for; provided, however, that no penalty or interest shall accrue or be charged against any property which is assessed during such time as it is owned by the state of Minnesota pursuant to forfeiture for nonpayment of real estate taxes until said property is redeemed pursuant to Minnesota Statutes, Chapter 281, or any successor statute. Every assessment shall be a lien upon the property against which the assessment is made, from the time such assessment is confirmed by the council.

Section 2. That accrued by unpaid penalties or interest or both arising under Section 69 of the 1912 Home Rule Charter of the city of Duluth, as amended, on property which is presently owned by the state of Minnesota pursuant to forfeiture for nonpayment of real estate taxes are hereby forgiven and deemed to be no longer owing.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 3. That this ordinance shall take effect 90 days after its passage and publication.  
(Effective date: July 5, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 26, 2007  
Approved March 26, 2007  
HERB W. BERGSON, Mayor

- - -

Map 33

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, April 9, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Ness, Stauber, Stewart and President Stover -- 6

Absent: Councilors Krause, Little and Reinert -- 3

- - -

The minutes of council meetings held on February 12, 22 and 26, 2007, were unanimously approved.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0409-09 Thom Holden communication regarding allocation of \$100,000 from the tourism tax fund balance to the Great Lakes Aquarium, eliminating past and future interest charges on utility payments and on a loan (07-0279R). -- Received

07-0409-10 The following communications regarding assurance of public access to and use of Lake Superior shoreline from 23rd Avenue East to near 25th Avenue East (07-0244R): (a) Jeff Anderson; (b) Charles and Nancy Bagley; (c) Alison Clarke; (d) Bill, Margaret and Grace Conroy; (e) Anne Flueckiger; (f) Tom Hollenhorst; (g) Gale and Jeri Kerns; (h) Brian McLaren; (i) Elizabeth Preus; (j) Carolyn Sundquist. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

07-0409-01 Assessor assessment rolls levied to defray the assessable portions of the following contracts: (a) #5431, razing - 1601 West Superior Street (assessable amount - \$16,062.25); (b) #5432, razing - 2 - 4 Piedmont Avenue (assessable amount - \$16,062.25). -- Received

07-0409-02 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) MN AIDS TREK on September 9, 2007; (b) St. Luke's Foundation on July 7, 2007. -- Received

07-0409-03 Parks and recreation department director Lake Superior Zoological Society minutes of February 28, 2007, meeting. -- Received

- - -

Police Chief Ramsay reviewed the crime statistics for Duluth for the years 2003-2006.

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-0409-04 Duluth airport authority minutes of February 26, 2007, meeting. -- Received

07-0409-05 Duluth housing commission minutes of April 13, 2006, meeting. -- Received

07-0409-06 Duluth/North Shore Sanitary District minutes of February 14, 2007, meeting. -- Received

07-0409-07 Duluth transit authority minutes of January 31, 2007, meeting. -- Received

07-0409-08 Library board minutes of February 27, 2007, meeting. -- Received

- - -

At this time, 7:12 p.m., the public hearing on the 2008 street improvement program (07-0262R) began.

Cindy Voigt, city engineer, reviewed the streets identified for the 2008 street improvement program and that a public information meeting was held on March 29 for the residents to attend.

No one else appeared who wished to be heard and the public hearing was closed at 7:15 p.m.

- - -

At this time, 7:15 p.m., the public hearing on property tax abatement for West Production and Site 102/R&D facilities began.

Tom Cotruvo, city business developer, reviewed that the abatement is for the Cirrus project and that this is part of the financing package that was approved by the council in 2005 to enable several expansions by Cirrus that were completed last year. He continued by saying that Cirrus will pay the taxes under the abatement which will come back to the Duluth economic development authority (DEDA) to cover the cost of pollution clean up and soil correction totaling approximately \$147,000 for 15 years. He stated that Cirrus has created 165 new jobs and the average wage with benefits is \$18.88/hour.

President Stover closed the public hearing at 7:18 p.m. and the regular order of business was resumed.

- - -

### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Nick Lansing, member of the parks and recreation commission, stated that the commission is starting the process again to plan and construct a skateboard park at Wheeler Field since the Kroc Center will not be built and will keep the council updated on the progress of the park.

- - -

Gordon Downs expressed concern that the city keeps raising taxes and soon he will be taxed out of his house as he lives on a fixed income. He asked the city to quit spending money on projects that waste taxpayers money.

- - -

KL Lewis spoke on the following issues: the new parking ramp on First Street has lights on all the time; why are St. Mary's/Duluth Clinic employees parking at the Duluth Entertainment Convention Center (DECC) when they should be using the First Street Parking Ramp; and questioned how many long term high paying jobs will be added with the new addition at the DECC and how many parking spots will be lost with the addition.

- - -

### **RESOLUTION TABLED**

Councilor Ness moved to remove Resolution 07-0213, declaring policy and plan for retiree health care program reform, from the table, which motion was seconded and unanimously carried.

Without objection from councilors, Councilor Ness removed the resolution from the agenda.

- - -

### **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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

---

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of razing 2-4 Piedmont Avenue (Contract #5432; assessable amount - \$16,062.25), to be deposited in Fund 100, is hereby confirmed.

Resolution 07-0259 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of razing of 1601 West Superior Street (Contract #5431; assessable amount - \$16,062.25), to be deposited in Fund 100, is hereby confirmed.

Resolution 07-0260 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to execute and implement a contract, substantially the same as that on file with the clerk as Public Document No. 07-0409-11, between the city of Duluth and Duluth Children's Museum in an amount not to exceed \$25,000; payment from Tourism Tax Fund 258.

Resolution 07-0278 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

College of St. Scholastica, 1200 Kenwood Avenue, for April 27, 2007, with Luke Moravec, manager.

Resolution 07-0269 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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 2:00 a.m. beverage license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

---

Legacy Restaurants, Inc. (Duluth Athletic Club), 21 North Fourth Avenue West, with Peter Emerson, 95 percent stockholder, and Michel Emerson, five percent stockholder, transferred from Legacy Restaurants, Inc. (21 North), 402 West First Street.

Resolution 07-0270 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following on sale intoxicating liquor license, on sale Sunday license and 2:00 a.m. beverage license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

The Duluth Grand, LLC (Sheraton Duluth Hotel), 301-311 East Superior Street, with George Sherman, president and 99 percent stockholder, and Bowcorp, one percent stockholder.

Resolution 07-0271 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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, dancing license and 2:00 a.m. beverage license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

Minnesota Nights, Inc. (The Tap Room), 402 West First Street, with Andrew Gamache, president and 100 percent stockholder, transferred from Minnesota Nights, Inc. (The Tap Room), 600 East Superior Street.

Resolution 07-0272 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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

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

Resolution 07-0273 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointments by Mayor Bergson of Jeff Anderson, Kay Ross and Brian Graff to the Duluth legacy endowment fund project group for terms expiring on July 12,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

2007, 2008 and 2009, respectively, replacing Ken Hogg, Althea McBurrows and Peter Sneve who resigned, are confirmed.

Resolution 07-0257 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, the city of Duluth established certain 2007 CDBG accounts pursuant to Resolution 06-0838; and

WHEREAS, the community development committee (CD committee) for the community development program passed a resolution recommending funding in the programs 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 262, Agency 020, 2007 HUD-funded community development accounts as set forth below.

2007 CDBG Program - Fund 262 - Project CD07CD Account Revised 2007					
Sub Project	Activity	Project	Amount	New Grant	Difference
PSVC	2810	Youth development	\$93,800	\$94,260	\$ 460
		Construction contingency	\$73,359	\$75,969	\$2,610
					\$3,070

Resolution 07-0266 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, the city of Duluth established certain 2007 HOME accounts pursuant to Resolution 06-0839; and

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

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund decreases in the Federal Program Fund 260, Agency 020, 2007 HUD-funded community development accounts as set forth below.

2007 HOME Program - Fund 260 - Project CD07HM Account Revised 2007					
Sub Project	Activity	Project	Amount	New Grant	Difference
GN07	AD01	Administration	\$76,000	\$73,307	(\$2,693)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

2007 HOME Program - Fund 260 - Project CD07HM Account Revised 2007					
Sub Project	Activity	Project	Amount	New Grant	Difference
GN07	1737	TBRA - administration	\$ 6,000	\$ 5,000	(\$1,000)
CH07	2806	Permanent rental housing - WCDO	\$56,768	\$55,889	(\$ 879)

Resolution 07-0267 was unanimously adopted.  
 Approved April 9, 2007  
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, the city of Duluth established certain 2007 ESGP accounts pursuant to Resolution 06-0840; and

WHEREAS, the city received an increased award of ESGP funding from the original program estimate; and

WHEREAS, the community development committee (CD committee) for the community development program recommended funding the following programs as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increases in the Federal Program Fund 262, Agency 020, 2007 HUD-funded community development accounts as set forth below.

2007 ESGP Program - Fund 262 - Project CD07ES Account Revised - 2007				
Sub project	Project	Amount	New grant	Difference
1244	CHUM stabilization services	\$26,000	\$26,213	\$213
2509	Battered Women's Shelter services	\$23,500	\$23,700	\$200
1974	Harbor House	\$15,000	\$15,200	\$200
2109	MACV-Duluth	\$17,000	\$17,200	\$200
2511	Transitional housing	\$42,500	\$42,700	\$200

Resolution 07-0268 was unanimously adopted.  
 Approved April 9, 2007  
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Duluth Superior Erection, Inc., for the 2007 citywide patch and sidewalk for the engineering division for the apparent low bid of \$390,000, payable out of Permanent Improvement Fund 0411, Agency 035, Object 5403, Requisition No. 07-0258, City Project No. 0230TR.

Resolution 07-0246 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the St. Louis County department of public works has prepared a final layout for the construction of a portion of County State-Aid Highway No. 1 (Cirrus Drive) within the corporate limits of the city of Duluth and seeks approval thereof.

Said final layout is on file with the St. Louis County public works department, being marked, labeled and identified as S.P. 69-601-001, County State-Aid Highway No. 1.

FURTHER RESOLVED, that said final layout for the improvement of said county state-aid highway within the corporate limits of the city of Duluth is hereby approved.

Resolution 07-0247 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

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 28, 2004, the city council approved Resolution No. 04-0446 approving those revised I&I grant program guidelines on file in the office of the city clerk as Public Document No. 04-0712-14 (the 2004 guidelines); and

WHEREAS, it is necessary and appropriate to amend the 2004 guidelines to reflect adjustments in the program the need for which have become apparent in implementing the 2004 guidelines.

RESOLVED, that the revised I&I grant program guidelines on file in the office of the city clerk as Public Document No. 04-0712-14 are hereby rescinded and the amended I&I grant and loan program guidelines, sixth edition, dated February 13, 2007 (Public Document No. 07-0409-19), are hereby adopted pursuant to the requirements of Minnesota Statutes Section 471.342, subd. 4.

Resolution 07-0250 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

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. 07-0409-12 with National Guard Bureau on behalf of the Minnesota Air National Guard for the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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reconditioning of Airport Road from Haines Road to Rice Lake Road, including the construction of intersection improvements at the newly-constructed access road to MnANG base at Duluth International Airport and authorizing receipt of payments of up to \$154,030 to be deposited in Permanent Improvement Fund 411, Project PI0621TR.

Resolution 07-0251 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 05-0817 is hereby amended and the proper city officials are authorized to increase Contract No. 20133 with Apex Mechanical Plumbing, Heating and Utilities by \$26,295.94 for additional work required in repairing and rebuilding the steam vault roof and walls at Second Avenue West and West First Street and Sixth Avenue West and Superior Street, for a new contract total of \$61,252.94, terms net 30, payable from the Steam Fund 540, Department/Agency 920, Organization 1493, Object 5310.

Resolution 07-0253 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with the Minnesota Municipal Utilities Association (MMUA) for services provided to the city's natural gas utility during 2007 through the MMUA's Gas circuit rider program, for the amount of \$10,600, terms net 30, payable from the Gas Fund 520, Department/Agency 500, Organization 1915, Object 5433.

Resolution 07-0255 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Elk River Ford Sales for the purchase and delivery of two 2007 Dodge Durango SXT 4X4 sport utility vehicles in accordance with state of Minnesota Contract #436609, Release A-175(5) specifications and pricing in the amount of \$43,172, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580-CE250-V702. Both Durangos will be used as fire emergency vehicles; therefore, this purchase is tax-exempt.

Resolution 07-0256 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Stout Mechanical, Inc., for emergency excavation and welding services on steam lines and mains as needed during year 2007 for Duluth Steam Utility District No. 1 projects in accordance with the city's specifications and the contractor's low bid on a regular/overtime and equipment use hourly basis, at an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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estimated total yearly amount not to exceed \$80,000, terms net 30, FOB job site, payable from the Steam Fund 540, Department/Agency 920, Organization 1492, Object 5310.

Resolution 07-0263 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Monroe Truck Equipment for the purchase and delivery of materials and labor to outfit two sterling cab and chassis versions - one with a new dump and sander and one with a city-used dump and sander, for the fleet services division in accordance with city specifications and Monroe's bid of \$58,575 plus sales tax of \$3,807.38, for a total amount of \$62,382.38, terms net 30, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-V712.

Resolution 07-0264 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Goodin Company for the purchase and delivery of fire hydrants as needed during year 2007 in accordance with city specifications and Goodin's low bid of \$25,501 plus sales tax of \$1,657.57, for a total amount of \$27,158.57, 02%/10/terms net 30, payable from the Water Fund 510, Department/Agency 500, Organization 1945, Object 5227.

Resolution 07-0265 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Unique Paving Materials Corporation as the readily available supplier for the purchase of approximately 300 additional tons of cold mix (3/4 inch minus) needed by the public works department due to the recent spate of watermain breaks, at an estimated \$24,000 plus sales tax of \$1,560, for a total estimated cost of \$25,560, terms net 30, FOB pickup, payable from the Water Fund 510, Department/Agency 500, Organization 1945, Object 5222.

Resolution 07-0280 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 1 to City Contract No. 19878 with the Minnesota department of public safety, division of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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homeland security and emergency management, extending the term thereof to December 31, 2007.

Resolution 07-0252 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are hereby authorized to contract with Innovative Home Theater Concepts for the purchase, delivery and installation of multi-media control equipment, including the Crestron media processing module, multi-media presentation system, receivers and control processors, and related equipment for the City Center West police station, in accordance with the city architect's specifications and the quote of \$30,976.27 plus sales tax of \$2,013.46, for a total amount of \$32,989.73, terms net 30, FOB destination, payable from the Capital Improvements Fund 450, Department/Agency 030, Object 5530, Project CP2006-OT650. This purchase also includes wiring, system programming, training, finishing and configuration services.

Resolution 07-0258 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is hereby established: on First Street in front of 2701 West First Street.

Resolution 07-0274 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute that common interest community declaration, a copy of which is on file in the office of the city clerk as Public Document No. 07-0409-13, for Common Interest Community No. 55 related to the Mountain Villas condominiums located on the Spirit Mountain recreation area.

Resolution 07-0172 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 07-0409-16) 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 January 1, 2007, through December 31, 2007, at the reimbursement rate of \$2.15 per eligible non-waiver

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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meal and \$6.08 per eligible waiver meal. Monies collected under said contract shall be deposited in Federal Program Fund 272, Department 031, Revenue Source 4654-02.

Resolution 07-0249 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to contract with Polaris Library Systems for the purchase and delivery of software and hardware maintenance on the library's Polaris integrated library system in accordance with city specifications and Polaris' quote of \$26,846.93, terms net 30, payable from General Fund 100, Department/Agency 300, Organization 1702, Object 5404.

Resolution 07-0254 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0233, by Councilor Stewart, reallocating \$120,000 of the tourism tax fund balance and \$100,000 of the general fund capital improvement budget, was introduced for discussion.

Councilor Gilbert voiced concern that the money that was earmarked for infrastructure repairs at the zoo are now being used for other projects.

Finance Department Director Stark explained that a study is being done by the zoological society to decide what repairs are needed and a bond issue will be issued to do all the repairs at one time.

Resolution 07-0233 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, per the 2007 city budget ordinance as passed and amended, any changes to the general fund support capital budget in excess of ten percent of the total must be approved by the city council; and

WHEREAS, the city desires to reallocate monies within the tourism tax fund and the general fund capital budget to other projects;

NOW, BE IT RESOLVED, that the \$120,000 in the tourism tax fund originally allocated to the capital improvement fund for repairs at the Lake Superior Zoological Gardens be reallocated as follows: \$50,000 for repairs of the pedestrian drawbridge; \$50,000 to Spirit Mountain for capital projects; \$10,000 to the maintenance division in the general fund for the purpose of trail maintenance; and \$10,000 to general fund transfers department for the purchase of all terrain vehicles for use on trails in the city.

AND LET IT FURTHER BE RESOLVED, that \$100,000 in the general fund support capital budget be reallocated from the Indian Point Campground project to repairs to the pedestrian drawbridge.

Resolution 07-0233 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0279, by Councilor Stewart, allocating \$100,000 from the tourism tax fund balance to the Great Lakes Aquarium, eliminating past and future interest charges on utility payments and on a loan, was introduced for discussion.

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

John Ramos voiced his opposition to give the aquarium more money: as it is an aging facility with specialized equipment that will cost lots of money to fix; it has not paid utilities for a year and staff is reduced, so how can they keep coming back for money.

Councilor Gilbert voiced concerns that: the council and public need to see a financial statement from the Great Lakes Aquarium before giving them money on an ongoing basis to forgive their operating expenses and the council has a responsibility to ask why and what the money is needed for.

Resolution 07-0279 was adopted as follows:

BY COUNCILOR STEWART:

The city council finds:

(a) There is available fund balance in the tourism tax fund of the city of Duluth; and

(b) The city desires to assist the Lake Superior Center authority, d/b/a Great Lakes Aquarium, a government agency, in stabilizing its finances.

NOW, THEREFORE, BE IT RESOLVED, that \$100,000 in additional funds be allocated to the Lake Superior Center authority, d/b/a Great Lakes Aquarium, and transferred to it before July 1, 2007; payment from undesignated fund balance in the Tourism Tax Fund 258.

BE IT FURTHER RESOLVED, that interest owed on sewer, gas, water and storm water utility service bills for service to the Great Lakes Aquarium for payments due from May 1, 2006, until such time as the city is no longer responsible for operating costs of the aquarium are forgiven and need not be paid.

BE IT FURTHER RESOLVED, that the accrued interest on the operating loan from the city to Great Lakes Aquarium in original principal amount of \$150,000, beginning October 1, 2005, (approximately \$12,808) is forgiven and need not be paid, and that hereafter no interest will be due on said loan, and it will forever be an interest-free loan.

Resolution 07-0279 was adopted upon the following vote:

Yeas: Councilors Johnson, Ness, Stauber, Stewart and President Stover -- 5

Nays: Councilor Gilbert -- 1

Absent: Councilors Krause, Little and Reinert -- 3

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city of Duluth, acting through its governing body, approves and accepts the act of the state government, a special law affecting Duluth, Laws of Minnesota 2007, Chapter 14, on file in the office of the city clerk as Public Document No. 07-0409-14 as required by MSA Section 645.021, subd. 2.

BE IT FURTHER RESOLVED, that the clerk shall promptly file with the secretary of state the certification required by MSA Section 645.021, subd. 3.

Resolution 07-0281 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0283, by Councilor Stewart, transferring funds for use in retiree health care, was introduced for discussion.

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

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BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth economic development tax abatement financing (TAF) policy, a copy of which is on file in the office of the city clerk as Public Document No. 07-0409-15, is hereby adopted.

Resolution 07-0275 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Stauber and President Stover -- 5

Nays: Councilor Stewart -- 1

Absent: Councilors Krause, Little and Reinert -- 3

Approved April 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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

Section 1. Recitals.

1.1 The city has determined a need to grant a property tax abatement to property (the property) in order to finance the costs of site improvements required for an expansion of the Cirrus Design Corporation (Cirrus) production facility (the improvements), pursuant to Minnesota Statutes, Sections 469.1812 to 469.1815 (the act).

1.2 On the date hereof, the council conducted a duly noticed public hearing on the city abatement (as hereinafter defined) at which the views of all interested persons were heard.

1.3 Under the act, the city is authorized to use abatement proceeds from property in order to pay for the cost of improvements made to the property.

1.4 The Duluth economic development authority (DEDA) entered into a development agreement (development agreement) dated September 12, 2005, with Cirrus.

1.5 Under the development agreement, Cirrus agreed to construct improvements to the property (improvements), increase the number of employees in its production facility and expand its manufacturing operation.

1.6 Under the development agreement, DEDA agreed to reimburse Cirrus for certain costs incurred by Cirrus in connection with the construction of the improvements (improvement costs).

1.7 DEDA, by Resolution No. 05D-64, and city, by Resolution No. 05-0587, considered and approved the business subsidy that DEDA agreed to provide Cirrus under the development agreement.

1.8 City, by Resolution No. 05-0734 (preliminary abatement resolution), approved the use of tax abatement proceeds to reimburse DEDA for payments made by DEDA for improvement costs.

1.9 City, by this resolution, intends to implement the provisions of the preliminary abatement resolution.

Section 2. Findings.

2.1 It is hereby found and determined that the benefits to the city from the city abatement will be at least equal to the costs to the city of the city abatement, because the improvements will benefit the property that is the source of the abatement.

2.2 It is hereby found and determined that the city abatement is in the public interest for the reasons described in Section 1 and Section 2.1.

2.3 It is further specifically found and determined that the city abatement is expected to result in a public benefit because the improvements will increase employment opportunities, expand the tax base and allow a manufacturing facility to expand.

Section 3. Actions ratified; abatement approved.

3.1 The council hereby ratifies all actions of the city's staff and consultants in arranging for approval of this resolution in accordance with the act.

3.2 Subject to the provisions of the act, the city abatement is hereby approved and subject to the following terms and conditions:

3.2.1 The term abatement means the real property taxes or personal property taxes in lieu of real property taxes generated in any tax-payable year by extending the city's total tax rate for that year against the tax capacity of the property.

3.2.2 The abatement will be paid in accordance with the terms of the abatement agreement between the city and DEDA described in Section 3.3 hereof, commencing with taxes payable in 2008 and continuing for a period of 15 years (through taxes payable in 2022). The abatement will terminate after the 15th year of collection of abatement from the property or upon payment in full of the obligations of the city under the abatement agreement described in Section 3.3 hereof.

3.2.3 In accordance with Section 469.1813, subdivision 8 of the act, in no case shall the abatement, together with all other abatements approved by the city under the act and paid in any one year exceed the greater of ten percent of the city's levy for that year or \$200,000.

3.2.4 In accordance with Section 469.1815 of the act, the city will add to its levy in each year during the term of the city abatement the total estimated amount of current year abatement granted under this resolution.

3.3 The proper city officials are hereby authorized to enter into the tax abatement financing agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-0409-17, with DEDA to implement the tax abatement as described above, on behalf of the city.

Resolution 07-0277 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Stauber and President Stover -- 5

Nays: Councilor Stewart -- 1

Absent: Councilors Krause, Little and Reinert -- 3

Approved April 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR NESS:

The city council finds:

(a) Governor Tim Pawlenty has agreed to submit a WIRED (workforce innovations for regional economic development) grant application to the U.S. department of labor; and

(b) The \$5,000,000 grant funding applied for would support a variety of workforce and economic development initiatives in order to assist the region in strengthening and expanding its economic base; and

(c) The Duluth workforce council, as the workforce investment board for the city of Duluth, would be among the designated grantees; and

(d) The city of Duluth committed itself as a partner with the Duluth workforce council in the establishment of a workforce strategy task force.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council expresses its support for the submission of the WIRED grant application.

BE IT FURTHER RESOLVED, that the clerk shall furnish copies of this resolution to Congressman Oberstar, Governor Pawlenty and Minnesota's senators.

Resolution 07-0261 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0244, by Councilor Johnson, assuring public access to and use of Lake Superior shoreline from 23rd Avenue East to near 25th Avenue East, was introduced for discussion.

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

Alison Clarke, Jackie Falk and John Sanford urged the council to table this resolution for a committee meeting as information needs to be brought forward on the feasibility of the Lakewalk being built and what solutions can be offered to allow the public to use the property between the lake and the buildings until the Lakewalk is built.

Bill Burns, representing the developer, stated that there has been a lot of misinformation about the developer and their commitment to allow a Lakewalk for the public to use.

Councilor Stewart moved to table the resolution for a committee meeting on April 23, which motion was seconded and unanimously carried.

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Resolution 07-0262, by Councilor Johnson, ordering the improvement known as the 2008 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$2,775,300, was introduced for discussion.

Councilor Johnson moved to table the resolution until a sufficient number of councilors are present to vote on it, which motion was seconded and unanimously carried.

*[Editor's Note: Pursuant to Section 61(b) of the City Charter, this resolution is required to be approved with the affirmative vote of at least seven councilors.]*

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Resolution 07-0276, by councilors Johnson and Gilbert, honoring city of Duluth library employees, was introduced for discussion.

Beth Kelly, library director, thanked the council for their recognition of the library employees and also the other city workers who are behind the scenes helping the library to function.

Resolution 07-0276 was adopted as follows:

BY COUNCILORS JOHNSON AND GILBERT:

The city council finds:

(a) April 17 is national library workers day; and

(b) Our great city has strong libraries with 65 dedicated workers who help minds soar; and

(c) Our talented library workers help more than 50,000 borrowers find the information they need to learn, prosper and have fun; and

(d) Our library workers offer free and equal access to a world of knowledge regardless of age, income or background; and

(e) Our library workers embrace change and constantly reinvent their services to meet the demands of the information age; and

(f) Duluth residents made nearly 500,000 visits to our three libraries last year; and

(g) Our libraries are being used more than ever with less financial backing due to cuts in state aid to local government; and

(h) Our libraries work well because AFSCME library workers do.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth celebrate national library workers day by honoring the contributions of its AFSCME, and other, library workers who are dedicated to satisfying our community's hunger for knowledge.

Resolution 07-0276 was unanimously adopted.

Approved April 9, 2007

HERB W. BERGSON, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

07-020 - AN ORDINANCE AMENDING SECTION 8-68 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO AREA RESTRICTIONS ON LIQUOR SALES.

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BY COUNCILOR STAUBER

07-013 - AN ORDINANCE DESIGNATING THE ALFRED AND JANE MCCORDIC RESIDENCE (IMMIGRANT HOUSE BED AND BREAKFAST), AT 2104 EAST SUPERIOR STREET, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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BY COUNCILOR NESS

07-021 - AN ORDINANCE AMENDING SECTIONS 6-11, 6-12 AND 6-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO USE OF FEES FOR ANIMAL REGISTRATION AND LICENSING.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-019 (9827) - AN ORDINANCE GRANTING TO A&L PROPERTIES A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A RETAINING WALL, PARKING SPACES AND STAIRWAY, FOR PRIVATE USE, IN THE RIGHT-OF-WAY OF 22ND AVENUE EAST.

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

*[Editor's Note: Ordinance No. 9827 was reconsidered, amended and re-adopted on April 16, 2007.]*

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The meeting was adjourned at 8:45 p.m.

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

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**ORDINANCE NO. 9827**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO A&L PROPERTIES A  
CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A  
RETAINING WALL, PARKING SPACES AND STAIRWAY, FOR  
PRIVATE USE, IN THE RIGHT-OF-WAY OF 22ND AVENUE EAST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to A&L Properties their successors and interests, referred to herein as the permittees, to occupy, construct and maintain a retaining wall, stairway, and four private parking spaces in that part of 22nd Avenue East right-of-way between London Road and a point 45 feet south as the same was dedicated to the use of the public and the plat of Endion Division of Duluth, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

That part of 22nd Avenue East adjacent to Lot 1, Block 26, Endion Division of Duluth located within ten feet of the east right-of-way line of 22nd Avenue East and between the south line of London Road, extended, and a line parallel to and 45 feet southerly of the south line of London Road, extended.

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 resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittee has in force insurance meeting the following requirements:

(a) A comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition. The city reserves the right to amend its insurance requirements and the permittee shall file evidence of insurance that conforms to any amended insurance requirements within ten days of such notice.

Section 3. That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(a) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include

all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(a) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 5. 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 6. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said parking spaces, retaining wall, and stairway and all fixtures and pertinences 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 7. 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 parking spaces, retaining wall, and stairway shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said 22nd Avenue East right-of-way and agree that the city of Duluth shall not be liable for damage caused to such parking spaces, retaining wall, or 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, watermains, pipes, conduits or other public utilities made necessary by the presence of such retaining wall, parking spaces, and stairway in said 22nd Avenue East right-of-way.

Section 8. 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 9. The permittee shall further observe the following conditions:

(a) That all city building codes will be observed in the construction of structures and parking areas;

(b) The type and location of the improvements shall be limited to and maintained in accordance with the site plan drawn by DSGW entitled "London Road Office Building" dated November 28, 2006, and the retaining wall and stairway details drawn by DSGW entitled "London Road Office Building" dated March 8, 2007, and on record as Public Document No. 07-0409-18;

(c) The permittee shall maintain all structures and parking areas (surfacing, sealing, striping, plowing, etc.) described in Section 1 of this ordinance;

(d) The permittee shall not prohibit public use of the stairway as an extension of the public sidewalk and shall not prohibit the public from traversing the private parking lot to access the stairway;

(e) The permittee shall dedicate to the public a pedestrian easement, ten feet in width, connecting the top of the stairway to London Road;

(f) The permittee shall cause to be erected and maintained at all times signs at each end of the pedestrian easement and at the bottom of the stairway indicating the public's right to use such pedestrian easement.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: see Editor's Note below)

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

Yeas: Councilors Gilbert, Johnson, Ness, Stauber, Stewart and President Stover -- 6

Nays: None -- 0

Absent: Councilors Krause, Little and Reinert -- 3

Passed April 9, 2007

Approved April 9, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

*{Editor's Note: Ordinance No. 9827 was reconsidered, amended and re-adopted on April 16, 2007.}*

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**OFFICIAL PROCEEDINGS**

Special Meeting of the Duluth City Council held on Monday, April 16, 2007, 5:16 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

**ORDINANCE RECONSIDERED**

BY COUNCILOR STAUBER

07-019 (9827) - AN ORDINANCE GRANTING TO A&L PROPERTIES A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A RETAINING WALL, PARKING SPACES AND STAIRWAY, FOR PRIVATE USE, IN THE RIGHT-OF-WAY OF 22ND AVENUE EAST.

President Stover moved to reconsider the ordinance, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Little -- 1

At the request of the applicant, Councilor Reinert moved to amend the applicant's name throughout the ordinance to replace "A&L Properties" with "L&L LRDC, LLC," which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Little -- 1

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Little -- 1

- - -

**MOTIONS AND RESOLUTIONS**

Resolution 07-0243, by Councilor Stewart, pertaining to city interests in bankruptcy claims, was introduced for discussion.

Mayor Bergson encouraged the council's support and thanked all those involved in the settlement.

Resolution 07-0243 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to negotiate with involved parties for a favorable disposition of the city's claims in the bankruptcy of Northwest Airlines (Case 05-17930 ALG, Southern District of New York); to approve, execute and implement any document or agreement required in the settlement or resolution of such claims or related fees or transactions, including any agreement with state of Minnesota; and to take such actions, including

the execution of documents, including any settlement agreement, and the giving of notice, as are necessary to effect the redemption of bonds relating to the Duluth maintenance base, on the condition that:

- (a) The settlement or resolution is at least as favorable to the city as the state's settlement or resolution is favorable to the state;
- (b) The settlement provides for payment in full of the city's claim in the amount of \$235,577.92 related to the Duluth maintenance base;
- (c) The settlement provides that city's debt for the Duluth maintenance base will be fully satisfied;
- (d) The settlement provides that the city's obligations to the state of Minnesota, to bondholders, and to other parties to the documents, all relating to the bond financing of the Duluth maintenance base will be fully satisfied or settled.

Resolution 07-0243 was unanimously adopted.

Approved April 16, 2007

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 5:22 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9827**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO L&L LRDC, LLC, A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A RETAINING WALL, PARKING SPACES AND STAIRWAY, FOR PRIVATE USE, IN THE RIGHT-OF-WAY OF 22ND AVENUE EAST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to L&L LRDC, LLC, their successors and interests, referred to herein as the permittees, to occupy, construct and maintain a retaining wall, stairway, and four private parking spaces in that part of 22nd Avenue East right-of-way between London Road and a point 45 feet south as the same was dedicated to the use of the public and the plat of Endion Division of Duluth, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

That part of 22nd Avenue East adjacent to Lot 1, Block 26, Endion Division of Duluth located within ten feet of the east right-of-way line of 22nd Avenue East and between the south line of London Road, extended, and a line parallel to and 45 feet southerly of the south line of London Road, extended.

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 resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittee has in force insurance meeting the following requirements:

(a) A comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition. The city reserves the right to amend its insurance requirements and the permittee shall file evidence of insurance that conforms to any amended insurance requirements within ten days of such notice.

Section 3. That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(a) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(a) Comprehensive general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 5. 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 6. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said parking spaces, retaining wall, and stairway and all fixtures and pertinences 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 7. 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 parking spaces, retaining wall, and stairway shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said 22nd Avenue East right-of-way and agree that the city of Duluth shall not be liable for damage caused to such parking spaces, retaining wall, or 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, watermains, pipes, conduits or other public utilities made necessary by the presence of such retaining wall, parking spaces, and stairway in said 22nd Avenue East right-of-way.

Section 8. 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 9. The permittee shall further observe the following conditions:

(a) That all city building codes will be observed in the construction of structures and parking areas;

(b) The type and location of the improvements shall be limited to and maintained in accordance with the site plan drawn by DSGW entitled "London Road Office Building" dated November 28, 2006, and the retaining wall and stairway details drawn by DSGW entitled "London Road Office Building" dated March 8, 2007, and on record as Public Document No. 07-0409-18;

(c) The permittee shall maintain all structures and parking areas (surfacing, sealing, striping, plowing, etc.) described in Section 1 of this ordinance;

(d) The permittee shall not prohibit public use of the stairway as an extension of the public sidewalk and shall not prohibit the public from traversing the private parking lot to access the stairway;

(e) The permittee shall dedicate to the public a pedestrian easement, ten feet in width, connecting the top of the stairway to London Road;

(f) The permittee shall cause to be erected and maintained at all times signs at each end of the pedestrian easement and at the bottom of the stairway indicating the public's right to use such pedestrian easement.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 20, 2007)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Little -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 16, 2007  
Approved April 16, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, April 23, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Absent: Councilor Gilbert -- 1

- - -

President Stover asked for 32 seconds of silence in memory of the Virginia Tech shooting victims on April 16.

- - -

Christine Penny, representing the tree commission, announced awards to various Duluth citizens for their use and care of trees in the management of their property.

- - -

The minutes of council meeting held on March 12, 19 and 26, 2007, were approved upon a unanimous vote.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0423-02 St. Mary's Duluth Clinic Medical Center acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9758 on November 28, 2005. -- Received

07-0423-01 The following communications regarding preservation of public access to and use of Lake Superior shoreline from 23rd Avenue East to near 25th Avenue East (07-0244R): (a) James Doniker; (b) Jennifer Huntley; (c) Trevor Peterson; (d) Andrew C. Pokorney. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0423-03 Clerk application to the Minnesota gambling control board for exemption from lawful gambling for Lincoln Park Business Group on June 23, 2007 (raffle). -- Received

07-0423-09 Parks and recreation department director 2006 annual report. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-0423-04 Commission on disabilities minutes of March 6, 2007, meeting. -- Received

07-0423-05 Duluth human rights commission minutes of March 14, 2007, meeting. -- Received

07-0423-06 Duluth/North Shore Sanitary District board minutes of March 14, 2007, meeting. -- Received

07-0423-07 Housing and redevelopment authority of Duluth minutes of: (a) October 31; (b) November 28; (c) December 19, 2006, meetings. -- Received

07-0423-08 Seaway Port authority of Duluth minutes of: (a) November 29, 2006; (b) January 24; (c) February 22, 2007, meetings. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

KL Lewis expressed concerns on: the outward appearance of reservoirs and questioned the quality of the overall water system; what work has been done to reconcile neighborhood planning with the federal, state and local conservation laws; the need to paint and stripe Skyline Parkway for safety and that there should be fire drills for bars and restaurants, which could be turned into a friendly competition.

- - -

**RESOLUTIONS TABLED**

Councilor Stauber moved to remove Resolution 07-0283, transferring funds for use in retiree health care, by Councilor Stewart, from the table, which motion was seconded and unanimously carried.

Councilor Stauber offered two friendly amendments to the resolution:

(a) Add the following subparagraph at the end of the second paragraph:

“(d) It is the intent of the council that beginning in 2008, from community investment trust a sum of \$1.2 million each year hereafter to be deposited in OPEB on or before the first day of October”;

(b) In the last paragraph, replace the phrase “the general property tax levy shall be increased in an amount equal to the TIF proceeds therefrom” with the phrase “an amount equal to the TIF proceeds will be set aside from the budget by either increasing the general property tax levy or reducing expenses or some combination thereof,” which were both accepted by Councilor Stewart.

- - -

At this time, 7:18 p.m., Councilor Gilbert took his seat.

- - -

Councilor Krause moved to table the resolution, which motion failed for lack of a second.

Councilor Little stated that the council should wait until all the parties are on board and doing their part instead of front end loading into the fund.

Councilor Krause voiced concern that this action would result in taking a large amount of money from one revenue source, which will hurt the future of the infrastructure of the city.

Resolution 07-0283, as amended, was adopted as follows:

BY COUNCILOR STEWART:

The city council finds:

(a) It has addressed the issue of funding retiree health care obligations and has formulated a plan and policy;

(b) The legislature has authorized the creation of a trust fund, which fund is a part of the city’s funding plan.

THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to implement the following fund transfers of money into the OPEB trust account authorized by the legislature, at times when casino proceeds become available and city held investments mature, so that the transfer is achieved without avoidable financial loss to the city, as determined by the finance director:

(a) From Community Investment Trust Fund 256 up to \$8 million;

(b) From Group Health Fund 630 up to \$1 million, as is possible leaving sufficient money in the fund to cover estimated claims;

(c) From revenues of city utilities, any part of the \$2.3 million budgeted for this purpose that has not already been transferred;

(d) It is the intent of the council that beginning in 2008, from community investment trust a sum of \$1.2 million each year hereafter to be deposited in OPEB on or before the first day of October.

BE IF FURTHER RESOLVED, that the council recognizes that funding the OPEB trust fund will require actions similar to this resolution, including transfers from utility revenues, over a period of years and so takes this action as the beginning of a long term process. It is the intent of the council that when Tax Increment Financing (TIF) District 3 retires at year end 2007, beginning in 2008 and subsequent years, an amount equal to the TIF proceeds will be set aside from the budget by either increasing the general property tax levy or reducing expenses or some combination thereof, and transferred to the OPEB trust, and that the same shall be done when TIF districts 2 and 4 retire at year end 2009.

Resolution 07-0283, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Krause and Little -- 2

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Ness moved to remove Resolution 07-0213, declaring policy and plan for retiree health care program reform, from the table, which motion was seconded and unanimously carried.

Since the resolution was mistakenly kept on the agenda after it was removed at the April 9 council meeting, Councilor Ness removed the resolution from the agenda.

- - -

Councilor Johnson moved to remove Resolution 07-0244, assuring public access to and use of Lake Superior shoreline from 23rd Avenue East to near 25th Avenue East, 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.

Alison Clarke stated that this resolution is not the language that was sent to the attorney's office and was not approved by Councilor Johnson. She also requested that the council direct the city to move forward with the construction of the Lakewalk and favor the feasibility plan option that provides construction along the shore of the standard Lakewalk, construction of a foot path along the shore between 20th and 23rd avenues East, and construction of a Lakewalk trail on the upper side of Water Street.

In response to councilor questioning whether this resolution would allow public access by putting up signs, City Attorney Brown replied that the council does not have the authority to nullify the deed restrictions and that it could only be done by the grantor or by court. He added that putting up signs would not comply with the deed restrictions.

Councilor Stewart suggested that the resolution be withdrawn and that a resolution dealing with getting the Lakewalk built as quickly as possible be drafted.

Councilor Johnson stated that there is an issue with the deed and whether the deed should have gone through the Duluth economic development authority (DEDA) or the council. She added that she will be working with the neighborhood and the planning department to bring forward a new resolution.

With Councilor Johnson's consent, President Stover removed the resolution from the agenda.

- - -

Councilor Johnson moved to remove Resolution 07-0262, ordering the improvement known as the 2008 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$2,775,300, from the table, which motion was seconded and unanimously carried.

Councilor Stauber expressed concern that the city is not replacing the streets fast enough and that new revenue streams need to be found to increase the amount of streets that are replaced each year.

Councilor Krause voiced concern about the overlay program as it is not a long term fix for the roads.

Resolution 07-0262 was adopted as follows:

BY COUNCILOR JOHNSON:

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. 07-0423-10 on file with the office of the city clerk; that the costs of said improvement estimated at \$2,775,300 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 07-0262 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

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

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

BY COUNCILOR STEWART:

BE IT RESOLVED, that Resolution 06-0798 is amended to add the following fees:

<b>Planning and Development</b>	
<b>License, Permit, Fee Name</b>	<b>2007 Fee</b>
Comprehensive plan booklet	\$40.00

<b>Planning and Development</b>	
<b>License, Permit, Fee Name</b>	<b>2007 Fee</b>
Comprehensive plan on disk format	\$1.00

Resolution 07-0248 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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:

Grandma's Marathon - Duluth, Inc., Canal Park Drive and Buchanan Street, for June 15-17, 2007, with Scott Kennan, manager, with the music and serving ending at 1:00 a.m.

Resolution 07-0285 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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:

Historic Union Depot, Inc. (St. Louis County Heritage & Arts Center), 506 West Michigan Street, for May 11, 2007, from 8:00 p.m. to 11:30 p.m.

Resolution 07-0286 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the city council of the city of Duluth hereby issues off sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2007, and ending April 30, 2008, 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. 07-0423-11.

Resolution 07-0288 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the city council of the city of Duluth hereby issues on sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2007, and ending April 30, 2008,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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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. 07-0423-12.

Resolution 07-0289 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the 2:00 a.m. closing license renewals for the following 3.2 percent malt liquor licenses for the period beginning May 1, 2007, and ending April 31, 2008, 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. 07-0423-13.

Resolution 07-0290 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following bottle club license by the liquor control commissioner for the period beginning April 1, 2007, and ending March 31, 2008, subject to departmental approvals and the payment of sales and property taxes:

Order of Owls, Nest #1200, 118 East Second Street.

Resolution 07-0291 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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 16, 2007, and confined to the fenced in parking lot at night on June 16, 2007, in conjunction with Grandma's Marathon, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 07-0292 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Theresa M. Teich to the Duluth human rights commission for a term expiring on April 20, 2009, replacing Kristina Defoe who resigned, is confirmed.

Resolution 07-0296 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Duluth Archaeology Center, LLC, for Phase I archaeological survey services relating to Spirit Mountain LAWCON conversion, payment not to exceed \$3,000, payable from Fund 100, Agency 700, Organization 1407, Object 5441.

Resolution 07-0282 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northwest Sealing for the 2007 crack seal for the engineering division for the apparent low bid of \$33,202.50, payable out of General Fund 100, Agency 500, Organization 1920-2550, Object 5403, Requisition No. 07-0291, City Project No. 0247TR.

Resolution 07-0284 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Hydro Metering Technology for the purchase and delivery of Badger water meter repair parts as needed during year 2007 for the utility operations division in accordance with specifications, current prices, and an estimated amount of \$37,300, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500, Organization 1940-2410, Object 5220.

Resolution 07-0293 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Larson Chevrolet for the purchase and delivery of a 2007 Chevrolet express cargo van in accordance with the city's specifications and the vendor's low bid of \$26,743 plus \$1,738.30 sales tax plus a \$70 title fee plus a \$1,530 extended warranty, for a total amount of \$30,081.30, payable from General Fund 100, Department/Agency 700, Organization 1407, Object 5406. The Minnesota sales tax does not apply to extended warranties.

Resolution 07-0294 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with NorthStar Ford for the purchase and delivery of various light duty trucks and vans in 2007 in accordance with the city's specifications and the vendor's low bid of \$423,695.70 plus \$2,718 tow command hitch packages plus \$27,716.90 sales tax, plus \$1,120 for title fees and \$33,810 for extended warranties for a total amount of \$489,060.60, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations and objects. The Minnesota sales tax does not apply to extended warranties.

Resolution 07-0295 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 05-0118 to Kollmer Consultants, Inc., for engineering services for plans, specifications and inspection for the rehabilitation of the orphanage elevated water tower be amended to increase the amount by an estimated \$3,630 for additional inspection services for a new total of \$39,230. The increase will be payable from Water Fund 0510, Department 0500, Organization 1955, Object 5401, City Project No. 0447WA.

Resolution 07-0297 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, Insituform Technologies USA, Inc., be and is hereby awarded a contract for the cured-in-place-pipe (CIPP) rehabilitation of sanitary sewers at various locations for the engineering division in accordance with its low bid of \$283,670.50; payable out of the Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1905, Project Number 0592SN, Object 5536.

Resolution 07-0309 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to enter into Amendment No. 1 to Grant Contract No. 2005-SHSP-00503 with the state of Minnesota department of public safety, division of homeland security and emergency management, a copy of which is on file in the office of the city clerk as Public Document No. 07-0423-14, for information sharing, target hardening of selected high value targets, threat recognition, intervention activities, interoperable communications, and management and administration, extending the term thereof through December 31, 2007.

Resolution 07-0299 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to accept grant money from the Midwest Economic Crime Foundation, in an amount not to exceed \$10,000 in 2007, to be received on a per request basis and in unspecified amounts, and to execute any documents required to be executed to accept such grant money; such funds to be deposited in Fund 215-200-2264-4805.

Resolution 07-0307 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to award a contract to Nels Nelson & Sons, Inc., for construction of year 2007 street improvements in Lakeside West Central for the engineering division based on their low bid of \$1,710,800.86; payable out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project No. 0126TR.

Resolution 07-0298 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Gilbert -- 1

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city council objects to the reclassification to nonconservation and sale of the following tax forfeited parcels by the board of county commissioners of Saint Louis County:

Parcel ID and Legal Description	Location	Reason
010-2230-04150 010-2230-04160 010-2230-04170 Home Acres First Division Block 9, Lots 33-35	west side of Joshua Avenue 175 feet south of Page Street (Duluth Heights)	future expansion of Joshua Avenue

Resolution 07-0302 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city council objects to the reclassification to non-conservation and sale of the following tax forfeited parcels by the board of county commissioners of Saint Louis County:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-0100-00810 010-0100-00820 Auditors Plat of Morningside Tract Lot 268 Ex W 14 ft and S 7 ft and N 7 ft Lots 269 through 276 Ex S 7 ft and N 7 ft and Inc Lot 277 Ex E 15 ft and Ex S 7 ft and N 7 ft (all of Tract #1)	north of Cedar Street between Livingston Street and Morningside Street (Morley Heights)	land packaging for future development
010-0100-00950 Auditors Plat of Morningside Tract Lots 280 through 286 Ex S 7 ft and N 7 ft and inc Lot 287 Ex E 15 ft and Ex S 7 ft and N 7 ft (all of Tract #2)	north of Winter Street between Livingston Street and Morningside Street (Morley Heights)	land packaging for future development
010-0100-01030 Auditors Plat of Morningside Tract Lot 288 Ex W 14 ft and Ex S 7 ft, Lots 289 through 294 Ex S 7 ft and inc lots 295 through 297 Ex S 7 ft and Inc Lots 295 thru 297 Ex S 7 ft and Ex part lying NE of a line beg 140 ft S of NE cor of Lot 297 thence NW to a pt 120 ft S of NW cor of Lot 297 thence NW to a pt 110 ft W of NE cor of Lot 295 and E 15 ft of Lot 297 (all of Tract #3)	north of Dexter Street between Livingston Street and Morningside Street (Morley Heights)	land packaging for future development
010-0350-00270 Bryant Addition Third Division Block 3, Lots 10 through 15 (all of Tract #8)	beyond the end of Vernon Street on the north side (Lincoln Park)	preservation of stream crossing property
010-0370-03370 Carlton Place Addition to Duluth Block 24, Lots 10 through 13, except East 70 feet (part of Tract #9)	East side of South 69th Avenue West between Redruth Street and Sherburne Street (Fairmount)	stormwater drainage preservation
010-0530-00030 010-0530-00040 City Home Acres Block 1, Lots 3 through 6 (all of Tract #10)	north side of Maple Grove Road west of Robin Avenue (Duluth Heights)	wetland protection

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-0880-05470 Duluth Heights Fifth Division Lots 1 through 16, Block 20 (all of Tract #12)	south of Lemon Street between Ebony Avenue and Teak Avenue (Duluth Heights)	land packaging
010-1160-00530 Duluth Proper Second Division Block 98, E 1/2 Lot 182 (all of Tract #14)	south of Third Street west of 11th Avenue West (Central Hillside - Observation Hill)	preservation of stream crossing the property
010-1170-00110 010-1170-00120 Myers Rearrangement of Blocks 105, 106, 127, 128, 142 Block 105, Lots 10 and 11 (all of Tract #15)	west side of 17th Avenue West north of Third Street (Lincoln Park - Goat Hill)	future park
010-1170-00210 010-1170-00220 Myers Rearrangement Blocks 105, 106, 127, 128, 142 Block 105, Lots 19 and 20 (all of Tract #16)	east side of 18th Avenue West north of Third Street (Lincoln Park - Goat Hill)	future park
010-1170-00230 010-1170-00240 Myers rearrangement Blocks 105, 106, 127, 128, 142 Block 105, Lots 21 and 22 (all of Tract #17)	southeast corner of 18th Avenue West and Fourth Street (Lincoln Park - Goat Hill)	future park
010-1350-10400 010-1350-10480 Duluth Proper Third Division Lot 81 and 82, Block 136 (all of Tract #22)	northwest corner of Fifth Avenue West and Ninth Street (Central Hillside - antennae farm)	antennae farm
010-1350-10430 010-1350-10440 Duluth Proper Third Division Lot 87 and 89, Block 136 (all of Tract #23)	north side of West Ninth Street west of Fifth Avenue West (Central Hillside - antennae farm)	antennae farm

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-1350-10500 010-1350-10510 Duluth Proper Third Division Lot 86, 88 and 94, Block 136 (all of Tract #24)	south side of West Tenth Street west of Fifth Avenue West (Central Hillside - antennae farm)	antennae farm
010-1350-15770 Duluth Proper Third Division Block 178, Lots 49 through 63, odd numbered lots inc part of vac Fourth Avenue West adjacent to Lot 63 (all of Tract #25)	north side of West 12th Street between Third and Fourth Avenue West (Central Hillside - antennae farm)	antennae farm
010-1350-15850 Duluth Proper Third Division Lots 50 and 52, Block 178 (all of Tract #26)	southwest corner of Third Avenue West and 13th Street (Central Hillside - antennae farm)	antennae farm
010-1660-00660 Fond Du Lac Eighth Street Lots 131 through 169 Odd numbered lots (all of Tract #27)	south side of Eighth Street near 127th and 128th Avenue West (Fond du Lac)	wetland preservation
010-1660-00880 010-1760-02940 010-1770-01720 Fond Du Lac Eighth Street Lot 175 thru 185 replatted as First Addition to Fond du Lac and East Fond du Lac, Block 10, Lot 1 and East Fond du Lac, Block 23, Lots 1 through 3 (all of Tract #28)	south side of Eighth Street near 126th Avenue West (Fond du Lac)	steep slope and wetland preservation
010-1680-00010 Fond Du Lac Itasca Street Lot 81 (all of Tract #29)	between Water Street and Saint Louis River near 131st Avenue West (Fond du Lac)	sewer crosses parcel, floodplain, river preservation
010-1800-00250 Gary First Division Lots 1 through 8, Block 3 (all of Tract #30)	east side of 104th Avenue West north of Reis Street (Gary-New Duluth)	preservation of floodplain and stream crossing the property

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-2110-08640 Harrisons Brookdale Division Lot 9, Block 66 (all of Tract #33)	north side of Tenth Street between Voss Avenue and 22nd Avenue West (Lincoln Park)	preservation of floodplain and stream ravine
010-2110-08660 010-2110-08670 010-2110-08680 Harrisons Brookdale Lot 11 through 13, Block 66 (all of Tract #34)	north side of Tenth Street between Voss Avenue and 22nd Avenue West (Lincoln Park)	preservation of floodplain and stream crossing the property
010-2190-00410 Highland Gardens Second Division Lots 1 and 2, Block 8 (all of Tract #35)	southwest corner of Farrell Road and West Ideal Street (Duluth Heights)	preservation of floodplain and stream crossing the property
010-2230-04250 Home Acres First Division Lot 1 through 15, Block 10 (all of Tract #36)	southeast corner of Sumac Avenue and Page Street (Duluth Heights)	future roadway
010-2230-04470 010-2230-04490 Home Acres First Division Lot 23 and Lots 25 through 39, Block 10 (all of Tract #37)	southwest corner of Cedar Avenue and Page Street (Duluth Heights)	future roadway
010-1790-01590 Gary Central Division Lot 1 and Lots 3 through 8, Block 58 (all of Tract #39)	east side of 107th Avenue West north of Reis Street (Gary-New Duluth)	preservation of floodplain and stream crossing the property
010-1790-01670 Gary Central Division Lots 23 through 30, Block 58 (all of Tract #40)	west side of 106th Avenue West north of Reis Street (Gary-New Duluth)	preservation of floodplain and stream crossing the property
010-1790-03450 010-1790-03460 010-1790-03470 010-1790-03480 Gary Central Division Duluth Lots 1-4, Block 65 (all of Tract #41)	east side of 108th Avenue West north of Reis Street (Gary-New Duluth)	preservation of floodplain and stream crossing the property

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-1790-03490 010-1790-03500 010-1790-03510 010-1790-03520 Gary Central Division of Duluth Lots 5 thru 8, Block 65 (all of Tract #42)	west side of 108th Avenue West north of Reis Street (Gary-New Duluth)	stream ravine preservation
010-2710-1460 Twp 50N Rng 14W Sec 5 E ½ of E ½ of SW ¼ of SE ¼ (All of Tract #43)	south side of Norton Road east of Thurber Road (Kenwood)	airport approach protection, stream preservation
010-2710-1470 Twp 50N Rng 14W Sec 5 W ½ of E ½ of SW ¼ of SE ¼ (All of Tract #45)	south side of Norton Road east of Thurber Road (Kenwood)	airport approach protection, stream preservation
010-2710-1550 Twp 50N Rng 14W Sec 5 W ½ of W ½ of SE ¼ of SE ¼ (All of Tract #46)	south side of Norton Road east of Thurber Road (Kenwood)	airport approach protection, stream preservation
010-2710-02050 Twp 50N Rng 14W Sec 7 E ½ of NE ¼ of SW ¼ Ex 1 acre for school and Ex that part N of the Old Swan Lake Road and W of the Krueger Road (all of Tract #47)	south side of Swan Lake Road 1/4 mile east of Haines Road (Duluth Heights)	preservation of floodplain and stream crossing the property (Miller Creek)
010-2710-02150 Twp 50N Rng 14W Sec 7 W ½ of E ½ of E ½ of SE ¼ of SW ¼ (all of Tract #48)	north side of Arrowhead Road east of Haines Road where Minnesota Power line crosses (Duluth Heights)	preservation of floodplain and stream crossing the property (Miller Creek)
010-2710-02260 Twp 50N Rng 14W Sec 7 W ½ of SE ¼ of SE ¼ Ex 1 40/100 Ac for road Ex part S and W of Swan Lake Rd Ex W 225 Ft N of Swan Lake Rd and Ex E 120 ft of W 465 Ft N of Swan Lake Rd (all of Tract #49)	north side of Arrowhead Road east of Swan Lake Road (Duluth Heights)	wetland preser- vation

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-2710-05940 Twp 50N Rng 14W Sec 20 That part of SW ¼ of SE ¼ bounded as follows: commencing at a pt in the N line of said SW ¼ of SE ¼ 16 rods E of the NW cor thence running W on said N line of SW ¼ of SE ¼ 12 rods to a pt thence S at right angles 10 rods to a pt thence E at right angles 12 rods to a pt thence N at right angles 10 rods to a place of beg containing .75 acres more or less (all of Tract #50)	southwest of Robin Avenue and Quince Street (Duluth Heights)	future park
010-2710-06588 Twp 50N Rng 14W Sec 29 E 100 ft of E ½ of E ½ of NE ¼ of NW ¼ of NW ¼ (all of Tract #51)	south of Anderson Road east of Trinity Road (Duluth Heights)	wetland preservation
010-1800-00340 Gary First Division Lots 24 and 25, Block 3 (all of Tract #53)	west side of 103rd Avenue West north of Reis Street (Gary-New Duluth)	preservation of floodplain and stream crossing the property
010-1800-00360 010-1800-00370 Gary First Division Lots 26, 27 and 28, Block 3 (all of Tract #54)	west side of 103rd Avenue West north of Reis Street (Gary-New Duluth)	preservation of floodplain and stream crossing the property
010-2730-00590 Twp 48N Rng 15 W Sec 5 Und 5/24 of NE ¼ of NE ¼ Ex Ry R of W Ex for road 2 23/100 Ac (all of Tract #55)	between Becks Road and 123rd Avenue West at city boundary (Gary-New Duluth)	Superior Hiking Trail
010-2880-00135 Lincoln Park Gardens Block 2, Lot 2 Ex Nly 175 ft (all of Tract #59)	east side of north end of Ozark Street (Piedmont Heights)	stream and sanitary sewer pipe cross the property
010-2880-00300 Lincoln Park Gardens Lot 19, Block 2 (all of Tract #60)	between Piedmont Avenue and Springvale Road east of Ozark Street (Piedmont Heights)	stream crosses the property (Miller Creek)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-2900-00575 Lincoln Park Gardens Third Division Block 4, Lot 21 Ely 8 ft (all of Tract #61)	southwest corner of Ethel Avenue and Leonard Street (Piedmont Heights)	future roadway
010-3030-02070 London Addition Lot 4, Block 82 (all of Tract #62)	south side of Jay Street between 43rd and 44th Avenue West (Lakeside-Lester Park)	stormwater drainage protection
010-3130-00870 010-3130-00900 010-3130-00910 010-3130-00920 010-3130-00930 010-3130-00940 010-3130-00970 Lyman Park Division Block 5, Lots 7 through 9 inc part of vac alley adj, Lot 10, 11 and 12 Inc part of vac alley adj, Ely 33 ft of Lot 13 inc part of vac alley adj, Wly 17 ft of Lot 13 and all of lot 14 inc part of vac alley adj, Lots 15 and 16 inc part of vac alley adj (all of Tract #63)	west side of Anson Avenue between Lyman Street and Todd Street (Lincoln Park)	land packaging for future development
010-3130-01220 Lyman Park Division Lots 15 through 20, Block 6 (all of Tract #64)	west side of Anson Avenue north of Batavia Street (Lincoln Park)	land packaging for future development
010-3710-01410 010-3710-01520 010-3710-01530 Pacific Avenue Addition Block 10, Lots 1 through 8, 12 and 13 (all of Tract #65)	east side of Anson Avenue north of Lyman Street (Lincoln Park)	land packaging for future development
010-3230-01110 010-3230-01160 Merritt's Addition Lots 1 through 7, Block 9 (all of Tract #66)	south side of West Second Street near 35th Avenue West (Denfeld)	protection of floodplain and stream crossing the property

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Parcel ID and legal description</b>	<b>Location</b>	<b>Reason</b>
010-3230-01190 010-3230-01200 010-3230-01210 010-3230-01220 Merritt's Addition Lots 10 through 13, Block 9 (all of Tract #67)	south side of West Second Street near 35th Avenue West (Denfeld)	Wade Stadium expansion
010-3230-01240 Merritts Addition Lots 14 and 15, Block 9 (all of Tract #68)	south side of West Second Street near 35th Avenue West (Denfeld)	Wade Stadium expansion
010-3270-01190 010-3270-01200 010-3270-01210 Minnie Wakan Addition Lots 5 through 7, Block 16 (all of Tract #69)	east side of 88th Avenue West between Beaudry Street and Swenson Avenue (Smithville)	stormwater drainage preservation
010-3530-00920 010-3530-00930 Nortons Lakewood Gardens Lots 1 through 3, Block 5 (all of Tract #79)	southeast corner of 80th Avenue East and Bullitt Street (North Shore)	stormwater drainage preservation
010-3530-00950 010-3530-00960 Nortons Lakewood Gardens Lots 4 and 5, Block 5 (all of Tract #80)	east side of 80th Avenue East between Bullitt Street and Shelby Street (North Shore)	stormwater drainage preservation
010-3530-00990 010-3530-01000 Nortons Lakewood Gardens Lots 8 and 9, Block 5 (all of Tract #81)	east side of 80th Avenue East between Bullitt Street and Shelby Street (North Shore)	stormwater drainage preservation
010-3530-01030 010-3530-01040 Nortons Lakewood Gardens Block 5, Lots 12 and 13 except part taken for Highway (all of Tract #82)	northeast corner of 80th Avenue East and Shelby Street (North Shore)	stormwater drainage preservation

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
010-3980-00960 010-3980-00970 010-3980-00980 010-3980-00990 Riverside Park Second Addition Block 6, Lots 1, 2, 3, 4 (all of Tract #86)	southwest corner of 98th Avenue West and Gogebic Street (Riverside)	stormwater drainage protection
010-3980-01650 010-3980-01700 010-3980-01710 Riverside Park Second Addition Lots 9 through 15, Block 11 (all of Tract #89)	East side of 97th Avenue West south of Gogebic Street (Riverside)	future trail connection
010-4250-00110 Summit Park Division Block 5, Lots 1 through 5 inc part of Vac 4 <sup>th</sup> Avenue W adj to Lot 1 (all of Tract #92)	southeast corner of Fourth Avenue West and 13th Street (Central Hillside - antennae farm)	antennae farm

Resolution 07-0303 was unanimously adopted.  
Approved April 23, 2007  
HERB W. BERGSON, Mayor

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Resolution 07-0304, approving the vacation of the southerly 33 feet of the Waseca Street right-of-way from 65th Avenue West to the western boundary of the alley between 65th Avenue West and 64th Avenue West (Strom); Resolution 07-0305, approving the vacation of the southerly five feet of the Waseca Street right-of-way from 65th Avenue West to the western boundary of the alley between 65th Avenue West and 64th Avenue West (Strom); and Resolution 07-0306, denying the vacation of the southerly 33 feet of the Waseca Street right-of-way from 65th Avenue West to the western border of the alley between 65th Avenue West and 64th Avenue West (Strom), by Councilor Stauber, were introduced for discussion.

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

Jack Strom stated that he has talked to the Minnesota trails and waterways agency and was told that Waseca Street is not a good site for a bike trail. He reviewed that when his father bought the house in 1951, a survey was not done and was told by the city that it was not a problem for the garage to go on the adjoining lot.

To council questions, Planning Department Director Bob Bruce reviewed with the council that the planning commission is recommending the 33 feet vacation and city staff is recommending the five feet vacation. He explained that the homeowner is selling his house and found that four feet of his house and the garage does not sit on the land they own, so they are seeking relief to clear the title and be able to sell the house.

Councilor Reinert stated that the Arrowhead Regional Development Commission, the city and the county have walked that corridor as a potential connector to the Munger Trail and the Lakewalk and money has been set aside to start working on that.

Resolution 07-0304, approving the vacation of 33 feet, failed upon the following vote (Public Document No. 07-0423-15):

Yeas: Councilors Krause, Little, Ness and Stauber -- 4

Nays: Councilors Gilbert, Johnson, Reinert, Stewart and President Stover -- 5

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Resolution 07-0305, approving the vacation of five feet, was adopted as follows:

BY COUNCILOR STAUBER:

The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of the southerly 33 feet of the Waseca Street right-of-way between 65th Avenue West to the western boundary of the alley between 65th Avenue West and 64th Avenue West; and

(b) 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

(c) The planning commission, at its April 10, 2007, regular meeting, did approve, nine to one (Sarvela), vacating the petitioned portion of the street; and

(d) The file and report documents a basis for vacating a portion of the easement.

NOW, THEREFORE, BE IT RESOLVED,

(a) That the city council of the city of Duluth approves the vacation of the southerly five feet of the public easement for Waseca Street abutting Lot 32, Block 20, Hunter's Grassy Point Addition, and Lot 1, Block 9, Hunter's Grassy Point Addition Second Division, lying between the easterly line of the 65th Avenue West right-of-way and the western boundary of the alley right-of-way lying between 65th Avenue West and 64th Avenue West;

(b) That a copy of this resolution shall be filed with the recorder of deeds.

Resolution 07-0305 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0306, denying the vacating of 33 feet, was adopted upon a unanimous vote. The council realized a mistake in the voting had occurred and Councilor Gilbert moved to reconsider the resolution.

Resolution 07-0306 was adopted as follows:

BY COUNCILOR STAUBER:

The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of the southerly 33 feet of the Waseca Street right-of-way between 65th Avenue West to the western border of the alley between 65th Avenue West and 64th Avenue West; and

(b) 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

(c) The planning commission, at its April 10, 2007, regular meeting, approved [nine to one (Sarvela)], the recommendation to vacate the petitioned portion of street; and

(d) There is a continuing public use for the easement and circumstances described in the file show it is in the public interest to retain the current easement in part for future expansion of Munger Trail.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth denies the petition to vacate the following portion of Waseca Street, legally described as:

the southerly 33 feet of Waseca Street bordered by Block 7, Lot 32, and Block 3, Lots 6-10, Hunter's Grassy Point Addition Second Division, lying between the easterly line of the 65th Avenue West right-of-way and the westerly line of the alley right-of-way lying between 65th Avenue West and 64th Avenue West.

Resolution 07-0306 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart and President Stover -- 5

Nays: Councilors Krause, Little, Ness and Stauber -- 4

Approved April 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute a community service agreement with the University of Minnesota Duluth, which will permit the placement of students in specified work assignments as determined by the city, which agreement is on file in the office of the city clerk as Public Document No. 07-0423-16.

Resolution 07-0300 was unanimously adopted.

Approved April 23, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0311, by Councilor Ness, supporting Duluth Children's Museum federal earmark request for \$475,000 to expand educational program services and support traveling exhibitions, was introduced for discussion.

Councilor Ness moved to amend the resolution by changing amount to \$550,000, which motion was seconded and unanimously carried.

Councilor Stewart explained that programs that are federal programs earmarked for money are pork programs and the taxpayers of this country will be losing money if this program goes through.

Resolution 07-0311 was adopted as follows:

BY COUNCILOR NESS:

The city council finds as follows:

(a) The city of Duluth is home to the fifth oldest museum in the nation, the Duluth Children's Museum; and

(b) Over 70,000 visitors annually benefit from the educational programs and services offered by the Duluth Children's Museum; and

(c) The Duluth Children's Museum is positioned to expand the use of traveling exhibits to better serve the interests of the residents of our community and those who visit the museum from across the globe; and

(d) By expanding their exhibition offerings, the Duluth Children's Museum will enhance the educational services to all children of the region; and

(e) Having a vibrant and strong cultural organization focused on the celebration of area youth strengthens the livability of the city of Duluth.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports the Duluth Children's Museum request for \$550,000 in FY07 earmark funding to support a traveling exhibition and expanded educational program activities, and urges our distinguished Congressman, James Oberstar, and the entire Minnesota congressional delegation to do everything reasonably possible to secure the full amount of this request.

BE IT FURTHER RESOLVED, that the clerk shall send a copy of this resolution to the Minnesota congressional delegation.

Resolution 07-0311, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber and President Stover -- 8

Nays: Councilor Stewart -- 1

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0312, by President Stover, authorizing contract with SVCNDA for West Duluth Jazz Festival in amount of \$2,000, was introduced for discussion.

Councilor Stewart stated that by having a councilor request funding for a specific event, it opens the flood gates for other requests to all councilors and is not the way the city should be doing business.

Resolution 07-0312 failed upon the following vote (Public Document No. 07-0423-17):

Yeas: Councilors Gilbert, Johnson, Reinert and President Stover -- 4

Nays: Councilors Krause, Little, Ness, Stauber and Stewart -- 5

- - -

Resolution 07-0301, by Councilor Johnson, awarding a contract to Staab Construction Corporation for the Lakeside interceptor sanitary sewer overflow (SSO) facility at Endion pump station in the amount of \$3,294,000, was introduced for discussion.

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

Aaron Staab, president of Staab Construction Corporation, reviewed that his business is located in Wisconsin, has been around for 24 years, is employee owned, is an open shop which means that they hire both union and nonunion workers and their speciality is water and waste water facility construction, which is 95 percent of what their jobs consist of. He also stated that most of their jobs are for the public sector and that they do work in the surrounding states.

Craig Olson, representing the Building Trades Council, explained that this is a \$3.3 million job and the contractor is refusing to hire local tradesman from the community and questioned if this is an example of being a responsible contractor.

Councilor Gilbert reviewed that there is only \$8,000 difference between the first two bids and the council has the discretion within the framework of the statute to have the project rebid. He stated that the next bidder is a local company who has experience with this type of job and would be hiring local workers.

Mr. Brown stated that the council always has the option to reject all bids. He explained that in order to reject a bid, the bid has to be nonconforming, which is determined by the purchasing agent, or be irresponsible, which means the bidder must be financially irresponsible and incompetent to do the job. He stated that if the council found the bid to be nonconforming or irresponsible, the city would not be able to award the bid to the next bidder, but would have to

throw all the bids out and start over.

Councilor Johnson stated it is the city's responsibility to ask questions to ensure that when they are accepting bids it meets the expectations. She went on to say that the council should advocate to keep jobs in our community and requested Staab Construction Corporation to hire workers in this community who are ready to go and work and who have a stake in this community.

Resolution 07-0301 was adopted as follows:

BY COUNCILOR JOHNSON:

RESOLVED, that Staab Construction Corporation be and is hereby awarded a contract for construction of the Lakeside interceptor sanitary sewer overflow (SSO) facility at Endion pump station for the engineering division in accordance with its low bid of \$3,294,000 with 50 percent of the costs being funded by a grant and the remaining 50 percent payable out of the Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1905, Project Number 0558SN, Object 5533.

Resolution 07-0301 was adopted upon the following vote:

Yeas: Councilors Little, Reinert, Stauber, Stewart and President Stover -- 5

Nays: Councilors Gilbert, Johnson, Krause and Ness -- 4

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0308, by Councilor Reinert, authorizing the city to enter into an agreement with Duluth economic development authority, Lake Superior Center authority and Secret Service Entertainment, LLC, providing for the production, promotion and management of special events at Bayfront Festival Park at a cost of \$98,500 in 2007 and \$48,500 in all subsequent years, was introduced for discussion.

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

Craig Samborski of Secret Service Entertainment reviewed that he is asking for additional funding because when his contract was approved in December, he proceeded to book events for the summer based on the revenue stream from Fourth Fest and the Blues Fest, but has since lost that extra revenue when his contract was canceled. He added that with this new contract he is not involved with the Blues Fest in any manner.

Councilor Stauber expressed concern that there was not enough detailed information in the contract.

Resolution 07-0308 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to enter into an agreement with Duluth economic development authority, Lake Superior center authority and Secret Service Entertainment providing for the production, promotion and management of special events at Bayfront Festival Park, said agreement to be substantially in the form of Public Document No. 07-0423-18 on file in the office of the city clerk, and providing for the payment of \$98,500 in 2007 and \$48,500 per year in any subsequent years, payment of \$48,500 to be made from the Special Projects and

Events Fund 100-700-1410-5408, and payment of \$50,000 to be made from Fund 237-015-5441.

Resolution 07-0308 was adopted upon the following vote:

Yeas: Councilors Johnson, Ness, Reinert, Stewart and President Stover -- 5

Nays: Councilors Krause, Little and Stauber -- 3

Abstention: Councilor Gilbert -- 1

Approved April 23, 2007

HERB W. BERGSON, Mayor

- - -

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

07-024 - AN ORDINANCE AMENDING CHAPTER 10A, SECTION 10, SECTION 11, SECTION 12 AND REPEALING CHAPTER 10A, SECTION 13, SECTION 14, SECTION 15 AND SECTION 16, OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LICENSING OF GAMBLING OPERATORS, MANAGERS AND JAR OPERATORS.

- - -

BY COUNCILOR STAUBER

07-022 - AN ORDINANCE GRANTING TO GRANDMA'S RESTAURANT COMPANY A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN TABLES AND CHAIRS AND SERVE LIQUOR ON THE ELEVATED PUBLIC SIDEWALK/DECK IN BUCHANAN STREET AND CANAL PARK DRIVE, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT (LITTLE ANGIE'S CANTINA AND GRILL, 11 BUCHANAN STREET).

- - -

BY COUNCILOR STAUBER

07-023 - AN ORDINANCE GRANTING TO PATRICIA KUSZLER A CONCURRENT USE PERMIT INTO THE RIGHT-OF-WAY OF LAKE AVENUE SOUTH MEASURING NINE FEET BY 50 FEET FOR AN EXISTING HOME LOCATED AT 3801 LAKE AVENUE SOUTH.

At the request of the administration, Councilor Stauber moved to amend the ordinance to change the length of the right-of-way from 50 feet to 60 feet, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STAUBER

07-025 - AN ORDINANCE AMENDING CHAPTER 50 SECTION 50-146, OF THE DULUTH CITY CODE, 1959, AS AMENDED; ALLOWING FOR RECREATIONAL VEHICLE PARKING IN DOWNTOWN WATERFRONT MIXED USE-DESIGN REVIEW DISTRICT.

- - -

BY COUNCILOR STAUBER

07-027 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO DULUTH GRAND, LLC, AND 311 SUPERIOR CONDOMINIUMS, LLC, CONCURRENT USE OF RIGHTS-OF-WAY OF THIRD AVENUE EAST AND SUPERIOR STREET LOCATED ON THE WEST SIDE AND ACROSS THE FRONT OF THE SHERATON DULUTH GRAND HOTEL AND 311 SUPERIOR CONDOMINIUMS AT THIRD AVENUE EAST AND SUPERIOR STREET.

- - -

BY COUNCILOR REINERT

07-026 - AN ORDINANCE ALIENATING CERTAIN PROPERTY INTERESTS AT THE DULUTH INTERNATIONAL AIRPORT AND AUTHORIZING THE GRANT OF A SEWER EASEMENT TO RICE LAKE TOWNSHIP.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR KRAUSE

07-020 - AN ORDINANCE AMENDING SECTION 8-68 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO AREA RESTRICTIONS ON LIQUOR SALES.

Councilor Krause moved to table the ordinance for review by the alcohol, gambling and tobacco commission, which motion was seconded and unanimously carried.

- - -

At this time, 9:15 p.m., Councilor Little left his seat.

- - -

BY COUNCILOR STAUBER

07-013 (9828) - AN ORDINANCE DESIGNATING THE ALFRED AND JANE MCCORDIC RESIDENCE (IMMIGRANT HOUSE BED AND BREAKFAST), AT 2104 EAST SUPERIOR STREET, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

Linda Paulson stated her appreciation for the designation of her house and hoped other homeowners will do the same thing.

Robert Hewitt, president of the heritage preservation commission, stated that this designation is hard to achieve and Ms. Paulson has worked hard to receive this designation for her bed and breakfast.

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

- - -

BY COUNCILOR NESS

07-021 - AN ORDINANCE AMENDING SECTIONS 6-11, 6-12 AND 6-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO USE OF FEES FOR ANIMAL REGISTRATION AND LICENSING.

Councilor Ness moved to table the ordinance for a committee meeting on May 14, which motion was seconded and unanimously carried.

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The meeting was adjourned at 9:20 p.m.

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

- - -

**ORDINANCE NO. 9828**

BY COUNCILOR STAUBER:

AN ORDINANCE DESIGNATING THE ALFRED AND JANE MCCORDIC RESIDENCE (IMMIGRANT HOUSE BED AND BREAKFAST), AT 2104 EAST SUPERIOR STREET, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the Alfred and Jane McCordic residence (Immigrant House Bed and Breakfast), 2104 East Superior Street, as a Duluth heritage preservation landmark; said landmark is described in Public Document No. 07-0423-19 on file with the city clerk and is described as follows:

A packet of materials which includes the following: city of Duluth heritage preservation commission (DHPC) local landmark nomination (staff report - amended) and preservation plan for the Alfred and Jane McCordic Residence (Immigrant House Bed and Breakfast), 2104 East Superior Street, Duluth, Minnesota; January 12, 2007, letter to the Minnesota state historic preservation office (SHPO); January 26, 2007, letter of comment from the SHPO; April 26, 2007, DHPC meeting and public hearing minutes; February 6, 2007, DHPC meeting minutes; two Minnesota Historical Center photos with views from north and south and one current photo of view from north of McCordic residence; notice of public hearing (Friday, April 15, 2005, page 36, Duluth News-Tribune); and March 12, 2007, letter from McCordic House owner, Linda Paulsen.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 3, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Little -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 23, 2007  
Approved April 23, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, May 14, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 8

Absent: Councilor Ness -- 1

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0514-01 Carol Anderson, et al. (nine signatures), petition to reclassify from R-3 to C-1 property described as Lots 1 - 4, Block 10, Motor Line Division. -- Assessor

07-0514-02 Anthony and Christina Mulozzi petition to vacate Fifth Street from 34th Avenue East and extending west 140 feet, adjacent to Lot 11, Block 7, Congdon Park Second Division, Duluth. -- Assessor

07-0514-03 David L. Patrick concurrent use permit application to reconstruct front stairs and landing on the property extending into the street right-of way at 1605 East South Street in Wielands Rearrangement. -- Planning commission

07-0514-13 Margaret Jakubek, by Kelly Jakubek, communication regarding assessments for the proposed street preservation project (07-0334R). -- Received

07-0514-04 Suites at Waterfront Plaza acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9823 on March 12, 2007. -- Received

07-0514-14 The following communications regarding resolutions to extend the Lakewalk between 20th and 25th avenues East (07-0359R, 07-0360R, 07-0361R): (a) Colleen and James Allen; (b) Jeff Anderson; (c) Jenifer Buckley; (d) Kathleen Clark; (e) Don and Cheryl Collins; (f) Alisa DeRider; (g) Claer Dethmers; (h) Janet Draper; (i) Cindy Edwardson; (j) Jackie Falk; (k) Elizabeth Fena; (l) David Gangeness; (m) Peter Handberg; (n) Lakewalk Townhomes, LLC., by Bill Burns, attorney (2); (o) Jeannette Lang; (p) James and Dorothy Langager; (q) Cindy Martins; (r) David Minix; (s) John Morrison; (t) Richard t. Narum; (u) Laurie O'Neill; (v) Elizabeth Preus; (w) Jill Rogers; (x) LeAne Rutherford; (y) Vicki Sanville; (z) Anne Skwira-Brown; (aa) Mary Streufert; (bb) Debra Taylor; (cc) Kaija Webster; (dd) Scott Wolff. -- Received

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**REPORTS FROM THE ADMINISTRATION**

07-0514-36 Chief administrative officer information relative to the medical district parking ramp revenue. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

07-0514-05 Assessor:

(a) Affidavits of mailing of notice of public hearings to be held:

(1) By the special assessment board on Tuesday, May 8, 2007, at 3:30 p.m. in Room 106A, City Hall, regarding reassessment of canceled assessments;

(2) Informational meeting at 6:00 p.m. on Wednesday, May 9, 2007, in the Mayor's Reception Room, Room 405, City Hall; and a Duluth City Council public hearing at 7:00 p.m. on Monday, May 14, 2007, in the Council Chamber, Third Floor, City Hall, regarding the proposed street preservation program which includes 45th Avenue East, Anderson Road, Mike

Colallilo Drive; and Allegheny, Adirondack, Selkirk and Gearhart streets. -- Clerk

(b) Confirmation of assessment roll levied to defray the assessable portion of Contract No. 5416, Bristolwood First Addition (assessable amount: \$553,663.64). -- Received  
07-0514-06 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Rocky Mountain Elk Foundation on August 25, 2007. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

07-0514-07 Commission on disabilities minutes of April 4, 2007, meeting. -- Received  
07-0514-08 Duluth airport authority minutes of March 20, 2007, meeting. -- Received  
07-0514-09 Duluth transit authority: (a) Income statement for January, 2007; (b) Minutes of February 28, 2007, meeting. -- Received  
07-0514-10 Housing and redevelopment authority minutes of: (a) January 30 (annual); (b) January 30 (regular); (c) February 27; (d) March 27, 2007, meetings. -- Received  
07-0514-11 Planning commission minutes of March 13, 2007, meeting. -- Received  
07-0514-12 Spirit Mountain recreation area authority minutes of: (a) March 15; (b) March 22, 2007, meetings. -- Received

- - -

At this time, 7:07 p.m., the public hearing relative to the 2007 street preservation program began.

Cindy Voigt, city engineer, reviewed the scope of the program and answered councilor questions. She noted that 75 percent of the cost would be paid for by the city and the balance would be assessed to property owners at a maximum rate of \$6 per front foot.

At this time, 7:17 p.m., the public hearing was declared closed and the regular order of business resumed.

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented that: the new First Street parking ramp was being made available to the neighboring rental properties; most tenants are not always the ones that cause problems; there be an allowance/teamwork for landlords that are willing to have improvements made, but are not financially able to and that the Lakewalk should be accessible to all.

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

BY COUNCILOR STEWART:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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First Addition Development (Contract #5416; assessable amount - \$553,663.64), to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0318 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the budget for the fiscal year May 1, 2007, to April 30, 2008, in the amount of \$3,862,627, including the 2007 repair and replacement budget in the amount of \$225,000 as set out in the budget on file with the city clerk as Public Document No. 07-0514-15 for the Spirit Mountain recreation area authority is hereby approved.

FURTHER RESOLVED, the city acting through the city finance director, shall make available a line of credit up to \$250,000, to be drawn upon as needed, to assist in the management of cash flow within the budget as approved, same to be repaid in full (to a zero balance) at least once per calendar year, by October 31 of that year. If repaid as agreed with the city finance director, no interest shall be charged. The city finance director may authorize the transfer of money from the city to the authority for use consistent with the authority's budget, based upon a showing of need and of a reasonable probability of repayment by October 31 of each year as set forth above. The city finance director shall determine the forms, procedures and supporting documentation that will be required to draw on the line of credit. Such transactions shall be subject to audit and public disclosures.

Resolution 07-0354 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On April 4, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Canal Park Liquor, LLC, d/b/a Canal Park Liquor, 302 Lake Avenue South, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0514-16;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 14, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0514-16 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Canal Park Liquor, LLC, d/b/a Canal Park Liquor, 302 Lake Avenue South, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0329 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On April 4, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Minnesota Nights, Inc., d/b/a Tap Room, 600 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0514-17;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 14, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0514-17 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Minnesota Nights, Inc., d/b/a Tap Room, 600 East Superior Street, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0330 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On April 4, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Piedmont Bottle Shop, Inc., d/b/a Piedmont Bottle Shop, 2818 Piedmont Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0514-18;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 14, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0514-18 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Piedmont Bottle Shop, Inc., d/b/a Piedmont Bottle Shop, 2818 Piedmont Avenue, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0331 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On April 4, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Apple AM Ltd Partnership, d/b/a Applebee Neighborhood Bar and Grill, 1600 Miller

Trunk Highway, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0514-19;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 14, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0514-19 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Apple AM Ltd Partnership, d/b/a Applebee Neighborhood Bar and Grill, 1600 Miller Trunk Highway, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0332 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On April 4, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Wadsworth Old Chicago, Inc., d/b/a Old Chicago, 325-327 Lake Avenue South, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0514-20;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 14, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0514-20 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Wadsworth Old Chicago, Inc., d/b/a Old Chicago, 325-327 Lake Avenue South, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0333 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, with any specific restrictions:

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for June 16, 2007, with the serving and music ceasing at midnight.

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, for June 16, 2007, with the serving ceasing at 4:00 p.m.

Resolution 07-0343 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

BY COUNCILOR KRAUSE:

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, 2007, subject to departmental approvals and the payment of sales and property taxes:

TB of Duluth, LLC (Radisson Hotel Duluth Harborview), 505 West Superior Street, with George Ruff, 100 percent owner, transferred from Duluth Hotel, Inc. (Radisson Duluth), same address.

Resolution 07-0344 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

Hell's Kitchen Duluth, Inc. (Hell's Kitchen), 310 Lake Avenue South, with Cynthia Gerdes, CEO and 43.5 percent stockholder, John Mitchell Omer, president and 43.5 percent stockholder, Stephen R. Meyer, vice president and five percent stockholder and Mark C. Anderson, vice president and eight percent stockholder.

Resolution 07-0345 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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

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

Licensee	Gambling site
Irving Youth Hockey	Club Saratoga, 331 Canal Park Drive
Welch Center	Grandma's Saloon & Grill, 522 Lake Avenue South
Lake Superior Steelhead Association	Mr. D's Bar & Grill, 5266 Grand Avenue
Multiple Sclerosis Society	Norshor Experience, 130 West Superior Street

Resolution 07-0346 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson of James M. Anderson, Marcus Karki and Steve Khalar to the alcohol, gambling and tobacco commission for terms expiring on March 20, 2010, are confirmed.

Resolution 07-0322 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment by Mayor Bergson of Jennifer Murphy (at large) to the community development committee for a term expiring March 1, 2010, is confirmed.

Resolution 07-0323 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Kristin Ridgewell (District 2) to the parks and recreation commission for a term expiring February 13, 2010, replacing Charles "Tim" Caines who resigned, is confirmed.

Resolution 07-0324 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Rob Marohn to the tree commission for a term expiring on August 31, 2009, replacing Wendy A. Sjoblom, is confirmed.

Resolution 07-0325 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Nancy Atzen to the commission on disabilities for a term expiring on November 1, 2009, replacing Stephanie Leanza-Welch, is confirmed.

FURTHER RESOLVED, that the appointments by Mayor Bergson of Hilary Buckwalter, Terry Mattson and Beverly Strongitharm to the commission on disabilities for terms expiring on November 1, 2008, replacing Nettie Bothwell, Shannon McCarthy Bicha and Katherine Quistad who resigned, are confirmed.

Resolution 07-0328 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson to the Duluth human rights commission of Tamara Jones, Jane Maddy, Maria Stalzer Wyant Cuzzo and Toni Thorstad for terms expiring on April 20, 2010, are confirmed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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FURTHER RESOLVED, that the appointments by Mayor Bergson to the Duluth human rights commission of John Heiner, replacing Teresa Munoz-Sierra, for a term expiring on April 20, 2010, and Naomi-Tamar, replacing Jan Karon who resigned, for a term expiring on April 20, 2009, are confirmed.

Resolution 07-0335 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Tracey Muench to the Duluth public arts commission for a term expiring on September 30, 2010, replacing Leah Laucamp who resigned, is confirmed.

Resolution 07-0351 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

The city council finds:

- (a) Two city parks each contain a golf course;
- (b) The golf courses are operated by the city for use by the public, for a fee, as part of the public purpose of providing recreational opportunities and open space within the city;
- (c) Considerable expense is generated by golf course operations, which expense is a component of the city budget; and
- (d) It is in the best interests of the city that the council and the administration be well informed about costs and options for operating the golf courses.

THEREFORE, BE IT RESOLVED, that the city council requests that the administration report, within 30 days, to the city council on how the golf course management and operations are structured and what reasonable alternative methods are available, and the costs thereof.

Resolution 07-0350 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

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. 07-0514-21, with the state of Minnesota, department of natural resources, authorizing the city to perform certain maintenance at the Clyde Avenue (Munger Access) and Rice's Point boat launch sites, in consideration of \$1,500 to be paid by the department of natural resources to the city. Reimbursements received shall be deposited into public works and utilities department, street and park maintenance division, General Fund 100, Department 500, Division 1920, Revenue Source 4654-02.

Resolution 07-0317 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into a contract with LHB, Inc., for design services for the repair of the collapse of the Coffee Creek storm tunnel at 22nd Avenue West and First Street Alley in accordance with its proposal dated April 26, 2007, in the estimated amount of \$12,013, payable from Stormwater Fund 535, Department 500, Organization 1905, Object 5533, City Project No. 0650ST.

Resolution 07-0327 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with Wabash Power Equipment Company for the purchase and delivery of a reconditioned #473 CE Raymond bowl mill coal pulverizer and feeder in accordance with specifications and the vendor's bid of 67,250 plus sales tax of \$4,371.25 for a total amount of \$71,621.25, terms net 30, FOB destination, payable from the Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 07-0337 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are authorized to contract with FVB Energy, Inc., for professional engineering services in preparing and conducting a study to determine the feasibility of having Duluth Steam Utility District 1 create a cooling water district to serve the Duluth Entertainment Convention Center and several Downtown Duluth buildings, based on the request for proposal (RFP) specifications and the consultant's fee not to exceed \$20,350, payable from the Steam Fund 540, Department/Agency 920, Organization 1493, Object 5310. This agreement is to be substantially in the form of Public Document No. 07-0514-22 on file in the office of the city clerk.

Resolution 07-0338 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to contract with both Ace Property Maintenance, Inc., and Timothy Davich, d.b.a. Deuce Complete Property Care, for grass cutting in various city locations during year 2007 in accordance with specifications, the vendors' quotes and an estimated and combined contract amount of \$46,000, terms net 30, FOB job sites, payable from various funds, departments/agencies, organizations and objects. This contract, based on a split bid award by regions, is valid for the 2007 mowing season (May through September) with three one-year renewal options.

Resolution 07-0339 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 06-0090, passed on February 13, 2006, for professional engineering services with MSA Professional Services, Inc., for the evaluation of the water supply and distribution requirements for the Middle, Highland and Woodland pressure zones be amended in the amount of \$22,129 for a new total of \$49,839, to be paid from Water Fund 0510.

Resolution 07-0340 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that MSA Professional Services, Inc., Contract C20188, for professional services to review and identify fall protection options and develop procedures for the proper use of fall protection equipment at wastewater lift stations, be and hereby is amended to include design and construction engineering services for implementing fall protection improvements at all of the city's wastewater lift stations in the estimated amount of \$38,776 for a new total of \$56,433, payable from Sanitary Sewer Fund 0530, Department 500, Organization 1945, Object 5310, City Project No. 0578SN.

Resolution 07-0341 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to award a contract to Stout Mechanical, Inc., for Lift Station #21 improvements in accordance with its low specification bid of \$170,000, payable out of Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5533, City Project No. 0070SN.

Resolution 07-0347 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with NorthStar Ford for the purchase and delivery of a 2008 one ton Ford 350 4x4 regular cab pick-up truck in accordance with specifications and the vendor's low bid of \$32,682.94 plus a five-year extended/75,000 warranty of \$2,385, for a total amount of \$35,067.94, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007-5580, Object CE250-V702. This truck will be used as a fire emergency vehicle; therefore, this purchase is tax exempt.

Resolution 07-0336 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized and directed to enter into an agreement with Duluth Amateur Youth Basketball Association providing for the association's use of the Washington Recreation Center for its program activities for the period May 1, 2007, through December 31, 2007, and thereafter renewed on an annual basis and finally terminating on

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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December 31, 2011, said agreement to be substantially in the form of Public Document No. 07-0514-23 on file in the office of the city clerk. Rental proceeds to be deposited in Fund 210, Agency 030, Organization 3190, Revenue Source 4644.

Resolution 07-0310 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 07-0514-24, with the Over the Hill Night Riders Snowmobile Club for the grooming and maintenance of the western portion of the cross-city snowmobile trail for an amount not to exceed \$18,000; payable from General Fund 100-500-1920-2560-5441.

Resolution 07-0319 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 07-0514-25, with the Drift Toppers Snowmobile Club for the grooming and maintenance of the eastern portion of the cross-city snowmobile trail for an amount not to exceed \$6,000; payable from Fund 100-500-1920-2560-5441.

Resolution 07-0320 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to enter into an agreement with the St. Louis and Lake counties regional railroad authority for the construction and operation of the Lakewalk recreational trail from 26th Avenue East to 36th Avenue East and utility relocations at nominal cost.

Resolution 07-0349 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute a supplemental labor agreement with the Duluth Police Local union, which is on file in the office of the city clerk as Public Document No. 07-0514-26, that adds language requiring employees hired on or after January 1, 2007, to only be eligible for enrollment in the active health care benefit plan known as Plan 3A until the effective commencement date of the 2007-2009 collective bargaining agreement.

Resolution 07-0363 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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, 2007, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Liberty Enterprises, Inc. (Liberty Liquor), 210 North Central Avenue, with David Orman, 33-1/3 percent stockholder, Craig Chilcote, 33-1/3 percent stockholder, and Tim McShane, 33-1/3 percent stockholder, transferred from North American Investors, Inc. (Liberty Liquor), same address.

Resolution 07-0287 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Abstention: Councilor Reinert -- 1

Absent: Councilor Ness -- 1

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0355, by Councilor Gilbert, approving proposed amendments to the pay range for the civil service classification of solid waste compliance officer, was introduced for discussion.

Upon the request from the administration, Councilor Gilbert moved to remove the resolution from the agenda and return it to the administration, which motion was seconded and unanimously carried.

- - -

Resolution 07-0364, by Councilor Gilbert, approving proposed specifications for the new civil service classification of maintenance worker helper and specifying contract benefits for same, was introduced for discussion.

Councilor Gilbert expressed concern whether sewer work would be included in this and felt that the parties need to work this out.

Councilor Krause expressed concerns that it has not been determined what the pay scale is and that the city should be recruiting the best that they can get and that this job description could discourage those with skills from applying.

Councilor Johnson expressed concern that a person in this position could be put in a hazardous work setting without the proper training.

John Hall, chief administrative officer, stated that: he was unaware of any unresolved issues; the pay rate will be resolved by an arbitrator; the job classification will be used in various areas as needed and that the city follows OSHA requirements for safe work settings.

President Stover declared the rules would be suspended to hear a speaker on the resolution, which was objected to by councilors Reinert and Stauber.

Councilor Little moved to suspend the rules to hear a speaker, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Stewart and President Stover -- 6

Nays: Councilors Reinert and Stauber -- 2

Absent: Councilor Ness -- 1

Ken Loeffler-Kemp, business agent for AFSCME Union, noted that this position was initially presented by the city to accommodate those employees who have lost their commercial drivers license, then this position was presented as an entry level position for parks, golf courses, city streets, zoo, facilities and at the water, gas and sewer utilities. Mr. Loeffler-Kemp stated that the union felt that to have this position at the utilities was a serious health and safety issue, in that new hires would be working with natural gas, high pressure water valves and raw sewage. In conclusion, he noted that previously the union and administration agreed to the wage rate without reference to this position being at the utilities.

Councilors Stewart and Stauber noted that: this job description has followed the appropriate process of being approved by the civil service board; the city determines what type of workers are needed; the pay wage is then agreed to by the administration and the union and there has been a loss of maintenance and this position is needed.

Resolution 07-0364 failed upon the following vote (Public Document No. 07-0514-27):

Yeas: Councilors Reinert, Stauber, Stewart and President Stover -- 4

Nays: Councilors Gilbert, Johnson, Krause and Little -- 4

Absent: Councilor Ness -- 1

*[Editor's Note: Resolution 07-0364 was reconsidered and adopted at the May 29, 2007, council meeting.]*

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Resolution 07-0352, by Councilor Reinert, authorizing the transfer of \$89,204.10 from the Duluth public facility and program fund to the skate park fund for the purpose of constructing a skate park, was introduced for discussion.

Councilor Krause felt that this funding could better be used at existing community structures and new areas being constructed.

Resolution 07-0352 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to transfer \$89,204.10 from Fund 259 (Duluth public facility and program) to Fund 450 CP 2003-C 215 (skate park fund) for the purpose of constructing a skate park facility.

Resolution 07-0352 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Ness -- 1

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0359, assuring public access to and use of Lake Superior shoreline from 23rd Avenue East to near 25th Avenue East; Resolution 07-0360, of intent to approve administration's Plan No. 4 with regard to development of the Lakewalk from 20th Avenue East to 25th Avenue East; and Resolution 07-0361, requesting the administration construct a rudimentary trail this summer on the lake for public access and use from 23rd Avenue East to 25th Avenue East, by councilors Gilbert and Johnson, were introduced for discussion.

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

Alison Clarke, chair of Neighborhood District No. 7; John Sanford, Janet Draper, Jackie Falk, Katie Sandell and Charlotte Sandell expressed support for the resolutions, noting that: the city failed to exercise an option to purchase shoreland from the developer for the Lakewalk extension; the city then negotiated a land purchase, with concessions, without council approval; the public has always expected that the Lakewalk, as it currently is, would continue along the shoreline; the developer had an opportunity to welcome the citizens of Duluth to use the right-of-way until the Lakewalk was built; the removal of the right-of-way for public access sets a bad precedent; the council has the authority to insure the rights of the citizens; citizens support Plan No. 4 for the Lakewalk between 20th to 25th avenues East; the council needs complete information as to the content and effect of the memorandum of understanding that has been communicated and at least a temporary access in front of the townhomes should be established as soon as possible.

The council discussed at length issues related to these resolutions.

Robert Bruce, planning and development department director, reviewed that: there is a process in place; options on how to accomplish the goal are being looked at and that he did not understand the urgency for these resolutions.

Councilor Little opposed Resolution 07-0359 because the planning department is working on this and these resolutions will slow down the process.

Councilor Stewart move to amend the title changing it to read as follows:

“RESOLUTION REQUESTING THAT THE ADMINISTRATION RENEGOTIATE WITH LAKEWALK TOWNHOMES, LLC, AND ACHIEVE ARRANGEMENTS SO THAT THE PUBLIC WILL HAVE ACCESS TO AND USE OF LAKE SUPERIOR SHORELINE FROM 23RD AVENUE EAST TO NEAR 25TH AVENUE EAST,”

so it would be a better understanding of what the resolution was exactly doing, which motion was seconded and carried unanimously.

Resolution 07-0359, as amended, was adopted as follows:

BY COUNCILORS GILBERT AND JOHNSON:

The city council finds as follows:

(a) Public access to and use of Duluth’s public waterways, including Lake Superior, is the citizens’ right. The city council has consistently expressed its desire that a Lakewalk be completed and that public access to the lakeshore be protected;

(b) On or about December 21, 2006, the city of Duluth, by the administration, entered into a memorandum of understanding with Lakewalk Townhomes, LLC, which stated, among other things, that public access to and use of the Lakewalk and shoreline is restricted as follows:

“(b) The land will not be available to the public until the Lakewalk is constructed;

(c) The Lakewalk will not be lit;

(d) There will be no benches, picnic tables, stairs or other physical accommodations to encourage persons to pause or linger along this portion of the Lakewalk or on the beach below.”;

(c) The council desires to clarify the public’s right of access to and use of the Lake Superior shoreline from 23rd Avenue East to near 25th Avenue East.

NOW, THEREFORE, BE IT RESOLVED, that the city council requests that the administration re-negotiate with Lakewalk Townhomes, LLC, and achieve arrangements so that the public will have access to and use of the Lake Superior shoreline on land owned by the city

from 23rd Avenue East to near 25th Avenue East in the same manner as it does on the rest of the Lakewalk and Lake Superior shoreline.

Resolution 07-0359, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Little -- 1

Absent: Councilor Ness -- 1

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

Councilors Gilbert and Johnson requested that resolutions 07-0360 and 07-0361 be removed from the agenda at this time, which request was approved without objections.

- - -

Resolution 07-0313, authorizing an amendment to the housing investment fund (HIF) loan agreement with Neighborhood Housing Services of Duluth related to the Lake Superior View Condominiums; and Resolution 07-0316, authorizing a second amendment to the fiscal year 2005 home program housing development project purchase/rehabilitation/resale agreement with Neighborhood Housing Services, by Councilor Stauber, were introduced for discussion.

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

George Garnet commented on: the status of the recent construction projects in the Central Hillside; the need for the public sector as a partner for funding developments and that the first resolution is a minor adjustment of a loan to the housing trust fund where the city has a secured interest in their headquarters building.

Resolutions 07-0313 and 07-0316 were adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0514-28, to the Lake Superior View Condominiums project HIF loan agreement with Neighborhood Housing Services of Duluth (NHS).

Resolution 07-0313 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Ness -- 1

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into a second amendment substantially in the form of the copy on file in the office of the city clerk as Public Document No. 07-0514-29 to the HOME program housing development projects purchase/rehabili-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

tation/resale agreement with Neighborhood Housing Services (NHS) in order to extend the term of the agreement to August 31, 2007.

Resolution 07-0316 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0326, by Councilor Stauber, transferring funds in the amount of \$50,000 in the 2007 HUD home investment partnerships program (HOME), was introduced for discussion.

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

Jeff Corey, Northern Communities Land Trust director, explained the details of this resolution.

Resolution 07-0326 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to make the following transfer of funds in the Federal Fund 260-020-5434, Project CD07HM, 2007 HUD-funded HOME accounts as set forth below:

Activity	Project	Budget amount	New amount	Amount of increase or decrease
GN07-1734	Substantial rehabilitation program HRA/NCLT	\$170,000	\$222,000	\$50,000
CH07-2271	City homes deconstruction/ reconstruction	\$250,000	\$200,000	(\$50,000)

Resolution 07-0326 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0348, by Councilor Ness, supporting Duluth Superior Community Foundation attracting and retaining young adults task force, was introduced for discussion.

Councilor Reinert moved to table the resolution until Councilor Ness could be present, which motion was seconded and unanimously carried.

- - -

Resolution 07-0334, by Councilor Johnson, ordering the improvement known as the 2007 street preservation program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$600,000m was introduced for discussion.

Councilor Reinert moved to table the resolution until Councilor Ness could be present, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Johnson, Reinert and President Stover -- 4

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Absent: Councilor Ness -- 1

Councilors Johnson, Stewart and Krause voiced support for the program, but felt that the funding should come out of the general fund, not from the street improvement fund, which was intended for the reconstruction of streets, not maintenance, and that other funding sources should be looked at.

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

Resolution 07-0334 failed upon the following vote (Public Document No. 07-0514-30):

Yeas: Councilors Gilbert, Little, Reinert and President Stover -- 4

Nays: Councilors Johnson, Krause, Stauber and Stewart -- 4

Absent: Councilor Ness -- 1

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into an agreement with Animal Allies Humane Society to provide for spay and neutering services to the city and to low-income pet owners for a one year period, said agreement to be substantially in the form of Public Document No. 07-0514-31 on file in the office of the city clerk; payments from Fund 210-030-3120.

Resolution 07-0321 was unanimously adopted.

Approved May 14, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0342, amending contract for Heritage Sports Center project (affects Resolution 06-0773); and Resolution 07-0353, accepting deed grants in the total amount of \$2,857,438 for the Duluth Heritage Sports Center, authorizing grant agreements and committing local match, by Councilor Reinert, were introduced for discussion.

Councilor Reinert moved to table the resolutions, which motion was seconded and unanimously carried.

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## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

### **ORDINANCE TABLED**

BY COUNCILOR NESS

07-021 - AN ORDINANCE AMENDING SECTIONS 6-11, 6-12 AND 6-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO USE OF FEES FOR ANIMAL REGISTRATION AND LICENSING.

President Stover, on behalf of Councilor Ness, moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

President Stover, on behalf of Councilor Ness, moved to remove the ordinance from the agenda, due to Councilor Ness' request to work with the administration on this issue, which motion was seconded and unanimously carried.

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR STEWART

07-028 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,042,350 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 following entitled ordinances were read for the second time:

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At this time, Councilor Gilbert left his seat.

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BY COUNCILOR KRAUSE

07-024 (9829) - AN ORDINANCE AMENDING CHAPTER 10A, SECTION 10, SECTION 11, SECTION 12 AND REPEALING CHAPTER 10A, SECTION 13, SECTION 14, SECTION 15 AND SECTION 16, OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LICENSING OF GAMBLING OPERATORS, MANAGERS AND JAR OPERATORS.

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

- - -

BY COUNCILOR STAUBER

07-022 (9830) - AN ORDINANCE GRANTING TO GRANDMA'S RESTAURANT COMPANY A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN TABLES AND CHAIRS AND SERVE LIQUOR ON THE ELEVATED PUBLIC SIDEWALK/DECK IN BUCHANAN STREET AND CANAL PARK DRIVE, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT (LITTLE ANGIE'S CANTINA AND GRILL, 11 BUCHANAN STREET).

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

Yeas: Councilors Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 6

Nays: Councilor Krause -- 1

Absent: Councilors Gilbert and Ness -- 2

- - -

BY COUNCILOR STAUBER

07-023 (9831) - AN ORDINANCE GRANTING TO PATRICIA KUSZLER A CONCURRENT USE PERMIT INTO THE RIGHT-OF-WAY OF LAKE AVENUE SOUTH MEASURING NINE FEET BY 60 FEET FOR AN EXISTING HOME LOCATED AT 3801 LAKE AVENUE SOUTH.

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

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At this time, Councilor Gilbert returned to his seat.

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BY COUNCILOR STAUBER

07-025 (9832) - AN ORDINANCE AMENDING CHAPTER 50 SECTION 50-146, OF THE DULUTH CITY CODE, 1959, AS AMENDED; ALLOWING FOR RECREATIONAL VEHICLE PARKING IN DOWNTOWN WATERFRONT MIXED USE-DESIGN REVIEW DISTRICT.

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

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Ness -- 1

- - -

BY COUNCILOR STAUBER

07-027 (9833) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO DULUTH GRAND, LLC, AND 311 SUPERIOR CONDOMINIUMS, LLC, CONCURRENT USE OF RIGHTS-OF-WAY OF THIRD AVENUE EAST AND SUPERIOR STREET LOCATED ON THE WEST SIDE AND ACROSS THE FRONT OF THE SHERATON DULUTH GRAND HOTEL AND 311 SUPERIOR CONDOMINIUMS AT THIRD AVENUE EAST AND SUPERIOR STREET.

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

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BY COUNCILOR REINERT

07-026 (9834) - AN ORDINANCE ALIENATING CERTAIN PROPERTY INTERESTS AT THE DULUTH INTERNATIONAL AIRPORT AND AUTHORIZING THE GRANT OF A SEWER EASEMENT TO RICE LAKE TOWNSHIP.

Councilor Reinert 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

- - -

**ORDINANCE NO. 9829**

BY COUNCILOR KRAUSE:

AN ORDINANCE AMENDING CHAPTER 10A, SECTION 10, SECTION 11, SECTION 12 AND REPEALING CHAPTER 10A, SECTION 13, SECTION 14, SECTION 15 AND SECTION 16, OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LICENSING OF GAMBLING OPERATORS, MANAGERS AND JAR OPERATORS.

The city of Duluth does ordain:

Section 1. That Chapter 10A, Section 10, of the Duluth City Code, as amended, is hereby amended as follows:

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

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

(b) Each lawful gambling premises permit applicant shall file with the clerk a completed, sworn and verified "gambling investigation information" form at the time it delivers a copy of its application form to the clerk. The "gambling investigation information" form shall be available from the clerk. The copy of the

lawful gambling premises permit application filed with the clerk shall include copies of all required attachments. After receiving these documents, the clerk shall immediately refer the matter to the police department for investigation and, if all documents are received at least five business days before the next regularly scheduled meeting of the alcohol, gambling and tobacco commission, place the item on the commission's agenda. After the investigation, the police department shall indicate its approval or disapproval of the permit application to the commission. If it disapproves of the permit, it shall make such disapproval in writing together with a statement stating why it disapproves of the applicant receiving a permit. This statement shall be served upon the applicant by first class mail or personally as soon as is reasonably possible. Representatives of the applicants shall appear before the commission at the time and place where their application is to be heard, unless such appearance is waived in advance by the commission. Applicants may be examined by commission members, police representatives and counsel. The commission may require that questions be answered under oath. The applicant may be represented by counsel and may present testimonial and documentary evidence relevant to issues raised. The applicant may examine the police representative concerning any police objections to the permit application and may make reasonable inquiries to commission members and staff. After hearing all relevant evidence and arguments concerning the permit application, the commission shall recommend that the city council pass a resolution approving or disapproving of the permit. If the commission recommends that the city council disapprove of an application, reasons for the recommendation shall be clearly stated on the record;

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

Section 2. That Chapter 10A, Section 11, of the Duluth City Code, as amended, is hereby amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. That Chapter 10, Section 12, of the Duluth City Code, as amended, is hereby amended as follows:

Sec. 10A-12. Gambling managers and jar operators; registration required.

(a) No person shall work as a gambling manager or jar operator for any licensed lawful gambling operation in the city unless they are licensed by the state of Minnesota and have registered such license with the city on forms provided by the city. Each such registration shall include the name, address, criminal history, date of birth and work experience in gambling operations of the licensee.

Section 4. That Chapter 10A, Section 13, Section 14, Section 15 and Section 16, of the Duluth City Code, as amended, are hereby repealed in their entirety.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 5. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: June 25, 2007)

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

Yeas: Councilors Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Absent: Councilors Gilbert and Ness -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 14, 2007  
Approved May 14, 2007  
HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9830**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO GRANDMA'S RESTAURANT COMPANY A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN TABLES AND CHAIRS AND SERVE LIQUOR ON THE ELEVATED PUBLIC SIDEWALK/DECK IN BUCHANAN STREET AND CANAL PARK DRIVE, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT (LITTLE ANGIE'S CANTINA AND GRILL, 11 BUCHANAN 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 Grandma's Restaurant Company, their successors and interests, referred to herein as the permittees, to occupy, serve and maintain chairs and tables and, if an area is separated and duly licensed, serve liquor on an elevated public sidewalk/deck adjacent to Lots 2 and 4, St. Croix Avenue and Buchanan Street, as the same was dedicated to the use of public in the plat of Cowells Addition to Duluth, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

(a) That portion of Buchanan Street lying between two parallel lines which are at right angles to the southeasterly lot line of Lot 2 located 70 feet and 55 feet southwest of the northeast line of said Lot 2 extended and northwest of a line 25-1/2 feet southeasterly from and parallel to the southeasterly line of said Lot 2;

(b) That portion of Buchanan Street lying between two parallel lines, at right angles to the southeasterly lot line of Lot 2, described above, located 42 feet and six feet west of the northeast corner of said Lot 2 and extending nine feet southwesterly from said lot line;

(c) That portion of Canal Park Drive (St. Croix Avenue) lying between two parallel lines, at right angles to the northeasterly lot line of Lots 2 and 4, described above, located six feet and 15 feet northwesterly of the southeast line of said Lot 2 extended, and southwest of a line 5-1/2 feet northeasterly of northeast lot line; additionally that part of Canal Park Drive (St. Croix Avenue) located between two parallel lines, at right angles to the northeasterly lot line of Lots 2 and 4,

located 15 feet and 71 feet northwesterly of the southeast line of Lot 2 extended and southwest of a line 6-1/2 feet northeasterly of said lot line of Lots 2 and 4;

(d) That portion of Canal Park Drive and Buchanan Street lying between two parallel lines at right angles to the southeasterly lot line of Lot 2, St. Croix Avenue, Cowell's Addition to Duluth, located ten feet, two inches southwest of the northeast corner of Lot 2 and two feet, nine inches northeast of the northeast corner of Lot 2, and between two parallel lines parallel to the southeasterly lot line of Lot 2 located 17 feet, nine inches and 27 feet, seven inches southeast of Lot 2.

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 the permittees have in force insurance meeting the following requirements:

(a) A commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition. The city reserves the right to amend its insurance requirements and the permittees shall file evidence of insurance that conforms to any amended insurance requirements within ten days of such notice.

Section 3. That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittees file with the city clerk certificates of insurance evidencing that permittees have in force insurance meeting the following requirements:

(a) Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, permittees file with the city clerk certificates of insurance evidencing that permittees have in force insurance meeting the following requirements:

(a) Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage or equivalent approved by the city attorney. Such coverage shall include all permittees activities occurring on the permitted premise whether said activities are performed by employees or agents under contract

to permittees. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 5. 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 6. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said tables and chairs and all fixtures and pertinences of every kind whatsoever 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 7. 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 or permittees' use or operation of the area.

Section 8. The permittees 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 9. The permittees shall further observe the following conditions:

(a) Chairs shall be durable and stackable for cleaning and security purposes. The specific chair and table manufacturer and design shall be approved by the Downtown Waterfront Mixed-Use Design Review District (DWMX-D) technical design advisory committee;

(b) The permittees shall be on notice that this permit is not exclusive, and that the city encourages other uses of the deck which will cause them to temporarily remove the tables and chairs. The tables and chairs shall be removed within a minimum of one week's prior notice from the city;

(c) The permittees shall be responsible for maintaining and timely removing trash from trash receptacles on the Buchanan Street deck and within ten feet of said deck;

(d) The placement of tables and chairs should not block fire access or access to equipment;

(e) The tables and chairs shall be secured at night (with cables) to the front of the building or to the deck;

(f) There shall be a maximum number of 27 tables and 108 chairs, and that such tables and chairs shall be limited to the designated areas shown on Public Document No. 07-0514-32;

(g) Up to 12 umbrellas over the tables may be placed on the deck, with the design of such umbrellas, including graphics, colors, and materials, shall be approved by the Downtown

Waterfront Mixed-Use Review District (DWMX-D) technical design advisory committee and that graphics shall not address a specific business, but may identify the general building name;

(h) Waiters and waitresses may serve on the deck. Said areas to be delineated by posts and ropes constructed and installed in accordance with Public Document No. 07-0514-32. The ropes shall be removed during all times the permittees' restaurant is not open for business. Posts shall be removed each year between November 15 and April 15 except during such times the permittees choose to serve at tables. If a proper alcoholic beverage license for any part of the premises is separately and duly issued, liquor service may be permitted but only in the following areas on Buchanan Street and Canal Park Drive and only upon receipt of an approved liquor license(s) for said areas:

(1) That portion of Buchanan Street lying between two parallel lines which are at right angles to the southeasterly lot line of Lot 2 located 70 feet and 55 feet southwest of the northeast line of said Lot 2 extended and northwest of a line 25-1/2 feet southeasterly from and parallel to the southeasterly line of said Lot 2;

(2) That portion of Buchanan Street lying between two parallel lines, at right angles to the southeasterly lot line of Lot 2, described above, located 42 feet and six feet west of the northeast corner of said Lot 2 and extending nine feet southwesterly from said lot line;

(3) That portion of Canal Park Drive (St. Croix Avenue) lying between two parallel lines, at right angles to the northeasterly lot line of Lots 2 and 4, described above, located six feet and 15 feet northwesterly of the southeast line of said Lot 2 extended, and southwest of a line 5-1/2 feet northeasterly of northeast lot line; additionally that part of Canal Park Drive (St. Croix Avenue) located between two parallel lines, at right angles to the northeasterly lot line of Lots 2 and 4, located 15 feet and 71 feet northwesterly of the southeast line of Lot 2 extended and southwest of a line 6-1/2 feet northeasterly of said lot line of Lots 2 and 4;

(4) That portion of Canal Park Drive and Buchanan Street lying between two parallel lines at right angles to the southeasterly lot line of Lot 2, St. Croix Avenue, Cowell's Addition to Duluth, located ten feet, two inches southwest of the northeast corner of Lot 2 and two feet, nine inches northeast of the northeast corner of Lot 2, and between two parallel lines parallel to the southeasterly lot line of Lot 2 located 17 feet, nine inches and 27 feet, seven inches southeast of Lot 2;

(i) The permittees shall have the right and responsibility to control the areas described in (h) above in regard to liquor laws. The general public shall have the right to occupy tables in these areas without making a purchase from the permittees, so long as said members of the public are orderly and violate no provision of the law. Signs are to be placed at each end of the pedestrian easement and at the bottom of the stairway indicating the public's right to use such pedestrian easement. Further, these areas shall be signed to state: "This confined area is available for use by the general public without the necessity of making a purchase, so long as members of the public are orderly and violate no provision of the law." Such sign shall be displayed on the posts as shown in Public Document No. 94-0620-04;

(j) Changes to the design of the posts and ropes shall be approved by the Downtown Waterfront Design Mixed-Use District (DWMX-D) technical design advisory committee prior to their fabrication.

Section 10. The term of this permit shall expire on April 10, 2017.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 11. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 25, 2007)

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

Yeas: Councilors Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 6

Nays: Councilor Krause -- 1

Absent: Councilors Gilbert and Ness -- 2

Passed May 14, 2007

Approved May 14, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9831**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO PATRICIA KUSZLER A CONCURRENT USE PERMIT INTO THE RIGHT-OF-WAY OF LAKE AVENUE SOUTH MEASURING NINE FEET BY 60 FEET FOR AN EXISTING HOME LOCATED AT 3801 LAKE AVENUE SOUTH.

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 Patricia Kuszler, her successors and interests, referred to herein as the permittee, to occupy and maintain a home in that part of Lake Avenue South right-of-way as the same was dedicated to the use of the public in the plat of Lower Duluth Lake Avenue, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

The southwest nine feet of Lake Avenue, Lower Duluth Division, abutting Lot 381 and the west half of Lot 383, Lake Avenue, Lower Duluth Division, city of Duluth, St. Louis County, Minnesota, being more particularly described as:

Beginning at a "T" iron with Cap Number 13794 located at the south corner of the intersection of 38th Street and Lake Avenue. Then, go northeasterly on the extended right-of-way line of 38th Avenue, nine feet. Then, go southeasterly, parallel with and nine feet from the southwest line of Lake Avenue, 60 feet. Then, go southwesterly, nine feet to a "T" iron with Cap #13794 located in the southwest right-of-way line of Lake Avenue at the midpoint of Lot 383. Then, go northwesterly on the southwest line of Lake Avenue, 60 feet to the place of beginning.

This parcel contains 540 square feet, more or less, and lies wholly within Lake Avenue.

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 the permittee has in force insurance meeting the following requirements:

(a) A commercial general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include

all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition. The City reserves the right to amend its insurance requirements and the permittee shall file evidence of insurance that conforms to any amended insurance requirements within ten days of such notice.

Section 3. That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(a) Commercial general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, permittee files with the city clerk certificates of insurance evidencing that permittee has in force insurance meeting the following requirements:

(a) Commercial general liability insurance policy shall be maintained in force by permittee in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage or equivalent approved by the city attorney. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 5. 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 6. That upon the giving of the notice of termination as aforesaid, the permittee shall remove said home to conform with city zoning code unless a variance is secured from appropriate authorities 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 7. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby agrees to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittee.

Section 8. The permittee shall, at her 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 permittee 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 9. The permittee shall further observe the following conditions:

(a) That all city building codes will be observed in the maintenance and construction of modifications to the home;

(b) The type and location of the improvements shall be limited to and maintained in accordance with the site plan drawn by Howard Sterling Watts entitled "Res. of P&S Kuszler, 3801 Lake Avenue S., Duluth, MN, 55802" dated November 11, 2006, and on record as Public Document No. 07-0514-33;

(c) Chapter 50, Section 13, shall apply.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 25, 2007)

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

Yeas: Councilors Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Absent: Councilors Gilbert and Ness -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 14, 2007  
Approved May 14, 2007  
HERB W. BERGSON, Mayor

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### **ORDINANCE NO. 9832**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 50 SECTION 50-146, OF THE DULUTH CITY CODE, 1959, AS AMENDED; ALLOWING FOR RECREATIONAL VEHICLE PARKING IN DOWNTOWN WATERFRONT MIXED USE-DESIGN REVIEW DISTRICT.

The city of Duluth does ordain:

Section 1. That Section 50-146 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 50-146. Permitted uses.

(a) Generally. It is the intent of this Section to provide for a variety of compatible, integrated land uses that will enhance the liveliness of the DWMX-D district and to provide for a balance between tourist-oriented attractions, public

recreational facilities, commercial and industrial enterprises, residential uses and neighborhood services. A building or premises within the DWMX-D district may be used for the following listed uses, or uses determined by the city planning commission to be similar to those listed and compatible with the purposes of the district;

(b) Residential;

(1) Multi-family dwellings, townhouses or apartments, except in the area south of Buchanan Street and east of Canal Park Drive;

(c) The following retail and wholesale sales, services and production and accessory uses; provided drive-up service windows are not permitted:

(1) Antiques refinishing, repairing and sales;

(2) Art studio;

(3) Bakery and sale of bakery products on the premises;

(4) Bar licensed to serve liquor;

(5) Boat sales room;

(6) Catering service;

(7) Cleaning service;

(8) Clothing store;

(9) Dancing and music academy;

(10) Delicatessen;

(11) Display room for wholesale merchandise stored elsewhere;

(12) Dressmaking, tailoring and shoe repair;

(13) Dry cleaning and pressing;

(14) Excursion rides;

(15) Florist shop;

(16) Fueling facilities for motor vehicles, except that no such fueling facility (either as a principal or accessory use) shall be permitted in Subdistrict A;

(17) General business office (except medical and dental clinics);

(18) Grocery stores;

(19) Hair styling salon;

(20) Hotel and motel;

(21) Household appliance repair;

(22) Laundry and laundromat;

(23) Livery stable;

(24) Marina;

(25) Meat, poultry and fish shops, provided that there is no slaughtering of animals or poultry on the premises;

(26) Parking lots and ramps;

(27) Photography studio;

(28) Pottery studio;

(29) Remote electronic bank teller facility;

(30) Restaurant;

(31) Retail and wholesale sales of general or specialized merchandise; except that in connection with such sales, there shall be no slaughtering of animals or poultry on the premises;

(32) Theater, movie or live performance;

- (33) Upholstery shop;
- (d) The following light industrial production, warehousing and distribution:
  - (1) Beverage blending and bottling;
  - (2) Brewery;
  - (3) Cooperage works;
  - (4) Cosmetics and toiletries;
  - (5) Food packaging;
  - (6) Fruit and vegetable processing;
  - (7) Ice cream production;
  - (8) Iron (ornamental) fabrication;
  - (9) Leather goods manufacture, not including tanning operations;
  - (10) Motion picture production;
  - (11) Pharmaceutical products;
  - (12) Printing, publishing and engraving;
  - (13) Small metal products fabrication such as needles and pins, nails, brads, tacks, staples, tools and hardware products.
  - (14) Storage, packaging and distribution of wholesale merchandise;
  - (15) Textile bedding and fiber production (excluding rubber and synthetics processing and productions);
  - (16) Wharves, docks and the repair, service and storage of boats and other facilities used in connection with water transportation or navigation;
- (e) The following institutional uses:
  - (1) Convention centers;
  - (2) Museums, research and interpretive facilities;
  - (3) Parking decks/ramps and surface parking lots;
  - (4) Private schools and academies;
  - (5) Public parks and open space;
  - (6) Sports facilities;
  - (7) Recreational vehicle parking;
- (f) The following miscellaneous and/or water-related uses:
  - (1) Boat manufacture;
  - (2) Boatyards and shipyards;

No variances from the provisions of this Section shall be allowed.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: June 25, 2007)

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

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Ness -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 14, 2007  
Approved May 14, 2007  
HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9833**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO DULUTH GRAND, LLC, AND 311 SUPERIOR CONDOMINIUMS, LLC, CONCURRENT USE OF RIGHTS-OF-WAY OF THIRD AVENUE EAST AND SUPERIOR STREET LOCATED ON THE WEST SIDE AND ACROSS THE FRONT OF THE SHERATON DULUTH GRAND HOTEL AND 311 SUPERIOR CONDOMINIUMS AT THIRD AVENUE EAST AND SUPERIOR STREET.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations, and restrictions hereinafter set forth, permission is hereby granted to Duluth Grand, LLC, and 311 Superior Condominiums, LLC, and their successors and interests, referred to herein as the permittees, to occupy, erect and maintain canopies, awnings and flagpoles in that part of Third Avenue East and Superior Street rights-of-way (sidewalk) as the same was dedicated to the use of the public of Tract B and Tract D, Registered Land Survey Number 74, Saint Louis County, Minnesota, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

that part of Tract D, Registered Land Survey Number 74, Saint Louis County, Minnesota, lying within East Superior Street described as follows:

commencing at the most southerly corner of said Tract D, thence north 41 degrees 36 minutes 55 seconds east 87.33 feet along the southeasterly line of said Tract D; thence north 48 degrees 23 minutes five seconds west 29.20 feet to the point of beginning for the area to be described; thence continuing north 48 degrees 23 minutes five seconds west 10.80 feet to the northwesterly line of said Street; thence north 41 degrees 36 minutes 55 seconds east 23.00 feet along said northwesterly line; thence south 48 degrees 23 minutes five seconds east 10.80 feet; thence south 41 degrees 36 minutes 55 seconds west 23.00 feet to the point of beginning; and

that part of Tract B and Tract D, Registered Land Survey Number 74, Saint Louis County, Minnesota, lying within East Superior Street described as follows:

commencing at the most easterly corner of said Tract D; thence north 48 degrees 23 minutes five seconds, west 29.20 feet to the point of beginning for the area to be described; thence north 41 degrees 36 minutes 55 seconds east 11.67 feet; thence north 48 degrees 23 minutes five seconds west 10.80 feet to the northwesterly line of said street; thence south 41 degrees 36 minutes 55 seconds east 15.67 feet along said northwesterly line; thence south 48 degrees 23 minutes five seconds east 10.80 feet; thence north 41 degrees 36 minutes 55 seconds east 4.00 feet to the point of beginning.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk: a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that the permittees have in force insurance meeting the following requirements:

(a) A commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,000,000 for bodily injuries and in an amount not less

than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition. The city reserves the right to amend its insurance requirements and the permittees shall file evidence of insurance that conforms to any amended insurance requirements within ten days of such notice.

Section 3. That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittees file with the city clerk certificates of insurance evidencing that permittees have in force insurance meeting the following requirements:

(a) Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, permittees file with the city clerk certificates of insurance evidencing that permittees have in force insurance meeting the following requirements:

(a) Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage or equivalent approved by the city attorney. Such coverage shall include all permittees activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be evidenced by a certificate of insurance filed with the city, shall be approved by the city attorney, and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 5. 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 6. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said all canopies, awnings, flagpoles, fixtures and pertinences 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 7. 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 or permittees' use or operation of the area.

Section 8. The permittees shall, at permittees' 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 permittees 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 9. The permittees shall further observe the following conditions:

- (a) That all city building codes will be observed in the construction of structures;
- (b) The type and location of the improvements shall be limited to and maintained in accordance with the site plans in Planning Commission File Number 07033, dated February 2, 2007, including the Sheraton Duluth concurrent use diagram plan A1.1, Elev. A3.1 and others, and on record as Public Document No. 07-0514-34;
- (c) The permittees shall maintain all structures described in Section 1 of this ordinance;
- (d) The permittees shall not prohibit public use of the public sidewalks;
- (e) The permittees shall not negatively impact the public use of the rights-of-way beneath them, in any way, including but not limited to impacts of water runoff, snow, ice, litter or other various obstructions;
- (f) The permittees shall not attach or hang anything from the building, other than the items listed in the attached plans; and
- (g) The permit shall be in place for the life of the Sheraton Duluth Hotel and 311 Superior Condominium buildings.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 25, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Ness -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 14, 2007  
Approved May 14, 2007  
HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9834**

BY COUNCILOR REINERT:

AN ORDINANCE ALIENATING CERTAIN PROPERTY INTERESTS  
AT THE DULUTH INTERNATIONAL AIRPORT AND AUTHORIZING  
THE GRANT OF A SEWER EASEMENT TO RICE LAKE TOWN-  
SHIP.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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The city of Duluth does ordain:

Section 1. That the city hereby designates the property interest described in Section 3 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That the city finds that the grant of a sewer easement (Public Document No. 07-0514-35) to Rice Lake Township without bid and at no cost to Rice Lake Township will assist Rice Lake Township in developing better sanitary conditions for its residents, will foster good will and cooperation between governmental subdivisions, and is specifically allowed under Minnesota Statute 465.035.

Section 3. That the proper city officials are hereby authorized to grant to Rice Lake Township a sewer easement on, over, under and across the property in St. Louis county, Minnesota, described below and to approve the grant of such easement if and when offered by the Duluth airport authority pursuant to Laws, 1969, Chapter 577, Section 5, subd. 2(e):

A 50.00 foot wide easement for sanitary sewer purposes, lying over, under and across all that part of the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 1, Township 50 North, Range 15 West of the Fourth Principal Meridian and the W $\frac{1}{2}$  of SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 6, Township 50 North, Range 14 West of the Fourth Principal Meridian, St. Louis County, Minnesota, the centerline of said easement is described as follows:

Commencing at the west quarter corner of said Section 6; thence on an assumed bearing of north 89 degrees 46 minutes 10 seconds east, along the north line of the NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 6, Township 50, Range 14, a distance of 511.35 feet to the point of beginning of said centerline; thence south 14 degrees 38 minutes 19 seconds west, a distance of 1326.98 feet to the south line of said NW $\frac{1}{4}$  of SW $\frac{1}{4}$ ; thence south 18 degrees 30 minutes 10 seconds west, a distance of 367.08 feet; thence south 00 degrees 11 minutes 39 seconds west, a distance of 636.88 feet; thence south 44 degrees 39 minutes 40 seconds west, a distance of 79.20 feet; thence south 00 degrees 11 minutes 54 seconds west, a distance of 277.53 feet to the south line of said Section 1 and there terminating.

The sidelines of said easement shall be prolonged or shortened to terminate on the north line of said NW $\frac{1}{4}$  of SW $\frac{1}{4}$  and said south line of Section 1.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 25, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilors Ness -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 14, 2007  
Approved May 14, 2007  
HERB W. BERGSON, Mayor

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**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Tuesday, May 29, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 8

Absent: Councilor Ness -- 1

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The minutes of council meetings held on April 9, 16 and 23, 2007, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0529-11 Meg Bye communication regarding acceptance of grant for skate park (07-0376R). -- Received

07-0529-01 L&L LRDC, LLC. acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9827 on April 16, 2007. -- Received

07-0529-02 Seth Oliver acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9803 on November 27, 2006. -- Received

07-0529-12 John Ramos communication regarding forgiveness of interest for Great Lakes Aquarium (07-0370R). -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0529-03 Assessor:

(a) For confirmation the assessment rolls levied to defray the assessable portions of:

(1) Contract No. 4782, reassessment of canceled demolition assessment (assessable amount: \$440);

(2) Contract No. 5433, demolition assessments (assessable amount: \$52,578.80);

(b) Letter of insufficiency of petition to reclassify from R-3 to C-1 property described as Lots 1 - 4, Block 10, Motor Line Division. -- Received

07-0529-04 Public works and utilities department acting director 2006/2007 report on greenhouse gases for Steam Plant No. 1, pursuant to Resolution 02-0432. -- Received

07-0529-13 Purchasing agent (acting) emergency order awarded to Superior Construction Company for repair to the roof leader on the second floor roof of city hall in the amount of \$10,588. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

07-0529-05 American Indian commission minutes of April 16, 2007, meeting. -- Received

07-0529-06 Duluth housing commission minutes of March 20, 2007, meeting. -- Received

07-0529-07 Duluth human rights commission minutes of April 11, 2007, meeting. -- Received

07-0529-08 Duluth/North Shore Sanitary District minutes of: (a) April 11; (b) April 25, 2007, meetings. -- Received

07-0529-09 Parks and recreation commission minutes of March 14, 2007, meeting. -- Received

07-0529-10 Special board of review minutes of May 16, 2007, meeting. -- Received

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### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Dan O'Hearon questioned why the council should be regulating the taxi business and not allowing the owners to run the business as they see fit. He stated that with the increase in gas prices and insurance costs, it would be better for free enterprise to take over, which would create better cars and customer service.

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Rebecca Marotta stated that an open market for taxis would allow them to do more business and allow them to adjust the meters when expenses rise, such as with the cost of gas. She stated that Superior allows coupons and punch cards, but the customers are not allowed to use them in Duluth, which causes confusion for the riders.

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KL Lewis questioned that since the Duluth Entertainment Convention Center (DECC) expansion did not pass the state legislature, will the DECC install a better railing along the waterfront. She also inquired if there is a carbon credit program where the city can get a credit for all the trees it plants.

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Alison Clarke expressed concern that in the City Code there is no maximum height in a R-3 zone which would limit the number of stories for a new building. She continued by saying that having a view is important, it does affect other people besides adjacent property owners and urged the council to set a maximum height in a R-3 zone.

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Tom Wright voiced concern that nothing has been done with the settling of the contracts with the unions dealing with retiree healthcare, while the council is passing on higher water rates to the citizens to help pay for the debt.

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### **RESOLUTION RECONSIDERED**

At this time, Councilor Little moved to reconsider Resolution 07-0364, approving proposed specifications for the new civil service classification of maintenance worker helper and specifying contract benefits for same, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Johnson -- 1

Chief Administrative Officer Hall reviewed that the council had concerns about safety for the employees and requested Bob Troolin, risk control manager for the city, to address the council.

Mr. Troolin explained that the city has a hard time getting reliable temporary employees who are able to work the entire 67 days. He continued by saying that safety training is given to all new hires before they are allowed to start working on a job.

Jan Anderson, personnel analyst, stated this job is an entry level position which would allow these employees to move into promotional jobs within the city. She added that the human resources division tells city departments/divisions to hire the best qualified candidate for the job.

Bob Grytdahl, city human rights officer, stated that part of his job is to monitor the civil service process so that job requirements are not created with prejudices or biases built into the job qualifications. He stated this entry level job would show the citizens that the city is trying to help break the poverty cycle in Duluth.

Councilor Johnson voiced concern that the job does not come with a wage scale.

To questioning from the council, Mr. Hall replied that this resolution does not have a wage identified, as the bargaining unit and the administration have not been able to agree to the job description. He reviewed the history of the mediation process with the Bureau of Mediation Service (BMS) and the basic union and that the city is requesting the wage to be approximately \$9/hour.

Resolution 07-0364 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that the proposed specifications for the new civil service classification of maintenance worker helper, which were approved by the civil service board on February 6, 2007, and which are filed with the city clerk as Public Document No. 07-0529-14, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees. The pay for the classification shall be that determined by law and the applicable collective bargaining agreement. 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 07-0364 was adopted upon the following vote:

Yeas: Councilors Little, Ness, Reinert, Stauber, Stewart and President Stover -- 6

Nays: Councilors Gilbert, Johnson and Krause -- 3

Approved May 29, 2007

HERB W. BERGSON, Mayor

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### RESOLUTION TABLED

Councilor Ness moved to remove Resolution 07-0348, supporting Duluth Superior Community Foundation attracting and retaining young adults task force, from the table, which motion was seconded and unanimously carried.

Councilor Krause stated that Section (b) seems to be a negative statement and offered an amendment to delete that section, which motion was seconded for discussion.

Councilor Ness agreed with the amendment.

Councilors Krause's amendment unanimously carried.

Resolution 07-0348, as amended, was adopted as follows:

BY COUNCILOR NESS:

The city council finds as follows:

(a) Young adults are important to our economy and community and improving the climate for them provides benefits for residents of all ages; and

(b) A new plan to attract and retain young adults to this area has been unveiled by the Duluth Superior Community Foundation, which plan includes a series of actions to be taken to reverse the decline in the number of young adults in this region.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council accepts and endorses the following recommendations created by the Duluth Superior Community Foundation task force:

- (a) Creating a young leaders advisory committee and fund;
- (b) Raising awareness of career and economic opportunities;
- (c) Creating positive vibes for young adults in our community;
- (d) Increasing connection between college and university students and the community;
- (e) Supporting young professionals' community initiatives and projects;
- (f) Creating a one-stop-shop communication vehicle for housing, work, recreation, etc.

BE IT FURTHER RESOLVED, that the council will apply these principles whenever possible in its planning and policy making practices.

Resolution 07-0348, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Little -- 1

Approved May 29, 2007

HERB W. BERGSON, 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 Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied for reassessment of canceled demolition assessment (Contract #4782; assessable amount - \$440), to be deposited in Fund 100, is hereby confirmed.

Resolution 07-0356 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of demolition assessments (Contract #5433; assessable amount - \$52,578.80), to be deposited in Fund 100, is hereby confirmed.

Resolution 07-0373 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

The city council finds:

(a) That it is desirable and in the public interest to assist the Duluth Entertainment Convention Center (the DECC), a government agency, in its finances; and

(b) Because of delays in city processes, the DECC has incurred certain interest charges related to the purchase of natural gas after the date of a budgeted change in energy resources; and

(c) The city wishes to assist the DECC by forgiving the interest charges resulting from the city-related delay.

NOW, THEREFORE, BE IT RESOLVED, that all interest owing to the city for natural gas utility service provided to the DECC during the 2005-2006 heating season is hereby forgiven.

Resolution 07-0394 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On May 2, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Red Carpet Bottle House, Inc., d/b/a Shanty Bottle Shop, 1231 East Fourth Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0529-15;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 29, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0529-15 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Red Carpet Bottle House, Inc., d/b/a Shanty Bottle Shop, 1231 East Fourth Street, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0382 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On May 2, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of George's Liquor, Inc., d/b/a George's Liquor, 1340 West Arrowhead Road, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0529-16;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 29, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0529-16 regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of George's Liquor, Inc., d/b/a George's Liquor, 1340 West Arrowhead Road, are adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0383 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointment by Mayor Bergson of Carolyn Sundquist (at large representative) to the heritage preservation commission for a term expiring on May 31, 2010, is confirmed.

Resolution 07-0365 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson to the technical design advisory committee for the DWMX-D of Timothy L. Meyer (area representative) and Joan J. Morrison (planning commission representative) for terms expiring on May 31, 2010, are confirmed.

FURTHER RESOLVED, that the appointment by Mayor Bergson to the technical design advisory committee for the DWMX-D of Gerald W. Johnson (at large representative), replacing Lynn M. Nephew who resigned, for a term expiring on May 31, 2009, is confirmed.

Resolution 07-0366 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that approval is hereby granted to allow signage for Caribou Coffee lettering and logo to be installed on the Mount Royal Fine Foods store, as delineated in drawings provided by Sign Art Company, dated April 29, 2005, as identified in Public Document No. 07-0529-17 and subject to the following conditions:

(a) That the internally illuminated signage be installed as described on drawings provided by Sign Art Company, contained in Planning Commission File Number 07042, to be composed of translucent white faced lettering with black returns and a matte black framed logo with a translucent teal inset, and overall signage area to be 3'9"x11'9", with bottom of logo located 9'2" from ground level;

(b) That the owners obtain a sign permit before the sign is installed.

Resolution 07-0362 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby accepts the assignment of a mortgage and allonge to promissory note substantially in the form of that on file in the office of the city clerk as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Public Document Nos. 07-0529-18(a) and 07-0529-18(b), which mortgage and note were dated August 5, 2005, and executed by Central Hillside Development Limited Partnership, LLLP (developer) in favor of the HRA;

FURTHER RESOLVED, that the city of Duluth hereby accepts funds in the amount \$212,000 payable into Fund 264.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a loan agreement, note and mortgage modification agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0529-18(c), with Hillside Business Association (HBA) and developer.

Resolution 07-0388 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the board of commissioners of St. Louis County is hereby requested to withhold from sale for the public interest and to classify as conservation the following parcels from the county auditor's list of properties which have been declared tax forfeited and title thereto vested in the state:

Parcel ID and Legal Description	Location	Reason
010-1600-00370 Fond Du Lac Second Street Duluth, Lot 71 Tract 9	lower side of West Second Street between 131st Avenue West and Mission Creek (Fond du Lac)	floodplain/shoreland preservation
010-1600-00380 Fond Du Lac Second Street Duluth, Lots 73, 75, 77, and 79 Tract 10	lower side of West Second Street between 131st Avenue West and Mission Creek (Fond du Lac)	floodplain/shoreland preservation
010-1620-01170 Fond Du Lac Fourth Street Duluth, Lot 34 Tract 11	upper side of West Fourth Street west of 133rd Avenue West (Fond du Lac)	addition to Fond du Lac Park
010-1620-01180 Fond Du Lac Fourth Street Duluth, Lot 36 Tract 12	upper side of West Fourth Street west of 133rd Avenue West (Fond du Lac)	addition to Fond du Lac Park
010-2820-02480 Rearr Lenroots Addition to Ironton Duluth, Block 20, Lots 11, 12, 13, 14 Tract 14	northwest of the intersection of Lenroot Street and the LS&M Railroad (Smithville)	creek flows through property, wetland preservation

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and Legal Description	Location	Reason
010-3120-03960 Lower Duluth St. Louis Avenue, Lot 348 Tract 15	in St. Louis Bay between 36th and 37th streets South (Park Point)	in St. Louis Bay
010-3120-04000 Lower Duluth St. Louis Avenue, Lot 356 Tract 16	in St. Louis Bay between 36th and 37th streets South (Park Point)	in St. Louis Bay
010-3120-04100 Lower Duluth St. Louis Avenue, Lot 376 Tract 17	in St. Louis Bay between 37th and 38th streets South (Park Point)	in St. Louis Bay
010-3120-04120 Lower Duluth St. Louis Avenue, Lots 380 and 382 Tract 18	in St. Louis Bay between 37th and 38th streets South (Park Point)	in St. Louis Bay
010-3120-04220 Lower Duluth St. Louis Avenue, Lot 400 Tract 19	in St. Louis Bay between 38th and 39th streets South (Park Point)	in St. Louis Bay

Resolution 07-0392 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the city is hereby authorized to participate in the joint property tax advisory committee during 2007, 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 07-0371 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the city council approves the appointment of David Ouse to the position of library director on interim basis, effective May 21, 2007; compensation and benefits as set out

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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for the position of library director, except that no severance pay is included and return rights are granted to his previous position.

Resolution 07-0395 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the city council approves the appointment of James Benning to the position of director of public works and utilities on interim basis, effective January 1, 2007; compensation and benefits as set out for the position of director of public works and utilities, except that no severance pay is included and return rights are granted to his previous position.

Resolution 07-0396 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with JMF Construction, Inc., for the 2007 sanitary and storm manhole adjustment program with the engineering division for the apparent low bid of \$66,991, payable out of Sanitary Sewer Fund 0530 and Stormwater Fund 0535, Agency 500, Organization 1905, Object 5535, Requisition No. 07-0356, City Project Nos. 0368SN/0369ST.

Resolution 07-0357 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into the fourth amendment, a copy of which is on file in the office of the city clerk as Public Document No. 07-0529-19, with the University of Minnesota's Natural Resources and Research Institute for services related to the Duluth streams project, extending the term thereof through March 31, 2008, and increasing the amount payable thereunder by \$20,000, payable from Fund 535, Department 500, Organization 1915, Object 5441.

Resolution 07-0358 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Barr Engineering Company for professional services in developing and marketing a business partnership program with the regional stormwater protection team (RSPT) based on the request for proposal (RFP) specifications and the consultant's fee not to exceed \$15,000, terms net 30, payable from the Stormwater Fund 535, Department/Agency 500, Organization 1915, Object 5439. Said agreement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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is to be substantially in the form of Public Document No. 07-0529-20 on file in the office of the city clerk.

Resolution 07-0367 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Robert and Judith Larsen the sum of \$11,501.03 in full and final settlement of the claim which arose out of a break in a city watermain occurring on February 10, 2007; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 07-0374 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Doyle Cossin the sum of \$11,222.43 in full and final settlement of the claim which arose out of a break in a city watermain occurring on February 23, 2007; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 07-0375 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, Champion Coatings, Inc., be and is hereby awarded a contract for cleaning, repairing and painting of the 400,000 gallon single pedestal spheroid Proctor tower for the engineering division in accordance with its low specification bid of \$328,000 payable out of the Water Fund 510, Department/Agency 500, Organization 1905, Object 5526, Project Number 0591WA.

Resolution 07-0378 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

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. 07-0529-21, with Minnesota Power (MP), a division of Allete, Inc., for the provision by MP for professional services related to the purchase, transportation and management of the natural gas supply for the city's natural gas utility in an amount not to exceed \$63,600, payable from the Gas Fund 0520.

Resolution 07-0380 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are authorized to contract with Coons Aggregate Supply, Division of Wissota Sand and Gravel Company, for the purchase and delivery of approximately 10,000 tons of washed sand as needed during year 2007 for the public works and utilities department in accordance with the city's specifications and the vendor's low bid of \$60,000 plus charges for delivery to designated locations in the amount of \$35,050 plus sales tax of \$6,178.25 for a total estimated cost of \$101,228.25, terms net 30, payable from the General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5223.

Resolution 07-0385 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that it is deemed necessary for the public conveyance and safety that Minnesota Bridge Number L8476 on Lincoln Park Drive over Miller Creek (City Job No. 0622TR) be reconstructed. This project will not be eligible for municipal state aid funds unless it is constructed to rural and suburban state aid standards for bridge replacement projects not on the state aid system for an existing average daily traffic count of 150 to 400 vehicles, or unless a variance is granted; and

Practical limitations require that narrower bridge width, traffic lane and shoulder widths, steeper recovery area inslopes, shorter recovery area, a shorter vertical curve and a smaller radius horizontal curve than dictated by standards be used. This results in a 26 foot overall bridge width in lieu of the required 32 foot width, 11 foot traffic lanes with two foot shoulders in lieu of 12 foot lanes with four foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, nine foot recovery area in lieu of ten foot recovery area, 150 foot long vertical curve with A.D. of 8.0 in lieu of a 291 foot long vertical curve, and a 100 foot radius horizontal curve at -0.02 superelevation in lieu of 273 foot radius curves at 0.06 superelevation which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

FURTHER RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules for State Aid Operations 8820.9922, whereby the rural and suburban state aid standards for bridge replacement projects not on the state aid system be reduced for this project allowing for a 26 foot overall bridge width in lieu of a 32 foot width, 11 foot traffic lanes with two foot shoulders in lieu of 12 foot lanes with four foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, nine foot recovery area in lieu of ten foot recovery area, 150 foot long vertical curve with an A.D. of 8.0 in lieu of a 291 foot long vertical curve, and a 100 foot horizontal curve at -0.02 superelevation in lieu of 273 foot radius curves at 0.06 superelevation, and further agrees to indemnify, save, and hold harmless the state of Minnesota and its agents and employees from any and all claims, demands, actions, or causes of action arising out of or by reason of the reconstruction of Minnesota Bridge No. L8476 on Lincoln Park Drive over Miller Creek in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9922, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever arising as a result of the granting of this variance.

Resolution 07-0387 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Bearcom Wireless Worldwide for the purchase and delivery of 16 VRM850 vehicular Motorola modems (F4451 UHF 40W) and cable for the police department in accordance with specifications and the vendor's low bid of \$32,820, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580-CE250-V703. These modems will be used in new police emergency vehicles; therefore, this purchase is tax exempt.

Resolution 07-0368 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Paradigm System Solutions, Inc., for the purchase and delivery of 16 Panasonic CF30 laptop computers for police emergency vehicles in accordance with specifications and the vendor's low bid of \$46,160, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580-CE250-V703. These laptop computers will be used in new police emergency vehicles; therefore, this purchase is tax exempt.

Resolution 07-0369 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

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. 07-0529-22, with the state of Minnesota, department of public safety, fire marshal division, whereby the city will perform inspections of hotels.

Resolution 07-0377 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into an agreement with University of Minnesota-Duluth to provide evaluative design and data analysis services, said agreement to be substantially in the form of Public Document No. 07-0529-23 on file in the office of the city clerk, and providing for the payment in an amount not to exceed \$7,500, payments to be made from the Fund 215-200-2269-5310.

Resolution 07-0381 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to accept a grant from the Tony Hawk Foundation in the amount of \$10,000 for the construction of a public skatepark and to execute the grant agreement, said agreement to be substantially in the form of Public Document

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No. 07-0529-24 on file in the office of the city clerk; funds to be deposited in Fund 450 CP 2003-C 215 (skate park fund).

Resolution 07-0376 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0391, by Councilor Johnson, establishing Duluth water rates effective with meter readings after December 31, 2007, and rates charged for water furnished to political subdivisions or state or federal government installments located outside the corporate limits of the city effective with meter readings after July 31, 2007; rescinding all prior inconsistent or conflicting resolutions with respect to such rates, was introduced for discussion.

Councilor Stauber stated that this resolution will decrease the rates on other political subdivisions and increase Duluth rates by nine percent. He went on to say that the public should have a chance to voice their concerns.

Councilor Stauber moved to table the resolution for public input, since the proposed rates would not become effective until January 1, 2008, which motion was seconded and unanimously carried.

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At this time, 7:55 p.m., Councilor Johnson left her seat.

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Resolution 07-0370, by Councilor Stewart, directing steam coop to eliminate past and future interest charges incurred by Great Lakes Aquarium, was introduced for discussion.

Councilor Gilbert expressed concern that the city is shutting off utilities to families who cannot pay their bill but is forgiving interest charges that are owed to the city by the aquarium.

Resolution 07-0370 was adopted as follows:

BY COUNCILOR STEWART:

The city council finds:

(a) That it is desirable and in the public interest to assist the Lake Superior Center authority, d/b/a Great Lakes Aquarium (the GLA), a government agency, in stabilizing its finances; and

(b) Because of cash flow problems, the GLA has incurred certain interest charges related to the purchase of steam from the city's Steam District No. 1 which is operated and managed by the Duluth Steam Cooperative; and

(c) The city wishes to assist the GLA by not charging it interest on any arrearages, past, present or future.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth Steam Cooperative is hereby directed to forgive all outstanding, unpaid interest owed to Steam District No. 1 and to the city as

its owner for steam utility service to the GLA and to abate all such interest charges in the future until such time as the city is no longer responsible for operating losses of the aquarium.

Resolution 07-0370 was adopted upon the following vote:

Yeas: Councilors Ness, Reinert, Stauber, Stewart and President Stover -- 5

Nays: Councilors Gilbert, Krause and Little -- 3

Absent: Councilor Johnson -- 1

Approved May 29, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 adopted May 29, 2007 (the "Ordinance"), ordered the issuance, sale and delivery of a general obligation sewer utility revenue note in the amount of \$2,042,350 of the City, for the payment of the costs of improvements to the municipal sewer utility through the installation of a sanitary sewer overflow basin and related improvements to the sewer system at the Endion pump station (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. 07-0529-25(a), for the Project to the PFA pursuant to a Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement dated April 26, 2007, 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. 07-0529-25(b) 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 \$2,042,350, 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. The Note and the Loan Agreement shall not be delivered until after the effective date of the Ordinance.

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 (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% 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% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Note, and that 100% 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 07-0372 was unanimously adopted.

Approved May 29, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0384, by Councilor Stewart, adopting fee for backflow prevention testing and registration for 2007, was introduced for discussion.

Councilor Stewart moved to table for the resolution for consideration with companion Ordinance 07-033 at the next council meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with EPA Audio Visual, Inc., for the sum of not to exceed \$12,000, from 250-015-2005-

5580-Project CE 250-E503 technology projects, for providing certain professional services to the city of Duluth in connection the design of an audio visual system to be specified for the City Hall Council Chamber project, 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. 07-0529-26.

Resolution 07-0393 was adopted upon the following vote:

Yeas: Councilors Gilbert, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Little -- 1

Absent: Councilor Johnson -- 1

Approved May 29, 2007

HERB W. BERGSON, Mayor

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At this time, 8:00 p.m., Councilor Johnson returned to her seat.

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## INTRODUCTION AND CONSIDERATION OF ORDINANCES

### ORDINANCE TABLED

BY COUNCILOR KRAUSE

06-058 - AN ORDINANCE AMENDING SECTIONS 44-1, 44-2, 44-5, 44-11, 44-14, 44-33 AND 44-34 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING LIGHTED SIGNS.

Councilor Krause 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.

Matt Herald stated again that his company and Todd Signs want to work with the city and Councilor Krause to reach a compromise for changes in the sign ordinance that will work for both parties, but he has not been contacted by city staff or Councilor Krause.

Councilor Krause 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 STAUBER

07-030 - AN ORDINANCE AMENDING SECTION 50-123 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE USES IN AN INDUSTRIAL PARK DISTRICT.

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BY COUNCILOR STAUBER

07-031 - AN ORDINANCE AMENDING ORDINANCE 9828 ADDING A LEGAL DESCRIPTION TO THE SUBJECT PROPERTY.

- - -

BY COUNCILOR JOHNSON

07-032 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON GARFIELD AVENUE TO NORTHERN TRENDS BUILDING AND DESIGN, INC., FOR \$11,556.60.

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BY COUNCILOR JOHNSON

07-034 - AN ORDINANCE AMENDING CHAPTER 48, ARTICLE VI, BY ADDING A NEW SECTION 48-174 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR LITTLE

07-033 - AN ORDINANCE AMENDING CHAPTER 10, ARTICLE VII, BY ADDING A NEW SECTION 10-35 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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At this time, 8:05 p.m., Councilor Gilbert left his seat.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

07-028 (9835) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,042,350 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 Stewart moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 8:10 p.m.

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

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**ORDINANCE NO. 9835**

BY COUNCILOR STEWART:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,042,350 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 and

grant to install a sanitary sewer overflow basin and related improvements to the sewer system at the Endion pump station (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 \$2,042,350 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 \$75,000; 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 \$255,000; general obligation sewer utility revenue bonds dated December 1, 1999, now outstanding in the amount of \$1,090,000; 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 \$395,000; 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 \$970,000; general obligation improvement note dated August 8, 2002, authorized in the amount of \$364,195; general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,574,000; general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,435,000; 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 \$565,000; general obligation sewer utility revenue note dated December 12, 2003, authorized in the amount of \$1,179,115; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$3,630,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the amount of \$3,355,000; and general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$945,000. 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 and notes dated May 1, 1998, December 1, 1998, December 1, 1999, December 1, 2000, December 1, 2001, August 8, 2002, September 1, 2002, December 1, 2002, March 1, 2003, December 12, 2003, December 1, 2004, December 19, 2005, and December 19, 2006.

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 \$2,042,350, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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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: July 12, 2007)

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

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Gilbert -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 29, 2007  
Approved May 29, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, June 11, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Absent: Councilor Johnson -- 1

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0611-01 A&L Properties:

(a) Concurrent use permit application to construct a building at 46-47 McCulloch Street. -- Planning commission

(b) Vacation petition (three signatures) for the 20 foot wide alley which is contained within Block 45, London Addition of Duluth. -- Assessor

07-0611-02 Carol Anderson, et al. (one signature), further petition to reclassify from R-3 to C-1 property described as Lots 1 - 4, Block 10, Motor Line Division. -- Assessor

07-0611-03 WKK, Inc., et al. (nine signatures), petition to reclassify from R-3 to C-1 property located at 69th Avenue West and Grand Avenue and described as Lots 1-15, including part of the vacated alley adjacent to Blocks 7 and 8, Hunters Grassy Point Duluth Third Division. -- Assessor

07-0611-04 Minnesota state auditor audit report for the entertainment and convention center authority for the years ended December 31, 2006 and 2005. -- Received

07-0611-15 Duluth Ready Mix, Inc., by Timothy N. Downs, attorney, communication regarding award of bid to Viele Contracting, Inc., for Class V gravel (07-0386R). -- Received

07-0611-06 Golf Properties II, LLC, by Neal Hessen, attorney, appeal of planning commission rejection of C-5 plan review for property located on Maple Grove Road between 2520 to 2502 Maple Grove Road (07-0402R and 07-0404R). -- Committee 2 (Planning and economic development)

07-0611-27 Bonita and Richard Nelson communication regarding approval/denial of C-5 plan review for property located on Maple Grove Road between 2520 to 2502 Maple Grove Road (07-0402R and 07-0404R). -- Received

07-0611-28 The following communications regarding amendment of taxi regulations (07-036-O): (a) Kimberly McKay; (b) Tony Mitchell; (c) Dan O'Hearon. -- Received

07-0611-05 The following communication regarding construction of Heritage Sports Center project and acceptance of DEED grants (Resolutions 07-0342R, 07-0353R, 07-0417R): (a) Jon Aamodt; (b) Laura and Tom Tonkin. -- Received

07-0611-07 The following communications regarding water rates (07-0391R): (a) P.M. James; (b) Tom Johns; (c) A. Johnson; (d) Glen Kush; (e) Dan McKillop; (f) John and Kathleen Nading; (g) Richard Paulson (2). -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0611-08 Assessor:

(a) Letter of insufficiency of petition to vacate Fifth Street from 34th Avenue East and extending west 140 feet, adjacent to Lot 11, Block 7, Congdon Park Second Division, Duluth;

(b) Letters of sufficiency of petitions to reclassify from R-3 to C-1:

(1) Lots 1-4, Block 10, Motor Line Division;  
(2) The property located at 69th Avenue West and Grand Avenue and described as Lots 1-15, including part of the vacated alley adjacent to Blocks 7 and 8, Hunters Grassy Point Duluth Third Division. -- Received

07-0611-09 Parks and recreation department director:

- (a) Lake Superior Zoological Society minutes of March 28, 2007, meeting;  
(b) Zoo director executive and education reports for May 2007. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

07-0611-10 Board of zoning appeals minutes of: (a) March 27; (b) April 24; 2007, meetings. -- Received

07-0611-11 Duluth airport authority board: (a) Balance sheet of March 31, 2007; (b) Minutes of April 24, 2007, meeting. -- Received

07-0611-12 Duluth transit authority board: (a) Income statement for February, 2007; (b) Minutes of March 28, 2007, meeting. -- Received

07-0611-13 Entertainment and convention center authority minutes of: (a) Building committee meetings of: (1) March 10, 2007; (2) May 21, 2007; (b) Regular meetings of: (1) March 30; (2) April 30; (3) May 21, 2007. -- Received

07-0611-14 Library board minutes of April 24, 2007, meeting. -- Received

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### RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 07-0384, adopting fee for backflow prevention testing and registration for 2007, from the table, which motion was seconded and unanimously carried.

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

BY COUNCILOR LITTLE

07-033 (9840) - AN ORDINANCE AMENDING CHAPTER 10, ARTICLE VII, BY ADDING A NEW SECTION 10-34.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stauber moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

- - -

Resolution 07-0384 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that, pursuant to Section 10-35, Duluth City Code, 1959, as amended, the following fee charge for 2007 shall be adopted:

Building safety - annual backflow prevention testing and registration: \$28 (each device).

Resolution 07-0384 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

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

- - -

Councilor Reinert moved to remove Resolution 07-0342, amending contract for Heritage Sports Center project (affects Resolution 06-0773); and Resolution 07-0353, accepting DEED grants in the total amount of \$2,857,438 for the Duluth Heritage Sports Center, authorizing grant agreements and committing local match, from the table, which motion was seconded and unanimously carried.

Councilor Reinert moved to suspend the rules to hear speakers on the resolutions, which motion was seconded and unanimously carried.

Dick Lorras, Randy Brody, Todd M. Johnson and Pat Francisco spoke in support of the resolutions, noting: that part of the city and school board funding is contingent upon completion of the second phase; the Boys & Girls Club component is in Phase I; it has been a wonderful collaboration of people coming together that has a lot of value; this project is high priority in the city's consolidated plan and this will bring hope and opportunity to an entire neighborhood and community.

Heidi Timm-Bijold, city business development division, spoke of the unexpected situation of not voting on this until June 25 and the consequences of possibly not receiving the state grant.

Councilor Ness stated that he would not be participating in the discussion or voting on this project due to a possible conflict of interest with his employer that has made a short term loan to the developer of this project.

Resolutions 07-0342 and 07-0353 were adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the following changes are made to the Public Documents referred to in Resolutions 06-0773 and 07-0174:

(a) Public Document Nos. 06-1113-25(a) and 07-0226-24 are replaced and superceded by Public Document No. 07-0611-16;

(b) Public Document Nos. 06-1113-25(b) and 07-0226-24 are replaced and superceded by Public Document No. 07-0611-16.

RESOLVED FURTHER, that the date for commencement of construction provided for in paragraph C of Article VI of the development agreement is deemed to be a substantial condition of said agreement and shall not be subject to any waiver without the explicit approval of the city council by resolution thereof.

Resolution 07-0342 was adopted upon the following vote:

Yeas: Councilors Gilbert, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Abstention: Councilor Ness -- 1

Absent: Councilor Johnson -- 1

Approved June 11, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to accept a redevelopment program grant from the Minnesota state department of employment and economic development in the amount of \$1,810,150 and to execute grant agreement no. RGDP-05-0027-O-FY06 (Public Document No. 07-0611-17) in connection therewith.

FURTHER RESOLVED, that said officials are hereby authorized to accept a contamination cleanup program grant from the Minnesota state department of employment and economic development in the amount of \$1,047,288 and to execute grant agreement No. CCGP-06-0016-Z-FY06 (Public Document No. 07-0611-17) in connection therewith.

FURTHER RESOLVED, that the required local match to the granted funds, having a total value of not to exceed \$2,401,116, shall be from turn-back funds from the state of Minnesota and the value of construction costs incurred by the developer on behalf of the project and then from the heritage replacement account.

Resolution 07-0353 was adopted upon the following vote:

Yeas: Councilors Gilbert, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Abstention: Councilor Ness -- 1

Absent: Councilor Johnson -- 1

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Stauber moved to suspend the rules to consider Resolution 07-0417, authorizing funding and reconstruction of Peterson Ice Arena, at this time, which motion was seconded and unanimously carried.

Councilors Krause and Gilbert expressed opposition to the resolution because the funding source is not acceptable and it sends a contradicting message that if the original plan is not implemented by a drop dead date, that the city is going to switch plans.

Resolution 07-0417 failed upon the following vote [*required a 7/9ths vote to pass*] (Public Document No. 07-0611-23):

Yeas: Councilors Little, Reinert, Stauber, Stewart and President Stover -- 5

Nays: Councilors Gilbert and Krause -- 2

Abstention: Councilor Ness -- 1

Absent: Councilor Johnson -- 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.)*

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

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license, on sale Sunday license and 2:00 a.m. beverage license for the period beginning July 5, 2007, and ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Just Take Action, Inc. (Burrito Union), 1332 East Fourth Street, with Tim Nelson, president and 50 percent stockholder, and Rod Raymond, vice president and 50 percent stockholder.

Resolution 07-0405 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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:

Chaser's of Duluth, Inc. (Bedrock Bar), 2023 West Superior Street, for June 23, 2007, with the music and serving ceasing at 10:00 p.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 16, 2007, with the serving ceasing at 3:00 p.m.

Dubh Linn Pub & Billiards, LLC (Dubh Linn Pub & Billiards), 109 West Superior Street, for June 28, 2007, for Rock the Block event from 4:00 p.m. to 8:00 p.m.

Resolution 07-0407 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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 Third and Fourth avenues West on June 14, 2007, from 4:00 p.m. to 8:00 p.m., between First and Second avenues West on June 28, 2007, from 4:00 p.m. to 8:00 p.m., between Second and Third avenues West on July 12, 2007, from 4:00 p.m. to 8:00 p.m., between Lake Avenue and First Avenue East on July 26, 2007, from 4:00 p.m. to 8:00 p.m., between Lake Avenue and First Avenue West on August 9, 2007, from 4:00 p.m. to 8:00 p.m., and between First and Second avenues East on August 23, 2007, from 4:00 p.m. to 8:00 p.m. in conjunction with Rock the Block events, on First Street between First and Second avenues West and between Third and Fourth avenues West on July 13, 2007, from 6:00 p.m. to 12:00 a.m., and on Superior Street between Third and Fourth avenues East on July 14, 2007, from 6:00 p.m. to 12:00 a.m. 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 07-0408 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR GILBERT:

RESOLVED, that the reappointment by Mayor Bergson of Joan J. Morrison to the planning commission for a term expiring on December 31, 2010, is confirmed.

Resolution 07-0389 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of John Vigen (planning commission representative) to the board of zoning appeals, replacing Virgil Swing who resigned, for a term expiring on July 31, 2008, is confirmed.

Resolution 07-0390 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment to the planning commission by Mayor Bergson of Joan Hackner Barrett, replacing Virgil L. Swing, for a term expiring on December 31, 2010, is confirmed.

Resolution 07-0397 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Ordinance No. 9701 approved by the city council created an advisory board for; and

WHEREAS, Ordinance No. 9701 provides that members of the Downtown Waterfront Special Service District advisory board will be appointed by the Greater Downtown Council and approved by vote of the city council; and

WHEREAS, the Greater Downtown Council has acted to reappoint or appoint the following persons to the advisory board:

Paul Loraas, Vintage Properties, replacing Tim Pichetti, Mansel Properties	term expiring December 31, 2008
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Russ Stewart, city councilor	term expiring December 31, 2008
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Dan Markham, Reuben Johnson & Son, replacing Mike Polzin, Minnesota Power	term expiring December 31, 2009
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Penny Perry, Perry Framing, replacing Rick Dunbar, Uncle Dunbar's	term expiring December 31, 2009
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Bill Roberts, A&L Properties	term expiring December 31, 2009
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Roger Wedin, Oneida Realty term expiring December 31, 2009

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the above reappointees and appointees to the advisory board for the Downtown Waterfront Special Service District.

Resolution 07-0401 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city council requests that the proper city officials cause to be installed in the City Council Chamber historic photographs of the city of Duluth to be mounted in appropriate framing and for an amount not to exceed \$4,000, payable from Fund 100, Agency 010, Organization 1101, Object 5319.

RESOLVED FURTHER, that the council requests that the administration work with the city architect and city purchasing in pursuing this project.

Resolution 07-0413 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized to enter into an agreement with St. Louis County providing for the shared use of internet bandwidth at the cost of \$1,000 per month, said agreement to be substantially in the form of Public Document No. 07-0611-18 on file in the office of the city clerk; funds payable from Fund 100, Agency 015, Organization 1513, Object 5309.

Resolution 07-0411 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

The city council finds as follows:

(a) The Great Lakes, including Superior, Michigan, Huron, Erie and Ontario, the St. Lawrence River and the connecting channels form the largest surface fresh water system on earth; and

(b) The waters of the Great Lakes and St. Lawrence River basin are a shared public treasure; and

(c) The Great Lakes and St. Lawrence basin includes significant portions of eight states, including Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and two Canadian provinces, Ontario and Quebec; and

(d) Over 40 million people inhabit the basin, representing one-tenth of the U.S. population and one-quarter of the Canadian population; and

(e) Only one percent of the water in the Great Lakes is renewed each year; and

(f) The health and well-being of the region, its people, and future generations depend heavily on the integrity of the resource; and

(g) It is understood that sustaining accessible and adequate water supplies are essential to the people and economies of the basin for future generations; and

(h) Cities must act to ensure the protection and conservation of the waters and water dependent natural resources of the basin for future generations; and

(i) Effective water conservation and water stewardship involve a municipal commitment to best management practices and effective public outreach tools; and

(j) A conservation strategy outlining what constitutes responsible water planning, use and management would reinforce the municipal commitment to conservation; and

(k) The Great Lakes and St. Lawrence cities initiative has developed a water conservation framework for municipal water conservation and stewardship that embodies this strategy, will help the dissemination of best management practices and tools and allows signers the flexibility necessary to meet commitments in a way that reflects their community needs and circumstances and addresses differences in water sources, quality, quantity and usage; and

(l) By voluntarily participating in the Great Lakes and St. Lawrence cities initiative water conservation framework, municipalities indicate their intent to enhance the stewardship of the water resource within their jurisdictions; and

(m) The city of Duluth has committed to participating in the Great Lakes and St. Lawrence cities initiative water conservation framework.

NOW, THEREFORE, BE IT RESOLVED, that in its planning and management the city of Duluth will work towards achieving a 15 percent reduction in total water usage below year 2000 water consumption levels by the year 2015.

BE IT FURTHER RESOLVED, that the city of Duluth will pass ordinances and resolutions, if necessary, to help implement the city's plan to achieve the target reduction.

Resolution 07-0414 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with NorthStar Ford for the purchase and delivery of a 2008 one ton Ford E350 Econoline cargo van for the fleet services division in accordance with specifications and the vendor's quote of \$20,670.66 plus \$2,300 extended warranty plus \$1,493.09 sales tax for a total estimated amount of \$24,463.75, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580-CE-250-V701.

Resolution 07-0398 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Nels Nelson & Sons, Inc., for construction of year 2007 street improvement of Duluth Heights West for the engineering division for the apparent low bid of \$796,858.61, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Object 5530.

Resolution 07-0403 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Levine & Son, Inc., for construction of high pressure gas mains and services at various locations throughout the city for the utility operations division for the apparent low bid of \$220,987.50, payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5533, City Job No. 0263GS.

Resolution 07-0412 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech, Ojard and Associates, P.A., for the sum not to exceed \$10,450, from Capital Fund 450, Department Agency Architects - 030, Object 5530, Project CP2007 OT-0703, for providing certain professional services to the city of Duluth in connection with Phase II repair of the City Hall 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. 07-0611-19.

Resolution 07-0415 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to execute and implement an amended contract, in substantially the form of the contract on file with the clerk as Public Document No. 07-0611-20, between Mn/DOT, St. Louis County, Hermantown and Duluth, for reconstruction of Airport Road, which contract amends the contract authorized by Resolution 06-0448.

Resolution 07-0416 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement a contract, substantially the same as that on file with the city clerk as Public Document No. 07-0611-21, between the city of Duluth and Spirit Mountain recreation area authority, amending the contract authorized by Resolution 06-0141 pertaining to the self insurance fund.

Resolution 07-0400 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor licenses for the period ending August 31, 2007, subject to departmental approvals:

Duluth Elk's Lodge #133, 4250 Haines Road.

MKR Limited (Bennett's on the Lake), 600 East Superior Street.

AND BE IT FURTHER 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 3.2 percent malt liquor license until July 5, 2007, when the on sale intoxicating liquor license is issued for the period ending August 31, 2007, subject to departmental approvals:

Just Take Action, Inc. (Burrito Union), 1332 East Fourth Street.

Resolution 07-0406 was adopted upon the following vote:

Yeas: Councilors Gilbert, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Abstention: Councilor Krause -- 1

Absent: Councilor Johnson -- 1

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0386, by Councilor Johnson, authorizing city officials to contract with Viele Contracting, Inc., for approximately 17,700 tons of Class V gravel for year 2007 at a total estimated amount of \$121,208.72, was introduced for discussion.

Councilor Gilbert moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Tom Robertson expressed concerns relative to the bidding on this product, in that the current supplier does not have a certified scale for weighing this product.

Resolution 07-0386 was adopted as follows:

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are authorized to contract with Viele Contracting, Inc., for the purchase and delivery of approximately 17,700 tons of Class V gravel as needed during year 2007 for the public works and utilities department in accordance with the city's specifications and the vendor's low bid of \$113,811 (includes delivery) plus sales tax of \$7,397.72 for a total estimated amount of \$121,208.72, terms net 30, and payable from the following funds:

(a) \$28,761.39 for 4,200 tons (Requisition No. 07-0029) payable from General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5224; and

(b) \$92,447.33 for 13,500 tons (Requisition No. 07-0126) payable from the following funds:

(1) \$44,744.51 (48.4 percent) from Water Fund 510, Department/Agency 500, Organization 1945, Object 5224;

(2) \$4,160.13 (04.5 percent) from Gas Fund 520, Department/Agency 500, Organization 1945, Object 5224;

(3) \$34,852.64 (37.7 percent) from Sewer Fund 530, Department/Agency 500, Organization 1945, Object 5224; and

(4) \$8,690.05 (9.4 percent) from Stormwater Fund 535, Department/Agency 500, Organization 1945, Object 5224.

Resolution 07-0386 was adopted upon the following vote:

Yeas: Councilors Gilbert, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Little -- 1

Absent: Councilor Johnson -- 1

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0402 and 07-0404, approving and denying, respectively, a C-5 plan to Golf Properties II, LLC, for property located on Maple Grove Road, by Councilor Stauber, were introduced for discussion.

Councilor Krause opposed Resolution 07-0402 [*approving*] for reasons of: the project is being built way beyond the size of the land; the planning commission did not support it; because of the size of the project, the parking is going to be on other properties; it is in a high traffic area; this is a nonconforming plan for this project and there is high water runoff from the hill there.

Resolution 07-0402, approving the C-5 plan, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that approval is hereby granted to allow construction of a 14,510 square foot, two story commercial building, parking and stormwater ponds on property located on Maple Grove Road and legally described as follows:

N1/2 of the NW1/4 of the NW1/4 of the NW1/4, Section 19, Twp 19N, Rng 14W, except the west 548.35 feet.

RESOLVED FURTHER, that approval is subject to the following conditions:

(a) That the project be limited to, constructed and maintained according to the following documents prepared by BDP Architects and submitted as part of the application for C-5 plan approval by Golf Properties II, LLC, and on file with the department of planning as File No. 07004:

- (1) Proposed site plan dated 05-14-2007;
- (2) Proposed landscape plan dated 05-14-2007;
- (3) Building elevations of the north, south, east and west;
- (4) Proposed site lighting plan dated 03-21-2007, including light fixtures specified;
- (5) Off premises sign detail dated 03-22-2007;
- (6) Prepared by Bocht Engineering "Golf Properties Site Plan" and Golf Properties Utility Plan"; and

(b) That the applicant provide the following documents to the director of planning before building permits are issued:

(1) Agreements that meet the city attorney's approval memorializing the designation of the 16 parking stalls on the Cellular One site to the Golf Properties II site and that these stalls are not to be counted toward off street parking for the Cellular One site;

(2) Agreements that meet the city attorney's approval memorializing the designation of the 17 parking stalls on the Share Advantage Credit Union site to the Golf Properties II site and that these stalls are not to be counted toward off street parking for the credit union site;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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(3) A cross easement agreement granting the Golf Properties II site access to the 16 parking stalls on the Cellular One site as well as the 13 stalls along the Golf Properties II building;

(4) A cross easement agreement granting the Golf Properties II site access to the 17 parking stalls on the credit union site as well as access to the new driveway;

(5) Provide written documentation that the applicant has initiated the process of altering the plat restriction on driveways onto Maple Grove Road from the property.

RESOLVED FURTHER, that the action of the planning commission is reversed.

Resolution 07-0402 was adopted upon the following vote:

Yeas: Councilors Gilbert, Little, Ness, Stauber, Stewart and President Stover -- 6

Nays: Councilors Krause and Reinert -- 2

Absent: Councilor Johnson -- 1

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0404, denying the C-5 plan, failed upon the following vote (Public Document No. 07-0611-22):

Yeas: Councilors Krause and Reinert -- 2

Nays: Councilors Gilbert, Little, Ness, Stauber, Stewart and President Stover -- 6

Absent: Councilor Johnson -- 1

- - -

Resolution 07-0409, by Councilor Johnson, amending Resolution 06-0449 relating to Highway 53 reconstruction and increasing cost by \$400,000, was introduced for discussion.

Councilor Krause opposed the resolution because of the reported way the state is treating residents in negotiations for their property with the threat of condemnation.

Resolution 07-0409 was adopted as follows:

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement substantially the same as that on file with the city clerk as Public Document No. 07-0611-24, between the city, St. Louis County and Minnesota department of transportation, which agreement amends the agreement authorized by Resolution 06-0449 pertaining to property acquisition for the Highway 53 reconstruction, increasing the amount by \$400,000 for a new total of \$1,900,000; payable from the Permanent Improvement Fund 411, Agency 035, Object 5530, and would be reimbursed from the city's municipal state aid construction account, Project PI0391TR.

Resolution 07-0409 was adopted upon the following vote:

Yeas: Councilors Gilbert, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Johnson -- 1

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute an agreement with Duluth Public Arts Fund, Inc., and Duluth Sister Cities Commission, Inc., under which the city grants to such organizations a license to market the city's logo and which cancels the previous

license agreement for use of the city's waterfront logo, which agreement is on file in the office of the city clerk as Public Document No. 07-0611-25.

Resolution 07-0422 was unanimously adopted.

Approved June 11, 2007

HERB W. BERGSON, Mayor

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## INTRODUCTION AND CONSIDERATION OF ORDINANCES

### ORDINANCE TABLED

BY COUNCILOR KRAUSE

06-058 - AN ORDINANCE AMENDING SECTIONS 44-1, 44-2, 44-5, 44-11, 44-14, 44-33 AND 44-34 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING LIGHTED SIGNS.

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

Councilor Krause moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Todd Johnson and Matt Harrold, representing the sign industry, expressed concern over parts for the ordinance for reasons of: since the ordinance calls electronic signs "flashing signs," it affects almost every sign around; you will be telling existing businesses that they need to remove their electronic signs; the ordinance will produce some legal challenges; this issue should be studied further; the "findings" section of the ordinance should be rewritten or removed because no "findings" have been produced and it is unknown where the nits level (candelas per square meter) in the daytime came from.

Councilors Gilbert, Little and Stauber expressed opposition to the ordinance because: it looks like different parts are just being picked out of the air and thrown into the ordinance; with a moratorium, there would have been a sensible, rational basis for putting together a comprehensive ordinance; by passing something now, issues that were not thought about will come forward; this is a very complex and important issue; the one sign that was causing a problem has been taken care of; it is not going to accomplish any thing; if problems in the future come about, then an ordinance can be created; this needs to be addressed as a cohesive package and the League of Minnesota Cities and other cities are studying this and we should wait until that is done.

Councilor Krause moved passage of the ordinance and the same failed upon the following vote (Public Document No. 07-0611-26):

Yeas: Councilors Krause and Ness -- 2

Nays: Councilors Gilbert, Little, Reinert, Stauber, Stewart and President Stover -- 6

Absent: Councilor Johnson -- 1

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

07-035 - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT THE DULUTH INTERNATIONAL AIRPORT TO THE CITY OF DULUTH AT NO COST FOR THE PURPOSE OF CREATING A SEPARATE TAX PARCEL.

- - -

BY COUNCILOR STAUBER

07-037 - AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN PROPERTY NEAR BECKS ROAD TO STEVEN J. VUJCEVIC FOR \$1.

- - -

BY COUNCILORS STAUBER, STEWART AND REINERT

07-036 - AN ORDINANCE AMENDING CHAPTER 47, ARTICLE III, OF THE DULUTH CITY CODE, REGULATING TAXICABS.

Councilor Reinert moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Tony Mitchell, Kim McKay and Amy Ambli opposed the ordinance for reasons of: it will produce negative effects from the public, drivers and tourists; a report (Public Document No. 07-0611-28(b)) on taxicab deregulation shows the fares increase and service decreases; news articles (Public Document No. 07-0611-28(b)) from other cities that have deregulated their taxi business show that they have changed and are now regulating taxi's; Minneapolis, Rochester, St. Cloud and St. Paul all regulate their taxi operations; regular users of the cabs, those on fixed incomes, cannot afford not to know what the rates will be on daily basis; with deregulation you would be trusting the drivers to not take advantage of customers and there has been miscommunication from the taxicab owner proposing these changes.

Dan O'Hearon supported the ordinance relative to elimination of rate settings but not the higher insurance requirements and the ten year restriction. He felt that a certified mechanics inspection would be better than the ten year old maximum. Mr. O'Hearon noted that seven other taxicab owners (Public Document No. 07-0611-28(c)) supported the rate removal but not the insurance's increased requirements.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

07-030 (9836) - AN ORDINANCE AMENDING SECTION 50-123 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE USES IN AN INDUSTRIAL PARK DISTRICT.

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

- - -

BY COUNCILOR STAUBER

07-031 (9837) - AN ORDINANCE AMENDING ORDINANCE 9828 ADDING A LEGAL DESCRIPTION TO THE SUBJECT PROPERTY.

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

- - -

BY PRESIDENT STOVER (INTRODUCED BY COUNCILOR JOHNSON)

07-032 (9838) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON GARFIELD AVENUE TO NORTHERN TRENDS BUILDING AND DESIGN, INC., FOR \$11,556.60.

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

- - -

BY PRESIDENT STOVER (INTRODUCED BY COUNCILOR JOHNSON)  
07-034 (9839) - AN ORDINANCE AMENDING CHAPTER 48, ARTICLE VI, BY ADDING A NEW SECTION 48-174 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 8:40 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9836**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING SECTION 50-123 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE USES IN AN INDUSTRIAL PARK DISTRICT.

The city of Duluth does ordain:

Section 1. That Section 50-123 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 50-123. Permitted uses.

A building or premises in the IP industrial park district shall be used only for the following purposes:

(a) Light manufacturing, wholesaling, jobbing, warehousing, animal shelters, municipal animal pounds, distributive and general administration uses which in general are dependent on raw materials refined elsewhere. Such uses shall not include those listed under the M-2 manufacturing district;

(b) Commercial services and recreational uses which are incidental to and supportive of industrial park uses if said uses are granted a special use permit under the procedures of Article IV of this Chapter. Such special use permit shall be granted only if a commercial service or recreational use is found to be appropriate in terms of the specific industrial park's character, purposes, size and location. Such supportive uses shall not include activities which are primarily retail in nature and devoted to the sale of consumer goods;

(c) Accessory building or use customarily incidental and secondary in use and area to any of the above uses; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building. One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(d) Other similar uses as those enumerated in paragraphs (a), (b) and (c) of this Section, as determined by the board of zoning appeals, except that the uses permitted in the M 1 and M-2 manufacturing districts, and solid waste disposal sites and yard waste compost facility sites shall not be allowed. The applicant for a use authorized by this paragraph shall provide information clearly demonstrating that the proposed use meets the following standards:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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(1) The use does not conflict with any state statute or provision of this Code regulating nuisances;

(2) The use will not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses permitted;

(3) The use is not likely to create conflicts with other uses permitted.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 22, 2007)

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

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Johnson -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 11, 2007  
Approved June 11, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9837**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING ORDINANCE 9828 ADDING A LEGAL DESCRIPTION TO THE SUBJECT PROPERTY.

The city of Duluth does ordain:

Section 1. That ordinance 9828, which establishes the Alfred and Jane McCordic Residence (Immigrant House Bed and Breakfast), 2104 East Superior Street, as a Duluth heritage preservation landmark, is amended by adding thereto a new section three to read as follows:

Section 3. The legal description of the subject property is as follows:

Lots 1 and 2, Block 53 and westerly 25 feet of Lot 3, Block 53, including 25-1/2 feet of vacated Branch Street, adjoining.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 22, 2007)

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

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Johnson -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 11, 2007  
Approved June 11, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9838**

BY PRESIDENT STOVER (INTRODUCED BY COUNCILOR JOHNSON):  
 AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY  
 ON GARFIELD AVENUE TO NORTHERN TRENDS BUILDING AND  
 DESIGN, INC., FOR \$11,556.60.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 3 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That, upon recommendation of the director of administration, the council has determined that it is appropriate to sell the below-described property to Northern Trends Building and Design, Inc., at its fair market value but without competitive bidding pursuant to the authorization of Section 2-177 of the Code because the acquisition of the property by said company is necessary to allow construction of Code-required handicapped access facilities for their adjacent building and to provide parking for the expansion of their business in that building.

Section 3. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed to Northern Trends Building and Design, Inc., a Minnesota corporation, for the total sum of 11,556.60 and to execute all documents necessary with regard to said conveyance:

The westerly 67.75 feet of Lots 82 and 84, and the northerly two inches of the westerly 67.75 feet of Lot 86, all in Block 40, RICE'S POINT.

Section 4. That the amount paid to city pursuant to this ordinance shall be paid into the following funds:

FUND	AGENCY	ORGANIZATION	ACCOUNT NO.	% OF FUND
510	500	1900	4853	23
520	500	1900	4853	29
530	500	1900	4853	28
535	500	1900	4853	20

Section 5. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: July 22, 2007)

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

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Johnson -- 1

ATTEST:  
 JEFFREY J. COX, City Clerk

Passed June 11, 2007  
 Approved June 11, 2007  
 HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9839**

BY PRESIDENT STOVER (INTRODUCED BY COUNCILOR JOHNSON):

AN ORDINANCE AMENDING CHAPTER 48, ARTICLE VI, BY  
ADDING A NEW SECTION 48-174 OF THE DULUTH CITY CODE,  
1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Chapter 48, Article VI, of the Duluth City Code, as amended, is amended by adding a new Section 48-174 to read as follows:

Sec. 48-174. Cross connection control.

(a) If, in the judgment of the department or building official, an approved backflow prevention assembly is required for the safety of the water system, the department shall give notice to said customer to install such an approved backflow prevention assembly(ies) at specific location(s) on the customer's premises. The customer shall install such approved assembly(ies), within the time period ordered by the department, at the customer's own expense; and failure, refusal or inability on the part of the customer to install, have tested and maintain said assembly(ies) shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met;

(b) The customer's system should be open for inspection at all reasonable times to authorized representatives of the department or building official to determine whether cross connections or other structural or sanitary hazards, including violation of city regulations, exist;

(c) In the case of premises having (1) internal cross connections that cannot be permanently corrected and controlled, or (2) intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line and at the customer's own expense;

(d) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly on each service to the premises which shall be installed at the customer's own expense.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: July 22, 2007)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Johnson -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 11, 2007

Approved June 11, 2007

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9840**

BY COUNCILOR LITTLE:

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE VII, BY ADDING A NEW SECTION 10-34.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Chapter 10, Article VIII, of the Duluth City Code, 1959, as amended, is amended to add a new Section 10-34.1 to read as follows:

Sec. 10-34.1. Backflow preventers--testing and registration fee.

Installation, maintenance and testing of backflow preventers shall be according to the state of Minnesota Plumbing Code. Annual testing of reduced pressure zone backflow preventers is required. Upon receipt of notice for annual testing from the building official, property owners shall have 30 days in which to have backflow preventer testing accomplished by a person certified by the state of Minnesota to perform such testing and to furnish such test results to the building official. All such test results shall contain the certification of the individual performing the test. The building official may assess a registration fee to the property owner for administering the backflow preventer testing program, such fee shall be set in accordance with Section 31-6(a) of this Code. Failure to comply with the provisions of this Section shall be cause to terminate water service upon ten days notice.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 22, 2007)

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

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Johnson -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 11, 2007

Approved June 11, 2007

HERB W. BERGSON, Mayor

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**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, June 25, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on May 14 and 29, 2007, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0625-01 Allied Taxi Company communication regarding proposed amendment of taxicab regulations (07-036-O). -- Received

07-0625-02 Anthony D. Mullozzi withdrawing petition to vacate Fifth Street from 34th Avenue East and extending west 140 feet, adjacent to Lot 11, Block 7, Congdon Park Second Division, Duluth. -- Received

07-0625-09 The following communications communication regarding establishment of new water rates (07-0391R): (a) Peter Handberg; (b) Pat Toland. -- Received

07-0625-10 The following communications regarding proposed rental licensing (07-039-O): (a) Robert Collison; (b) John Powers. -- Received

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**REPORTS FROM THE ADMINISTRATION**

07-0625-12 Administration report on review of golf course operations as requested by Resolution 07-0350. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

07-0625-03 Assessor letter of sufficiency of petition to vacate 20 foot wide alley which is contained within Block 45, London Addition of Duluth. -- Received

07-0625-11 Auditor comprehensive annual financial report for the city of Duluth for the year ended December 31, 2006. -- Received

07-0625-04 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Retrieve a Golden of Minnesota on August 18, 2007; (b) St. Margaret Mary Church on September 16, 2007. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

07-0625-05 Commission on disabilities minutes of May 2, 2007, meeting. -- Received

07-0625-06 Duluth/North Shore Sanitary District minutes of May 9, 2007, meeting. -- Received

07-0625-07 Duluth human rights commission minutes of May 9, 2007, meeting. -- Received

07-0625-08 Parks and recreation commission minutes of May 9, 2007, meeting. -- Received

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**RESOLUTION TABLED**

Councilor Johnson moved to remove Resolution 07-0391, establishing Duluth water rates effective with meter readings after December 31, 2007, and rates charged for water furnished to political subdivisions or state or federal government installments located outside the corporate limits of the city effective with meter readings after July 31, 2007; rescinding all prior inconsistent or conflicting resolutions with respect to such rates, from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to amend the resolution as follows:

(a) Amend the first paragraph of Resolution 07-0391 as follows:

“RESOLVED, effective with the water meter readings after December 31, 2007, customers of the water utility of the city of Duluth, other than cities, whose water supply is measured by meter, shall be charged for such water in accordance with the following schedule of rates:

1.	Monthly metered volume (except for customers referred to in 2., <del>and 3.</del> <u>and 4.</u> below)	Rate/100 cubic feet
	first 4,000 cubic feet	\$2.63
	next 96,000 cubic feet	\$1.71
	next 900,000 cubic feet	\$1.43
	over 1,000,000 cubic feet	\$1.18
2.	Monthly metered volume (for customers in city at elevation 290+ feet above Lake Superior)	Rate/100 cubic feet
	first 4,000 cubic feet	\$2.63
	over 4,000 cubic feet	\$1.71
3.	Monthly metered volume (for customers outside city)	\$3.98
4.	<u>Monthly metered volume for Spirit Mountain recreation area authority</u>	<u>Rate/ 100 cubic feet</u>
	<u>first 4,000 cubic feet</u>	<u>\$2.01</u>
	<u>next 96,000 cubic feet</u>	<u>\$1.31</u>
	<u>next 900,000 cubic feet</u>	<u>\$1.09</u>
	<u>over 1,000,000 cubic feet</u>	<u>\$0.90</u>
4.	Fixed meter charges (in addition to volume charges) based on	
5.	size of water service meter	
	1 inch or less	\$ 3.61

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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1-1/2 inch	\$ 6.31
2 inch	\$ 10.82
3 inch	\$ 39.66
4 inch	\$ 50.47
6 inch	\$ 75.71
8 inch	\$104.55
10 inch	\$136.99";

(b) Add the following sentence to the end of the statement of purpose: "The resolution provides that rates charged to the Spirit Mountain Recreation Area be the same as those charged to the authority pursuant to Resolution No. 05-0469," which motion was seconded and discussed.

Councilors Stauber and Reinert supported the amendment for reasons of: it is appropriate for the seasonal type of heavy usage; any increase would seriously affect the cost of their operations and this increase would be either passed on to the skiers or taxpayers.

Councilor Johnson opposed the amendment for reasons of: the golf courses will want the same type of rate adjustment; looking at the tourism tax would be better source to assist Spirit Mountain and this is setting a bad precedence of helping one entity over others.

Councilor Stauber's amendment failed upon the following vote:

Yeas: Councilors Gilbert, Reinert and Stauber -- 3

Nays: Councilors Johnson, Krause, Little, Ness, Stewart and President Stover -- 6

Councilor Stauber moved to amend the resolution to:

(a) Limit the increase to three percent;

(b) Keep the service charges to Proctor, Hermantown and Rice Lake Township at the 2007 rate; which motion was seconded and discussed.

Councilor Stauber supported the amendment for reasons of: the three percent is reflective of employee wage cost increases; beyond the three percent wage costs it would be for capital improvements; last year a huge amount of capital improvements were funded by increasing rates and that there is a lack of support for a nine percent increase.

Councilors Reinert, Johnson, Stewart and President Stover opposed the amendment for reasons of: with only the three percent increase it does not increase any reserves for capital improvements; there are aged watermains that need to be replaced; there has been a professional engineering services review and recommendation of these proposals; hundreds of hours and \$30,000 was spent to determine what is needed to get ahead of the curve on the maintenance needed to the aged system and the water fund is running in the "red."

The amendment failed as follows:

Yeas: Councilors Krause, Little, Ness and Stauber -- 4

Nays: Councilors Gilbert, Johnson, Reinert, Stewart and President Stover -- 5

Councilors Gilbert, Ness, Krause, Little, and Stauber spoke in opposition to the resolution citing reasons of: the study should have included more options, such as rates for those on fixed incomes; contracts with large users should be renegotiated; the study does not state what costs are factored in with new users outside of the city; there should be not comparison of Duluth users to non-Duluth users; the study does not reflect costs associated with the stormwater utility; until the retiree health care issue is fully resolved, it is not appropriate to increase the rates to the

citizens; the amounts of the proposed increases over three years are almost three times the rate of inflation; comparison rates of other cities show Duluth's rates are on the high side of the scale and last year there also was a rate increase.

Councilors Reinert and Johnson supported the resolution for reasons of: by the nature of a long city built on a hill, utility expenses are higher; preventative maintenance is cheaper than waiting until it is too late; we should not be waiting for the other issues to be resolved and this needs to be done now.

Resolution 07-0391 failed upon the following vote (Public Document No. 07-0625-13):

Yeas: Councilors Johnson, Reinert, Stewart and President Stover -- 4

Nays: Councilors Gilbert, Krause, Little, Ness and Stauber -- 5

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

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement in substantially the form of that on file with the city clerk as Public Document No. 07-0625-14, between city of Duluth and Public Employee Retirement Association regarding standards and procedures for investment of post-employment retirement benefit funds in a trust through the state board of investment and payment of an administrative fee.

Resolution 07-0420 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to enter into a contract substantially in the form of that on file with the city clerk as Public Document No. 07-0625-15, between the city and Van Iwaarden Associates for actuarial services related to retiree benefits in the amount of not to exceed \$20,500, payable from Fund 630, Agency 036, Organization 1650, Object 5441.

Resolution 07-0445 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor licenses, 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 26, 27, 28 and 29, 2007, with Dawn Pearce, manager.

Northland Vietnam Veterans Association, Bayfront Park, for August 9, 10, 11 and 12, 2007, with Kathy Camps, manager.

Holy Rosary School, 2802 East Fourth Street, for September 29, 2007, with Mary Bjorklund, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Miracle League of Minnesota, Inc. (Reggae Festival), Bayfront Park, for July 14, 2007, with Kevin Thoresen, manager.

Resolution 07-0423 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

Duluth Police Softball Team, Wheeler Field, for July 28 and 29, 2007, with Matt McShane, manager.

Resolution 07-0424 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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:

Pioneer Investments Duluth, LLC (Hero's), 323 West First Street, for July 13, 2007, with the music and serving ceasing at midnight.

Hospitality of Duluth, LLC (Aces on First), 113 West First Street, for July 13, 2007, with the music and serving ceasing at midnight.

Hippo Down the Street, LLC (Carmody Irish Pub), 308 East Superior Street, for July 14, 2007, with the music and serving from 8:00 p.m. to midnight.

Resolution 07-0425 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption (bingo) to the Solway volunteer fire department 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 07-0426 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment of John M. Eagleton and the appointment of Roy A.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Niemi, replacing James Laumeyer, by Mayor Bergson to the Duluth airport authority for terms expiring on July 1, 2010, are confirmed.

Resolution 07-0427 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment to the planning commission by Mayor Bergson of Jim Stebe, replacing Allan C. Beaulier who resigned, for a term expiring on December 31, 2011, is confirmed.

Resolution 07-0428 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment to the sanitary sewer board of the Western Lake Superior Sanitary District by Mayor Bergson of William Majewski, for a term expiring on July 1, 2010, is confirmed.

Resolution 07-0434 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are authorized to contract with Northland Constructors of Duluth as primary and Lakehead Blacktop and Materials as secondary for the purchase of bituminous materials hot mix regular and with Lakehead Blacktop and Materials as primary for bituminous materials cold mix fine as needed for contract year beginning June 1, 2007, and ending May 31, 2008, for the public works department in accordance with the city's specifications and the vendors' low bids based on an estimated \$203,200 plus \$13,208 sales tax, for an estimated total amount of \$216,408, terms net 30, FOB picked up, payable from General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5222 and from the following water, gas, sanitary and storm accounts:

Water Fund 510, Department/Agency 500, Organization 1945, Object 5222;

Gas Fund 520, Department/Agency 500, Organization 1945, Object 5222;

Sanitary Fund 530, Department/Agency 500, Organization 1945, Object 5222;

Storm Fund 535, Department/Agency 500, Organization 1945, Object 5222.

Resolution 07-0399 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architectural Resources, Inc., for the sum not to exceed \$21,020, from Fund 510, Department/Agency 500, Organization 1905, Object 5535, for providing certain professional architectural landscape design services to the city of Duluth in connection with Phase I and Phase

Il of the fencing and security system for the Lakewood water treatment plant and pump station, 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. 07-0625-16.

Resolution 07-0419 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that it is deemed necessary for the public conveyance and safety that Minnesota Bridge Number L8746 on Lincoln Park Drive over Miller Creek (City Job No. 0622TR) be reconstructed. This project will not be eligible for municipal state aid funds unless it is constructed to rural and suburban state aid standards for bridge replacement projects not on the state aid system for an existing average daily traffic count of 150 to 400 vehicles, or unless a variance is granted; and

Practical limitations require that narrower bridge width, traffic lane and shoulder widths, steeper recovery area inslopes, shorter recovery area, a shorter vertical curve and a smaller radius horizontal curve than dictated by standards be used. This results in a 26 foot overall bridge with in lieu of the required 32 foot width, 11 foot traffic lanes with two foot shoulders in lieu of 12 foot lanes with four foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, nine foot recovery area in lieu of ten foot recovery area, 150 foot long vertical curve with A.D. of 80 in lieu of a 291 foot long vertical curve, and a 150 foot radius horizontal curve at -0.02 superelevation in lieu of 273 foot radius at 0.06 superelevation which requires a variance from the Commissioner of Transportation in accordance with Minnesota Rules Chapter 8820.3300.

FURTHER RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules for State Aid Operations 8820.9922, whereby the rural and suburban state aid standards for bridge replacement projects not on the state aid system be reduced for this project allowing for a 26 foot overall bridge width in lieu of a 32 foot width, 11 foot traffic lanes with two foot shoulders in lieu of 12 foot lanes with four foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, nine foot recovery area in lieu of ten foot recovery area, 150 foot long vertical curve with A.D. of 80 in lieu of a 291 foot long vertical curve, and a 150 foot radius horizontal curve at -0.02 superelevation in lieu of 273 foot radius at 0.06 superelevation, and further agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees from any and all claims, demands, actions or causes of action arising out of or by reason of the reconstruction of Minnesota Bridge No. L8476 on Lincoln Park Drive over Miller Creek in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9922, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever arising as a result of the granting of this variance.

Resolution 07-0432 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

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. 07-0625-17, with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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the Duluth Steam Cooperative Association, for the management and operation of Duluth Steam District No. 1.

Resolution 07-0440 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 06-0637, passed on September 11, 2006, for professional engineering services with AE2S, Inc., for a water utility cost of service study and water rate design for the city of Duluth and its customers be amended in the amount of \$8,566 for a new total of \$33,454, to be paid from Water Fund 0510.

Resolution 07-0442 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

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. 07-0625-18 with the St. Louis and Lake Counties Regional Railroad authority for the relocation and operation of city utilities in conjunction with the Lakewalk Recreational Trail from 26th Avenue East to 36th Avenue East and utility relocations at no cost.

Resolution 07-0443 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to execute and implement an amended contract between Mn/DOT, the city of Duluth and Short, Elliot Hendrickson, Inc., for a transportation study along London Road (T.H. 61) in Duluth, which contract extends the completion date of the contract authorized by Resolution 05-0750, passed on November 14, 2005, to January 31, 2009.

Resolution 07-0444 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the city of Duluth gives to Officer Brad Wick, of the city of Duluth police department, the police canines Hans and Rocky in recognition of the completion of their years of service to the city.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute any documents necessary to transfer ownership of Hans and Rocky to Brad Wick.

Resolution 07-0429 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR LITTLE:

RESOLVED, that the city of Duluth gives to Officer Kelly Greenwalt, of the city of Duluth police department, the police canine Apollo in recognition of the completion of Apollo's years of service to the city.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute any documents necessary to transfer ownership of Apollo to Kelly Greenwalt.

Resolution 07-0430 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into a mutual aid agreement among various law enforcement agencies of Northeastern Minnesota and pursuant to Minnesota Statutes Section 471.59, said agreement to be substantially in the form of Public Document No. 07-0625-19 on file in the office of the city clerk.

Resolution 07-0438 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement a contract, substantially the same as that on file with the clerk as Public Document No. 07-0625-20, between the city and Duluth Sister Cities Commission, Inc., for construction of a peace garden memorial at Enger Park, in amount not to exceed \$15,000, payment from the tourism tax fund balance, Fund 258, Account 2450.

Resolution 07-0421 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to utilize a form of agreement to be substantially in the form of Public Document No. 07-0625-21 on file in the office of the city clerk providing for the services as game officials for youth and adult athletic league program activities. Payments for such officiating shall not exceed the amount budgeted and shall be paid from Fund 210, Agency 030, Organization 3190, Object 5319.

Resolution 07-0431 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

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. 07-0625-22, with the state of Minnesota, office of higher education, to allow the library to participate in the

Minnesota Library Information Network (MnLINK) as a Gateway server site with all sums received as a result thereof to be paid to Fund 100, Agency 300, Organization 1702, Revenue Source 4654.

Resolution 07-0435 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0449, by Councilor Stauber, authorizing execution of professional service agreement with Short Elliott Hendrickson, Inc. for Lakewalk schematic design services in an amount not to exceed \$9,600; and Resolution 07-0446, by councilors Stauber, Gilbert and Johnson, recommending construction of administration's Alternative #4 for Lakewalk from 20th Avenue East to 25th Avenue East, were introduced for discussion.

Councilor Gilbert moved to suspend the rules to hear from speakers on the resolutions, which motion was seconded and unanimously carried.

Alison Clarke and John Sanford spoke in support of the resolutions, noting the reasons of: there are time constraints/requirements relative to the construction of the Lakewalk; the resolutions support the continuation of the Lakewalk that all citizens support and the option recommended provides the public the most shoreland use that is now possible.

Resolutions 07-0449 and 07-0446 were adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement (Public Document No. 07-0625-24) with Short Elliott Hendrickson, Inc., for schematic design for Lakewalk between 19th and 25th avenues East, as specified in their proposal for these services dated June 18, 2007, payment not to exceed \$9,600, payable from general fund miscellaneous (100-700-1407-5441).

Resolution 07-0449 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILORS STAUBER, GILBERT AND JOHNSON:

The city council finds as follows:

(a) The council supports the administration's efforts to research design alternatives to construct Lakewalk from 20th Avenue East to 25th Avenue East; and

(b) The administration has conducted a public process to describe design alternatives and solicit public comment on those alternatives; and

(c) The result of the public review process is that Alternative #4 has received broad public support and is also favored by staff.

NOW, THEREFORE, BE IT RESOLVED, that the council supports Alternative #4, which provides for the standard ten foot wide asphalt Lakewalk trail from 23rd Avenue East to 25th Avenue East along the shore, a shore footpath from 20th Avenue East to 23rd Avenue East and improvements along the upper side of Water Street from 20th Avenue East to 23rd Avenue East

to provide continuity for Lakewalk users unable or not wishing to use the shore footpath in this section of Lakewalk.

Resolution 07-0446 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0433, by Councilor Stewart, approving settlement of city claim against Minnesota Council on Compulsive Gambling, Inc., in the amount of \$15,000, was introduced for discussion.

Councilor Stauber moved to return the resolution to the administration, without action, which motion was seconded and discussed.

Councilor Stauber opposed the resolution for reasons of: the legislative auditor found that it was less than \$22,000 which was bookkeeping errors that could be found; that this amount is less than one percent of the total amount and also that there was no criminal wrong doing or personal gain.

Councilor Stauber's motion failed upon the following vote:

Yeas: Councilors Stauber and Stewart -- 2

Nays: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Abstention: Councilor Little -- 1

Resolution 07-0433 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to settle its claim against Minnesota Council on Compulsive Gambling, Inc., for a total amount of \$15,000 arising out of a contract dispute and resulting in an action filed in St. Louis County District Court and entitled *City of Duluth v. Minnesota Council on Compulsive Gambling*, St. Louis County File No. 69-DU-CV-07-376; funds to be deposited in Fund 256, Agency 030, Revenue Source 4680.

Resolution 07-0433 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Reinert and President Stover -- 5

Nays: Councilors Ness, Stauber and Stewart -- 3

Abstention: Councilor Little -- 1

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0450, by Councilor Stewart, amending Resolution No. 06-0495 designating areas for the 2007 city deer hunt, was introduced for discussion.

Councilor Stewart moved to suspend the rules to hear from a speaker on the resolution, which motion was seconded and unanimously carried.

Phil Lockett, representing Arrowhead Bowhunters Alliance (ABA), reviewed the details that the ABA and city staff agreed upon.

Councilor Krause expressed concern for Zone 12B, where there are a lot of children that play in the woods and accidents could happen.

Resolution 07-0450 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that paragraph (f) of Resolution No. 05-0306, as amended by Resolution No. 06-0495, is hereby amended by deleting Public Document No. 06-0626-14 therefrom and by substituting Public Document No. 07-0625-23 therefore.

Resolution 07-0450 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0437, by Councilor Stauber, granting a special use permit to Minnesota Teen Challenge - Duluth for a transitional living program for property located at 2 East Second Street, was introduced for discussion.

Councilor Stauber moved to suspend the rules to hear from a speaker on the resolution, which motion was seconded and unanimously carried.

Jonathan Miller, representing Minnesota Teen Challenge - Duluth, expressed support for the resolution.

Council Krause stated that he had no problems with the organization, but that the location has one of the highest crime rates in the city and therefore is not the best location.

Resolution 07-0437 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that Minnesota Teen Challenge - Duluth has submitted to the city council a request for a special use permit, in conformance with the requirements of Section 245A.11 of the Minnesota Statutes, to operate a state licensed program for a transitional living program on property described as Lots 2 and 4, Duluth Proper First Division East Second Street (FN 07058), 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

Minnesota Statute 245A.11 Subdivision 4 (2), special conditions for residential programs, requires that the municipality grant the residential program a conditional use or special use permit when there is an existing residential program within 1,320 feet; and because Minnesota Teen Challenge - Duluth, located at 2 East Second Street, is within said radius of 104 West First Street, Life House, and 221 North First Avenue West, Bridge House, a special use permit is required; and

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 the following conditions are observed:

(a) Adequate supervision of participants to assure there are no nuisances to the public; and

(b) Sidewalks are to be kept cleaned-up and clear to allow for public use.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Minnesota Teen Challenge - Duluth to allow for the operation of a residential program as defined

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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by Minnesota Statute and defined by Duluth City Zoning Code as a “commercial rooming house” which is a permitted use in the C-4, central business district zone, at 2 East Second Street.

Resolution 07-0437 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Approved June 25 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a lease agreement (Public Document No. 07-0625-25) with St. Louis and Lake counties regional railroad authority 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, 2007, through September 30, 2007, at no cost to the authority.

Resolution 07-0418 was unanimously adopted.

Approved June 25, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0439, by President Stover, in support of a 2007 special legislative session to consider the Omnibus Tax Bill, was introduced for discussion.

Councilor Stauber felt that this is a state issue and that the legislators should finish their business on time.

Councilor Ness expressed concerns that this resolution did not mention the Duluth Entertainment Convention Center (DECC) bonding project. He moved to amend the resolution to add to the last paragraph “and the Duluth Entertainment Convention Center bonding project,” which motion was seconded and discussed.

Councilor Krause and President Stover opposed the amendment for reasons of: if all cities support a special session for only core essential needs, the legislators will see this as more sincere than if each city adds on their own wish list and if a session is called, lobbying for the DECC funding can done at that time.

Councilor Ness’ amendment carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber and Stewart -- 7

Nays: Councilor Krause and President Stover -- 2

Resolution 07-0439, as amended, was adopted as follows:

BY PRESIDENT STOVER:

The Duluth City Council finds as follows:

(a) The Minnesota Legislature, in its 2007 regular session, passed the 2007 Omnibus Tax Bill (House File No. 2268); and

(b) The Omnibus Tax Bill provided for important public finance actions, including:

- homestead property tax refunds
- increases in local government aid, which would recover much of Duluth's past losses in LGA
- veterans’ benefits
- higher education tuition deductions

- incentives for farm and business expansion; and
- (c) The regular legislative session of the 2007 Legislature has now ended; and
- (d) The Omnibus Tax Bill was vetoed by Minnesota Governor Tim Pawlenty on May 30, 2007, and the governor has indicated support for tax levy limits which constrict the ability of municipalities to generate revenue needed for municipal services; and
- (e) Enactment of the Omnibus Tax Bill would be a great benefit for the taxpayers of Minnesota, especially property taxpayers; and
- (f) A special legislative session, if convened, would permit further discussion and possible enactment of the Omnibus Tax Bill.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DULUTH, MINNESOTA, that this council requests that the governor of the state of Minnesota, Tim Pawlenty, convene, without delay, a special legislative session to enact the 2007 Omnibus Tax Bill and the Duluth Entertainment Convention Center bonding project.

Resolution 07-0439, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness and President Stover -- 5

Nays: Councilors Krause, Reinert, Stauber and Stewart -- 4

Approved June 25, 2007

HERB W. BERGSON, Mayor

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## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

### **ORDINANCE TABLED**

BY COUNCILOR KRAUSE

07-020 - AN ORDINANCE AMENDING SECTION 8-68 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO AREA RESTRICTIONS ON LIQUOR SALES.

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

Ordinance 07-020 failed upon the following vote (Public Document No. 07-0625-26):

Yeas: Councilors Krause and Stauber -- 2

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stewart and President Stover -- 7

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

07-038 - AN ORDINANCE GRANTING TO DAVID PATRICK A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN STEPS IN THE RIGHTS-OF-WAY OF 1605 SOUTH STREET.

- - -

BY COUNCILORS STAUBER, REINERT AND KRAUSE

07-039 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

- - -

BY COUNCILORS LITTLE AND STEWART

07-040 - AN ORDINANCE REPEALING SECTION 49-15 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO FIREARMS ON CITY PROPERTY.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

07-035 (9841) - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT THE DULUTH INTERNATIONAL AIRPORT TO THE CITY OF DULUTH AT NO COST FOR THE PURPOSE OF CREATING A SEPARATE TAX PARCEL.

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

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BY COUNCILOR STAUBER

07-037 (9842) - AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN PROPERTY NEAR BECKS ROAD TO STEVEN J. VUJCEVIC FOR \$1.

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

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BY COUNCILORS STAUBER, STEWART AND REINERT

07-036 (9843) - AN ORDINANCE AMENDING CHAPTER 47, ARTICLE III, OF THE DULUTH CITY CODE, REGULATING TAXICABS.

Councilor Stewart moved to suspend the rules to hear from speakers, which motion was seconded and unanimously carried.

Dan O'Hearon supported the ordinance, noting: free enterprise is good for the taxi industry; this ordinance will create competition and good service; irregardless of the age of the vehicle, it needs to be inspected regularly by a certified mechanic; every other business in the city is allowed to run their business as they see fit and what is the problem with taxi companies being allowed to also; this would allow for a "sober" driver program like there is in Superior and 200 low income individuals signed a petition supporting this.

Dennis Mitchell, Jim McClellan, Linda Cadotte, Kim McKay and Tony Mitchell opposed the ordinance, citing reasons of: why does this keep coming up, because eight months ago this same proposal failed by a 5 to 3 vote; this was never discussed with all the owners before being proposed; the two largest companies have the most experience and are never asked for their input; deregulation of rates in other cities has been a disaster; the majority of the taxi owners do not support this ordinance; allowing outside advertising is distasteful and distracting to drivers; vehicles having over 300,000 miles should not be allowed as they are likely to have structural defects; posting of the rates on the outside of the cabs is not necessary and detracts from the vehicle; the higher insurances rates that were initially proposed should be put back into the ordinance; a monopoly could be created with a large company with deep pockets that could under cut fares long enough to put small companies out of business; most cities that have deregulated the taxi industry have changed back to rate regulations; the petition referred to was falsely promoted at bars where there are intoxicated individuals; consumers will not know what the rate will be, from day to day, from Point A to Point B, and tourists will think they are being "gouged" when they come here.

Councilors Ness, Gilbert, Krause and Johnson opposed the ordinance for reasons of: the consumers of this service will have the possibility of being taken advantage of; with a consistent rate the consumer is protected; the majority of owners oppose this ordinance; the taxi is a form of a "public" service, where it is a privilege to drive a taxi in the city; there is likely to be chaos with individuals trying to find the lowest rate at the airport; there could be price wars created with this

that will hurt those on limited incomes and price wars could reduce competition and create monopolies.

Councilors Stewart, Little, Stauber and Reinert supported the ordinance because: consumers will ask what the rate is and then make a decision; this business should be no different than others, where competition sets the rates; when the council deregulated the number of taxi licenses allowed, the negative effects that were anticipated did not occur; the city should be involved in the inspections to insure safe vehicles, but not in the business of setting the rates; the majority of taxi owners do not support this because without a rate schedule it allows for more competition; businesses that advertise their rates are not going to deviate from a published rate; rates will be posted and individuals can make the decision on what taxi to use, and coupons, group rates and sober driver programs should be allowed.

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

Yeas: Councilors Little, Reinert, Stauber, Stewart and President Stover -- 5

Nays: Councilors Gilbert, Johnson, Krause and Ness -- 4

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The meeting was adjourned at 9:20 p.m.

JEFFREY J . COX, City Clerk

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#### **ORDINANCE NO. 9841**

BY COUNCILOR STAUBER:

AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT THE DULUTH INTERNATIONAL AIRPORT TO THE CITY OF DULUTH AT NO COST FOR THE PURPOSE OF CREATING A SEPARATE TAX PARCEL.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to convey by quit claim deed at no cost to the city of Duluth the below-described property in St. Louis County, Minnesota, in order to create a separate tax parcel and to approve the conveyance of the same if and when offered by the Duluth airport authority pursuant to Laws 1969, Chapter 577, Section 5, subd. 2(e):

That part of the southwest quarter of the northwest quarter (SW1/4-NW1/4), of Section 1, Township 50 North, Range 15 West, St. Louis County, Minnesota, described as follows:

Commencing at the northwest corner of said Section 1; thence south 00 degrees 30 minutes 34 seconds east, assumed bearing, along the west line of said Section 1, a distance of 2077.91; thence north 89 degrees 29 minutes 26 seconds east 171.96 feet to the point of beginning of the parcel to be described; thence north 69 degrees 30 minutes 47 seconds east 893.88 feet; thence south 20 degrees 29 minutes 13 seconds east 514.11 feet; thence south 69 degrees 30 minutes 47 seconds west 503.95 feet; thence southwesterly 392.05 feet, along a tangential curve, concave to the northwest, having a radius of 2018.07 feet, and a central angle of 11 degrees 07 minutes 51 seconds; thence north 20 degrees 29 minutes 13 seconds west 479.54 feet to the point of beginning.

Section 2. That the city of Duluth acknowledges and agrees that with respect to the property the Duluth airport authority shall have all the powers granted to it pursuant to Chapter 577

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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of the Minnesota Laws of 1969 including but not limited to the operating or leasing of the property and the receipt of revenues therefrom.

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 5, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

Passed June 25, 2007

Approved June 25, 2007

ATTEST:  
JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9842**

BY COUNCILOR STAUBER:

AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN  
PROPERTY NEAR BECKS ROAD TO STEVEN J. VUJCEVIC FOR  
\$1.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 2 below as having been erroneously conveyed to the city and therefore being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That, upon recommendation of the director of administration, the council has determined that it is appropriate to convey the below-described property to Steven J. Vujcevic at no cost, without competitive bidding, pursuant to the authorization of Section 2-177 of the Code because he has purchased the underlying fee title to said property from the state of Minnesota and said conveyance is necessary in order to clear the city's inadvertently-acquired interest from the title thereto.

Section 3. That the proper city officials are hereby authorized to sell and convey, by quit claim deed, that portion of the Northeast Quarter of the Northeast Quarter of Section 4, Township 48, Range 15, Louis County, Minnesota, legally described on Public Document No. 07-0625-27 to Steven J. Vujcevic for the total sum of \$1, payable to the General Fund 100-700-1407-4640 and to execute all documents necessary with regard to said conveyance.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 5, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

Passed June 25, 2007

Approved June 25, 2007

ATTEST:  
JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9843**

BY COUNCILORS STAUBER, STEWART AND REINERT:  
AN ORDINANCE AMENDING CHAPTER 47, ARTICLE III, OF THE  
DULUTH CITY CODE, REGULATING TAXICABS.

The city of Duluth does ordain:

Section 1. That Section 47-17.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-17.2. Same--Issuance.

Before a taxicab license is issued to any person by the city clerk, the application shall first be submitted to the chief administrative officer of the city for his approval or denial. The chief administrative officer shall not deny a license except for good cause. If the application is denied by the chief administrative officer, the applicant may, within ten days, appeal such denial to the city council, which may by resolution approve the issuance of such license.

Section 2. That Section 47-20 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-20. Vehicle standards and inspection.

(a) Original inspection. No persons shall operate or permit the operation of a vehicle as a taxicab and the city clerk shall not issue a taxicab vehicle license for any vehicle that is more than ten model years old (unless it is more than 20 years old and has been completely restored to "as new" condition with all new dual master cylinder hydraulic brake system and all new steering components and has all safety systems required to be on a new vehicle), or having more than 300,000 miles on the chassis, nor for any vehicle having a window which cannot be seen through from outside, or any neon or strobe lighting, nor any sign or graphic advertising that can reasonably be expected to be a distraction to other drivers so that they will be inattentive to their driving duties, nor for any such vehicle until such vehicle has been inspected by an inspector designated by the chief of police and has been found by such inspector to be in compliance with all laws respecting motor vehicles which are in force in the city of Duluth, and with all rules and regulations prescribed by the chief of police and that its brakes are in good operating condition and passenger restraint belts are in place and fully operational. Provided that the age and mileage standards above become effective on January 1, 2008, the chief of police is hereby authorized to adopt such reasonable rules and regulations regarding safety equipment, regulatory devices and sanitary conditions as he shall deem necessary in order to ensure that only safe and sanitary taxicabs are in operation in the city of Duluth. No such regulation shall be effective until 30 days after filing with the city clerk and publication in the legal newspaper of the city.

When the inspector designated by the chief of police finds that a taxicab is in compliance with such laws and rules and regulations he shall issue a certificate to that effect. Such inspector shall also rate the seating capacity of each taxicab inspected and shall state such capacity in the certificate he issues. No person shall operate or permit the operation of a taxicab unless such a certificate is posted in such taxicab;

(b) Periodic inspections. Every taxicab shall be periodically inspected by the inspector designated by the chief of police in order to determine continued compliance of such taxicab with all laws and rules and regulations respecting taxicabs. Such inspections may be carried out at any time by such inspector, but shall be carried out at least once every six months. All persons holding taxicab licenses shall comply with all requests of such inspector regarding the time and place of such inspections. If at any time the inspector finds that a taxicab does not comply with the required laws and rules and regulations, he shall remove the inspection certificate from such taxicab and shall return it only after such taxicab has been made to comply with such laws and rules and regulations. The purpose of the inspections is to enforce a public policy and the city shall not be liable to any individual as a result of conducting or failing to conduct the inspection;

(c) Qualifications of inspectors. The chief of police shall issue written specifications establishing the minimum qualifications for any mechanic that is authorized to certify that any vehicle meets the requirements of this Section; only certifications issued by mechanics so qualified shall meet the certification requirements of this Article. In addition to meeting the requirements of said specifications, any mechanic certifying to the compliance of any vehicle more than ten model years old shall also be certified as an automobile mechanic by the American Society of Engineers.

Section 3. That Section 47-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-33. Rates - notice of rates.

There shall be prominently displayed in all taxicabs a rate statement card no smaller than 8.5"x11" setting out in large size print all the various rates charged to passengers for all the various services offered. This card shall also contain a sentence informing passengers that the driver has printed copies of the entire text of the rate statement card which will be supplied to them upon request. All the information on the rate statement card shall be prominently displayed on each side of the outside of the vehicle in text at least 1.5 inches high.

The driver of any taxicab shall upon demand give any passenger a receipt for the fare charged, which receipt shall include the name of the driver, the identification of the vehicle, the amount charged and the date of the transaction.

Section 4. That Section 47-38 of the Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 5, 2007)

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

Yeas: Councilors Little, Reinert, Stauber, Stewart and President Stover -- 5

Nays: Councilors Gilbert, Johnson, Krause and Ness -- 4

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 25, 2007  
Approved June 25, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, July 5, 2007, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

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**MOTIONS AND RESOLUTIONS**

Resolution 07-0475, by Councilor Gilbert, requesting administration to consider alternative actions for golf course operational changes, was introduced for discussion.

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

Ken Loeffler-Kemp, representing AFSCME basic unit employees, related the history of temporary and full time employees at the city's golf courses, stating: state law defines a temporary employee as one who works 67 days or less; there are currently 120-160 of these temporary employees who, under state law, need to be recognized as full time and since the city refused to make the positions full time, the union filed a clarification petition with the state mediation services - a hearing was held and a decision is pending. He added that Councilor Gilbert's resolution provides a short term solution without violating state law while a long term solution can be found.

Chief Administrative Officer John Hall stated that: Section (b) of the resolution has been done; the city is too short-handed to use existing staff to work at the golf courses; the city is using part time students now, who can work for up to 100 days; using the newly created maintenance worker helper position would cost the city \$450,000 in operating costs and the city would need a subsidy to keep courses operating; and when the 67 days expires, the city needs to do something different, like the contract in Resolution 07-0479.

Councilors Gilbert and Johnson stated that this resolution gives many options that would allow the administration to put together a contract that would incorporate part time workers while giving the public and council time to consider the issue.

Discussion ensued regarding the definition of provisional employees and their cost to the city.

To questioning by Councilor Gilbert, Mr. Hall stated that the administration's priority is to keep the golf courses open. He added that the city's newly created maintenance worker helper positions would cost over \$600,000 per year, plus benefits, minus the current temporary employees cost of \$150,000 per year, for a total of approximately \$450,000. Mr. Hall also stated that seasonal workers who would be hired by the management team would be getting paid more and the city would not have to pay for their benefits.

Resolution 07-0475 failed upon the following vote (Public Document No. 07-0705-01):

Yeas: Councilors Gilbert and Johnson -- 2

Nays: Councilors Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

- - -

Resolution 07-0479, by Councilor Reinert, authorizing a concessionaire management agreement between the city and PGM, Inc., for operation of the city golf courses, not to exceed \$375,000 together with a three percent annual increase in 2008 and 2009, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Mr. Hall reviewed the proposed contract, stating that \$442,000 in salaries would be deleted from the city's budget and a transfer made of \$375,000 for the management contract for the same level of service, saving approximately \$60,000, and that the team will be responsible for the hiring of personnel.

To questioning from Councilor Johnson, Mr. Hall stated that the city would still be responsible for the maintenance on the city-owned equipment and grounds.

Resolution 07-0479 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement a contract, substantially the same as that on file with the clerk as Public Document No. 07-0705-02, between the city and PGM, Inc., (Paul Schintz, manager) for operation and management of a golf concession at Lester Park and Enger Park for a term ending December 31, 2009, for a cost not to exceed \$375,000 together with a three percent annual increase in 2008 and 2009, from Fund 503.

Resolution 07-0479 was adopted upon the following vote:

Yeas: Councilors Little, Ness, Reinert, Stauber, Stewart and President Stover -- 6

Nays: Councilors Gilbert, Johnson and Krause -- 3

Approved July 5, 2007

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 5:55 p.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, July 9, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0709-01 Terry Hauer, et al. (two signatures), petition to reclassify from R-1-b to R-2 Lots 17, 19, 21 and 23, Block 154, Duluth Proper Third Division. -- Assessor

07-0709-02 Minnesota state auditor submitting audit reports for the years ended December 31, 2006 and 2005 for:

(a) Duluth airport authority;

(b) Duluth transit authority. -- Received

07-0709-04 Patricia Kuszler acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9831 on May 14, 2007. -- Received

07-0709-05 Karl Tarnowski appeal of the planning commission decision to deny a proposal to fill 2,640 SF of a Type 6 (shrub swamp) wetland at 2015 Norton Road. -- Committee 2 (planning and economic development)

07-0709-17 The following communications regarding an ordinance regulating rubbish and tall grass (07-041-O): (a) Robert Aho; (b) Jill Bianchet; (c) Ted Chura; (d) Elizabeth Dahl; (e) Janet Draper; (f) Donn Larson; (g) Paige Peterson; (h) Vince Repesh; (i) Vlasie Solon; (j) Tom Voller-Berdan. -- Received

07-0709-03 The following communications regarding proposed amendment to rental licensing (07-039-O): (a) Dave Flemming; (b) Joseph Kleiman (c) Wendy Webb and Mary Gallegos. -- Received

07-0709-06 The following communications regarding resolution supporting a two acre site for a proposed living water garden (07-0476R): (a) Barbara Akre; (b) Sara Anderson; (c) John Bellehumeur; (d) Diane Desotelle; (e) Carrie Slater Duffy and Katie Schmitz; (f) Duane Forbort; (g) Stacy Solon Foster; (h) Marge and David Fraser; (i) Dick Gould; (j) Margaret Haapoja; (k) Ruth Henriquez and Jeffrey E. Lyon; (l) Kate Isles; (m) Theresa Koenig; (n) Courtney Kowalczak; (o) Kristen Larsen; (p) Bruce Ludewig; (q) Elizabeth Mayne; (r) Ellen Miller-Lindgren; (s) Paul Moss; (t) Mike Nordin; (u) Bob Owens; (v) Eileen Patterson; (w) Betsy Presley; (x) Bridget Riversmith; (y) Debbie Sauer; (z) Marjorie and Terrence Smith; (aa) Sue Sojourner; (bb) Anett Trebitz; (cc) Mary Van Evera; (dd) Amy Wicklund; (ee) Cassie Wronka. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0709-07 Assessor assessment rolls, for confirmation, to defray the assessable portions of:

(a) Contract No. 5409 - construction of 120 feet of sanitary sewer within 22nd Avenue West, beginning at Sixth Street Alley and extending northerly (assessable amount: \$12,756.12);

(b) Contract No. 70751 - construction of Superior Street Alley from 41st Avenue East to 42nd Avenue East (assessable amount: \$3,763.30). -- Received

07-0709-08 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license from Animal Allies Humane Society on October 13, 2007 (raffle). -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

07-0709-28 Alcohol, gambling and tobacco commission minutes of: (a) March 8; (b) April 4; (c) May 2, 2007, meetings. -- Received

07-0709-09 American Indian commission minutes of May 21, 2007, meeting. -- Received

07-0709-10 Community development committee minutes of April 24, 2007, meeting. -- Received

07-0709-11 Duluth airport authority: (a) Balance sheet for month ending April 30, 2007; (b) Minutes of May 22, 2007, meeting. -- Received

07-0709-12 Duluth legacy endowment fund project group minutes of May 22, 2007, meeting. -- Received

07-0709-13 Duluth transit authority: (a) Income statement for March, 2007; (b) Minutes of April 25, 2007, meeting. -- Received

07-0709-14 Housing and redevelopment authority of Duluth financial and compliance report for the year ended September 30, 2006. -- Received

07-0709-15 Library board minutes of May, 22, 2007, meeting. -- Received

07-0709-16 Spirit Mountain recreation area authority board minutes of: (a) April 19; (b) May 2; (c) May 17, 2007, meetings. -- Received

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis requested more elevator access to the skywalk, more elevators in the Downtown area and also added that the proposed lawn mowing ordinance should only address property that could be potentially hazardous.

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

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of Superior Street Alley from 41st Avenue East to 42nd Avenue East (Contract #70751; assessable amount - \$3,763.30), to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0453 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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RESOLVED, that the assessment roll levied to defray the assessable portion of construction of 120 feet of sanitary sewer within 22nd Avenue West, beginning at Sixth Street Alley and extending northerly (Contract #5409; assessable amount - \$12,756.12), to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0454 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals:

Copasetic Softball Team, Wheeler Field, for July 21 and 22, 2007, with Paul King, manager.

Resolution 07-0465 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointments to the Duluth transit authority by Mayor Bergson of Aaron R. Bransky (District 2) and Richard W. Towey (District 3), for terms expiring on June 30, 2010, are confirmed.

Resolution 07-0458 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointments to the parking commission by Mayor Bergson of Peter Handberg (District 1) and Jamie A. Kumbera-Tupper (at large), for terms expiring on July 1, 2010, are confirmed.

Resolution 07-0462 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment to the library board by Mayor Bergson of Virginia T. Katz, for a term expiring on June 1, 2012, is confirmed.

Resolution 07-0469 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for parks and recreation purposes (FN 07074):

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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FOND DU LAC FOURTH STREET, Lots 61-79 (odd numbered) and Lots 62, 64 and 66 (Parcel ID 1620-00290 and 1620-01320) and FOND DU LAC FIFTH STREET, Lots 61-69 (odd numbered) (1630-00310).

Resolution 07-0456 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that city officials are hereby authorized to enter into a joint powers agreement with Independent School District No. 709, under which the city and school district will be permitted to purchase goods and services from competitively bid contracts entered into by the city or school district with vendors.

Resolution 07-0467 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the chief administrative officer, or his/her designee, is hereby authorized to utilize in the regular course of business, and sign on behalf of the city, a form of agreement to be substantially in the form of Public Document No. 07-0709-18 on file in the office of the city clerk providing for a business associate agreement under the Health Insurance Portability and Accountability Act.

Resolution 07-0472 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors, LLC, for bituminous paving and fencing of the Birch Avenue storage facility lot for the engineering division for the low bid of \$105,817.70, payable as follows: \$31,745.31 from Water Fund 0510, Department/Agency 500, Object 5533; \$31,745.31 from Gas Fund 0520, Department/Agency 500, Object 5533; \$31,745.31 from Sanitary Fund 0530, Department/Agency 500, Object 5533; and \$10,581.77 from Stormwater Utility Fund 0535, Department/Agency 500, Object 5533.

Resolution 07-0448 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Oneida Realty Company the sum of \$11,656.06 in full and final settlement of the claim which arose out of a break in a city watermain occurring near 5 North Fourth Avenue West on December 13, 2006; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 07-0451 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Oneida Realty Company the amount of \$32,818.33 to reimburse it for a portion of the costs of replacing roofs on the various skywalk bridges, said sum to be payable from 100-700-1420-5530, Project CM100-I508.

Resolution 07-0460 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires to complete engineering services for the Minnesota Slip pedestrian bridge.

The city desires to hire a consulting engineer to provide the design and construction engineering services required for the repairs.

LHB Architects and Engineers has submitted a proposal for engineering services in connection with this project.

The proper city officials are hereby authorized to enter into an agreement with LHB Architects and Engineers to provide the city with such engineering services.

FURTHER RESOLVED, that the cost of said engineering services, estimated at \$34,802, will be payable from the Capital Improvement Fund 0450, Department/Agency 030, Organization 2005, Object 5530.

Resolution 07-0463 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into a contract with B.J. Cleaning, Inc., for painting of 2,630 gas meter piping sets throughout the city of Duluth for the customer service division for the low bid of \$29,128, payable out of Gas Fund 520, Department/Agency 500, Organization 1905, Object 5535, City Project No. 0380GS.

Resolution 07-0474 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to accept the donation of easements for street and utility purposes located in Blocks 6 and 10 and in vacated 30th Avenue West in Park Marine Division, all as shown on Public Document No. 07-0709-19 on file in the office of the city clerk, from Clyde Industrial Park, Inc., as provided for in the development agreement between said party and the city.

Resolution 07-0478 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are authorized to contract with Robert Brasel, 1657 Clover Valley Road, Duluth, Minnesota 55804, for the review and update of the city of Duluth police department's general orders in accordance with specifications and Brasel's quote of \$42,500, terms net 30, payable from General Fund 100, Department/Agency 200, Organization 1610, Object 5319. The orders will be updated to standards defined by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). Said agreement is to be substantially in the form of Public Document No. 07-0709-20 on file in the office of the city clerk.

Resolution 07-0455 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to accept an additional grant award from the state of Minnesota, commissioner of public safety, office of justice programs, in the amount of \$67,500 for the purpose of supporting the operations of the Lake Superior drug and gang task force, and to execute the Amendment No. 3 to Grant Contract #2006-NGTF-00369/9300-2194, a copy of which is on file in the office of the city clerk as Public Document No. 07-0709-21, grant funds to be deposited in Fund 215, Agency 200, Organization 2260, Revenue Source 4210-02.

Resolution 07-0464 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

The city council finds as follows:

(a) The North Country National Scenic Trail (NCNST), authorized by congress in 1980, is one of only eight national scenic trails in the United States; and

(b) The NCNST extends from Crown Point in New York to Lake Sakakawea in North Dakota covering a distance of over 4,600 miles, including over 850 miles in the state of Minnesota; and

(c) A segment of the original planned route of the NCNST in Minnesota ran from Jay Cooke State Park in Carlton County generally heading northwest towards Savannah Portage State Park in Aitkin County and onto the Chippewa National Forest near Remer in Cass County; and

(d) No portion of this segment of the original planned route has been built in the last 25 years due to the extensive wetlands found in the area and a lack of volunteer support due to the anticipated difficulty in building trail there; and

(e) Volunteers have developed a viable alternative, the "Arrowhead re-route," in the last 25 years working with government agencies toward the near completion of the Superior Hiking Trail, completion of the Border Route Trail and the restoration of the Kekekabic Trail; and

(f) These trails pass through areas, the Boundary Waters Canoe Area Wilderness and the North Shore, which encompass world-class scenic values; and

(g) There is consensus within the Minnesota hiking community that the Arrowhead re-route is a more preferable route that has ample volunteer support; and

(h) The majority of the Arrowhead re-route, over 375 miles, would utilize existing hiking trails including the Superior, Border Route and Kekekabic, which are currently maintained by volunteers; and

(i) The roughly 140 miles of new trail that would have to be built would be located on public lands, on private lands with the voluntary permission of the owner, or on lands acquired from willing sellers or donors; and

(j) All newly constructed trail would be built and maintained by volunteers of the North Country Trail Association and its partners; and

(k) The Arrowhead re-route was studied, evaluated, and identified as the preferred alternative by the national park service in its Northeastern Minnesota route assessment completed in 2004; and

(l) The National Trails System Act requires congressional action to approve a significant change in the route of a national scenic trail; and

(m) The North Country Trail Association has proposed legislation that would amend the National Trails System Act to authorize this route change; and

(n) This re-route legislation has broad support within the state of Minnesota including members and representatives of the North Country Trail Association, Superior Hiking Trail Association, Kekekabic Trail Club, Minnesota Rovers Outing Club, Border Route Trail Association, park and trails council of Minnesota, Minnesota department of natural resources, Superior National Forest, Chippewa National Forest and business owners along the Minnesota's North Shore; and

(o) Designation of the Arrowhead re-route would not adversely affect the region's timber supply; any land manager's right to harvest timber or otherwise manage their property; or any existing opportunities for motorized recreation.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth endorses congressional designation of the Arrowhead re-route as the official route of the North Country National Scenic Trail in Northeastern Minnesota.

BE IT FURTHER RESOLVED, that the city clerk shall send a copy of this resolution to each member of congress from Minnesota and to the commissioner of the Minnesota department of natural resources.

Resolution 07-0473 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered.

Resolution 07-0477, by Councilor Stewart, confirming the assessment roll levied to defray in full the expense of solid waste collection during the period of March 1, 2006, to June 1, 2007, for which the licensed collector has not been reimbursed as provided in Chapter 24 of the Code, was introduced for discussion.

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

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BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with ClearScript, a division of Fairview Pharmacy Services, LLC, which will permit that company to provide pharmacy benefit manager services to the city's group health plan from September 1, 2007, to December 31, 2008, for an administrative fee of \$1.25 per member per month, for a total

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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estimated cost of \$60,000, to be paid from the group health fund, which agreement is on file in the office of the city clerk as Public Document No. 07-0709-22.

Resolution 07-0379 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0436, by Councilor Stauber, authorizing an amendment to the 2006 community development block grant program agreement with Neighborhood Housing Services of Duluth (NHS) extending the term of the agreement for six months, was introduced for discussion.

Councilor Krause stated that there have been a number of extensions occurring in this sector and he would not be voting in favor of this resolution in an effort to try and get a more firm accountability on the numbers in the future.

Resolution 07-0436 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0709-23, to the 2006 community development block grant agreement with Neighborhood Housing Services of Duluth (NHS) extending the term of the agreement to December 31, 2007, at no change in project compensation under the terms of the agreement.

Resolution 07-0436 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Krause and Stewart -- 2

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city council hereby supports the FY 2008 funding strategies (Public Document No. 07-0709-24) as approved by the community development committee.

Resolution 07-0461 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert and President Stover -- 7

Nays: Councilors Stauber and Stewart -- 2

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0470, affirming the action of the planning commission denying the application of Karl Tarnowski to fill 2,640 square feet of wetlands on property located at 2015 Norton Road, and Resolution 07-0471, reversing and approving the action of the planning commission denying the application of Karl Tarnowski to fill 2,640 square feet of wetlands on property located at 2015 Norton Road and granting said variance, by Councilor Stauber, were introduced for discussion.

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

Brian Bacht, project engineer, explained that the owner wants to do forestry management on this property and that if he is permitted to fill in the wetlands, he will be required to replace those wetlands on site and monitor that area for five years.

Tom Fait, wetland consultant, explained that after the wetland creation is finished adjacent to the existing wetland, he would be monitoring this area monthly for five years. He continued by saying that this level of wetland is the most common type in Northern Minnesota and does not require as high of level of protection.

Councilor Stewart moved to amend Resolution 07-0471 by adding the following language to subparagraph (f) in the second paragraph:

- (1) The construction of roadway to access one's property is reasonable use;
- (2) The presence of a wetland prevents this reasonable use of the property;
- (3) The wetland was not created by the owner;
- (4) The filled wetlands will be replaced on site so there will be no net loss," which

motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Councilor Stewart moved to amend the title of Resolution 07-0471 to delete the phrase "AND APPROVING," which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Resolution 07-0470, affirming the planning commission denial, failed upon the following vote (Public Document No. 07-0709-25):

Yeas: None -- 0

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Abstention: Councilor Krause -- 1

- - -

Resolution 07-0471, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the council hereby reverses the planning commission action of June 12, 2007, denying the application of Karl Tarnowski to fill 2,640 square feet of type six (shrub swamp) wetlands on property located at 2015 Norton Road for the purpose of constructing an auxiliary private roadway and granting said variance.

RESOLVED FURTHER, that the council finds the following facts supports its action:

(a) The applicant submitted an application for a variance, pursuant to Duluth City Code Chapter 51, Article IV, to fill 2,640 square feet of type six (shrub swamp) wetlands;

(b) Section 51-35(b) of the City Code provides that the applicant for a variance shall demonstrate the existence of a hardship;

(c) The term "hardship" is defined by Section 51-2 as follows: The property in question cannot be put to reasonable use under the conditions allowed by the regulations set forth in this Chapter; the plight of the landowner is due to circumstances unique to his property, not created by the landowner. Economic considerations alone shall not constitute a hardship;

(d) The applicant's stated reason for the variance was to allow for the construction of an auxiliary roadway on the property to provide access to the northern 3-1/2 acres of the lot for "forest management purposes";

(e) The applicant currently resides on the ten acre parcel and the southern approximate three acres of the lot is currently developed with a house, garage, septic system, driveway, and yard. The applicant currently enjoys a reasonable use of the property;

(f) The applicant demonstrated that the requested variance is supported by the existence of a hardship, said hardship demonstrated by the following facts:

(1) The construction of roadway to access one's property is reasonable use;

(2) The presence of a wetland prevents this reasonable use of the property;

(3) The wetland was not created by the owner;

(4) The filled wetlands will be replaced on site so there will be no net loss.

RESOLVED FURTHER, that the applicant shall comply with the following conditions:

(a) Replace the four six-inch culverts with four 12-inch culverts under the fill area;

(b) That the project be constructed according to the plans received on May 16, 2007, and prepared by Bocht Engineering, Sheets one through eight;

(c) That the project be constructed according to the plans provided by Tom Fait, Soil and Water Environmental Consulting, in the document titled "Revised 3-30-07, Attachment to project notification form: Karl Tarnowski 2015 Norton Road";

(d) That the applicant provide wetland monitoring reports for the next five growing seasons to determine if the replaced wetland is functioning. If it is found by the wetland conservation act technical evaluation panel to be deficient, the applicant shall correct the deficiencies.

Resolution 07-0471, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0476, by Councilor Ness, supporting a two acre site for a proposed living water garden, was introduced for discussion.

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

The following speakers spoke in support of the resolution for the following reasons: Jill Jacoby, Clayton Oslund, Darlene Watson, Jennifer Smith, Mike Nordin, Tim Velner, Gil Veith and Pat Farrell; thanked the councilors for their diligence in pursuing the interest; a larger project is more attractive for investors and grants and easier to fund; it would be an asset to the area as it is an educational and artistic project; this project would be a source of pride for Duluthians; it will cleanse the runoff water before entering Lake Superior; it would get the public involved through a demonstration project; this project would be compatible with boaters in Slip 2 because it would not prohibit boaters from docking; this project is a stormwater garden, not a rain water garden like Hartley Nature Center is developing; it does not always have to be about economics but being a leader in water quality issues for Lake Superior; and the water garden could be the focal point and catalyst for further development in this neglected part of Bayfront.

Amy Brooks opposed the proposal as Duluth already has a demonstration water garden in the works at Hartley Nature Center; it is a bad location for a water garden as it would force an

ecosystem on an area that is not naturally wet; using Slip 2 for recreational boating is a bigger need as Duluth visitors now go to Superior to moor their boats.

Jack Arnold opposed the project because currently there is no place for visitors coming by boat to park short term in Duluth and visitors will bring in tourist dollars. He continued by saying that the water garden would eliminate the ability for boats to park along the east side of the slip.

Councilor Ness reviewed that the council has been dealing with this issue for six years and it is time for the council to make a commitment to the design and the land that the project would need. He continued by saying that a design could be done to accommodate both the water garden project and a docking station at the slip for transient boaters. Councilor Ness added that this resolution needs to be passed to allow for the planning and funding to begin.

Councilor Stewart stated that he opposes this location and would like to see it where there is more consistent stormwater flow instead of having to pump bay water from time to time into the garden. He added that one of the concerns with this project is the ownership of the land and that most of the land in question is owned by the Duluth economic development authority (DEDA) and questioned that if the resolution passes tonight, would it also have to be passed by DEDA.

Councilor Stewart moved to amend the resolution as follows:

(a) In the title, delete the phrase "SUPPORTING A TWO ACRE SITE FOR" and insert the word "REGARDING";

(b) In subparagraph (b) of the first paragraph, delete the phrase "a two acre site" and insert the phrase "the plans that have been developed";

(c) Amend the second paragraph to read as follows:

"THEREFORE, BE IT RESOLVED, that the council does not support the construction of a living water garden at the Bayfront area adjacent to Slip 2 and encourages the consideration of other sites for the project";

(d) Amend the statement of purpose to read as follows:

"This resolution rejects the placement of a living water garden at Slip 2," which motion was seconded for discussion.

Attorney Bryan Brown reviewed that the land on the north 1/2 of the east side of Slip 2 is owned by DEDA and purchased with tax increment financing (TIF) money, and the land on the west side of Slip 2 is owned by DEDA and purchased by TIF money. He continued by saying that there are restrictions on the use of land purchased by TIF money and that DEDA cannot be involved in park-like projects like the one that is being described in this resolution.

Councilor Ness stated that if the amendment passes it would be killing the project at Bayfront and reviewed that there is no city money going into this project or into the future maintenance of the project once it is completed.

Councilor Stauber stated his support for the amendment and read from minutes of a parks and recreation commission meeting where the designer of the water garden thought a different site would be better.

Chief Administrative Officer John Hall stated that the administration's view is that this is a great project being proposed in the wrong location. He voiced concern of the deteriorating condition of the slip which is in need of a major capital investment before any public use or activity should be considered for it and that the city would be responsible for any ongoing major maintenance requirements.

Councilor Stewart's amendment carried upon the following vote:

Yeas: Councilors Krause, Little, Stauber, Stewart and President Stover -- 5

Nays: Councilors Gilbert, Johnson, Ness and Reinert -- 4

Councilor Ness requested that his name be removed as sponsor of the resolution and without objection, Councilor Stewart and President Stover were added as co-sponsors.

Resolution 07-0476, as amended, failed upon the following vote (Public Document No. 07-0709-26):

Yeas: Councilors Krause, Stauber, Stewart and President Stover -- 4

Nays: Councilors Gilbert, Johnson, Little, Ness and Reinert -- 5

- - -

BY COUNCILOR LITTLE:

The city council finds:

Communities across the United States have designated August 7, 2007, as a National Night Out to celebrate community and neighborhood awareness and unity; and

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

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 7, 2007, 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 07-0466 was unanimously adopted.

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

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

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

07-041 - AN ORDINANCE REGULATING RUBBISH AND TALL GRASS, AMENDING SECTION 24-6 AND 24-37 OF THE DULUTH CITY CODE.

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

Richard Ward stated that the city should not have a city ordinance to tell citizens to mow their lawns, and if so, then the city should set the example.

- - -

BY COUNCILOR JOHNSON

07-042 - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN WEST DULUTH AND AUTHORIZING SALE OF SAME TO LEONARD A. AND AVIS R. GRECIINGER FOR \$4,584.40.

- - -

BY COUNCILOR JOHNSON

07-043 - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN WEST DULUTH AND AUTHORIZING SALE OF SAME TO WESLEY C. BRADFORD FOR \$1,931.10.

- - -

Councilor Krause moved to amend Section 2 of Ordinance 07-042 and Ordinance 07-043, after the phrase "sell and convey," to insert the phrase "subject to an environmental liability waiver

and indemnification in favor of the city and approved by the city attorney," which motion was seconded and unanimously carried.

- - -

At this time, 8:35 p.m., Councilor Gilbert left his seat.

- - -

Councilors Stauber, Reinert and Krause moved to amend Section 2 of Ordinance 07-042 and Ordinance 07-043 to delete the phrase "General Fund 0100-700-1420-4640" and insert the phrase "parks and recreation fund," which motion was seconded for discussion.

Mr. Hall stated that the land being sold is not park land, is surplus for the city's needs and needs to be converted for the public's use. This action is appropriating funds outside the budget process. He added that the value of the amendment is symbolic but not effective and causes more trouble than it is worth.

Councilor Stauber reminded the councilors that the way to deal with city departments' needs is through the budgeting process and not on an ad hoc basis one item at a time.

Councilors Stauber, Reinert and Krause's amendment carried upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Reinert and Stauber -- 5

Nays: Councilors Ness, Stewart and President Stover -- 3

Absent: Councilor Gilbert -- 1

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

07-038 (9844) - AN ORDINANCE GRANTING TO DAVID PATRICK A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN STEPS IN THE RIGHTS-OF-WAY OF 1605 SOUTH STREET.

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

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At this time, 8:45 p.m., Councilor Gilbert returned to his seat.

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BY COUNCILORS STAUBER, REINERT AND KRAUSE

07-039 (9845) - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

Chris Bacigalupo, Myra Matheson and Susan Frey thanked the councilors and urged support for the proposed ordinance for the following reasons: the ordinance addresses the rental issue with an earnest and objective amendment to the Code; six people living in an old house with all their cars and their friends' cars take up most of the block; it will help stop the flight of families from these neighborhoods; it will help control late night traffic from the college houses; it will keep the neighborhood an attractive and welcoming place to own a home; it will improve the value of homeowners' property; it will raise expectations and standards for how people should take care of their property and formerly single family residences were not originally intended to be multi-resident facilities without appropriate parking.

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

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BY COUNCILORS LITTLE AND STEWART

07-040 (9846) - AN ORDINANCE REPEALING SECTION 49-15 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO FIREARMS ON CITY PROPERTY.

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

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

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

- - -

**ORDINANCE NO. 9844**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO DAVID PATRICK A CONCURRENT  
USE PERMIT TO CONSTRUCT AND MAINTAIN STEPS IN THE  
RIGHTS-OF-WAY OF 1605 SOUTH 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 David Patrick, his successors and interests, referred to herein as the permittee, to occupy, construct, and maintain steps in that part of 1605 South Street right-of-way related to the use of the public and within the plat of Wieland's Rearrangement of Lots 15 and 16, Block 20, Endion Division of Duluth, (FN 07065) on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows: That part of South Street right-of-way in the Plat of Wieland's Rearrangement of Lots 15 and 16, Block 20, Endion Division of Duluth, described as follows:

Beginning at the east corner of Lot 6 of said plat; thence southwesterly along the southeast line of said Lot 6 a distance of 17.00 feet; thence deflecting 90 degrees to the left 1.42 feet; thence deflecting 90 degrees to the left 17.00 feet; thence deflecting 90 degrees to the left 1.42 feet to the POINT OF beginning and there terminating. Said parcel contains 24.14 square feet.

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 resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittee has in force insurance meeting the following requirements:

(a) Personal liability insurance of not less than \$300,000. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph.

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 steps and all fixtures and pertinences of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittee, and without right on the part of the permittee to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby agrees to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittee, and agree that such steps shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits, or other public utilities now or to be hereinafter located in any part of said South Street right-of-way and agree that the city of Duluth shall not be liable for damage caused to such steps 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 retaining steps in said South Street 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.

Section 7. The permittee shall further observe the following conditions:

(a) The retaining wall to the west of the garage/house which lies within the right-of-way is to be removed from the said right-of-way;

(b) That all city building codes will be observed in the construction of the step structure;

(c) The type and location of the improvements shall be limited to and maintained in accordance with the survey prepared by SEH entitled survey for concurrent use adjacent to Lot 6, Wieland's Re-Arrangement of Lots 15 & 16, Block 20, Endion Division, dated May 24, 2007, and on record as Public Document No. 07-0709-27; and

(d) The permittee shall not prohibit public use of the steps as an extension of the public sidewalk.

Section 8. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 19, 2007)

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

Yeas: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Gilbert -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 9, 2007

Approved July 9, 2007

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9845**

BY COUNCILORS STAUBER, REINERT AND KRAUSE:

AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

The city of Duluth does ordain:

Section 1. That Section 29A-32 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 29A-32. Licenses--terms and conditions.

(a) Each license shall be displayed in a conspicuous place within the common way or near the main entrance of the dwelling and shall state the name, address and telephone number of the owner or managing agency which is managing the dwelling. No license shall be transferred to another dwelling or rental unit;

(b) If there is a change in either ownership or management of a dwelling, the person or agency managing such dwelling prior to such change in ownership or management shall give written notice of the name and address of the new owner and/or manager to the building official;

(c) A new license shall be issued to the dwelling for the remainder of the license period with the name of the new manager and/or owner upon payment of the required fee and submission of all required application forms;

(d) Any licensed one-family or two family dwellings in a district zoned R-1-a, R-1-b or R-1-c shall provide a minimum of two off street parking spaces. In addition, for each additional bedroom in excess of three, there shall be provided one additional off street parking space. Any off-street parking spaces shall comply with the standards for off-street parking set forth in Section 50-26. The number of required off-street parking spaces shall be determined by the building official at the time of licensure;

(e) Except as otherwise provided in this Section, any licensed one-family or two-family dwelling, lawfully existing on September 1, 2007, may continue to be so used even though such use does not conform to the provisions of this Section. If the number of bedrooms is increased in a licensed one-family or two-family dwelling located in a district zoned R-1-a, R-1-b or R-1-c after September 1, 2007, the off-street parking requirements of this section shall apply to the entire licensed

property. If the license for such non-conforming use is revoked or lapses for any period of time, any subsequent licensed use must comply with all provision of this Chapter.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: August 19, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 9, 2007  
Approved July 9, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9846**

BY COUNCILORS LITTLE AND STEWART:

AN ORDINANCE REPEALING SECTION 49-15 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO FIREARMS ON CITY PROPERTY.

The city of Duluth does ordain:

Section 1. That Article III, Section 49-15 of the Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: August 19, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 9, 2007  
Approved July 9, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, July 23, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Absent: Councilor Gilbert -- 1

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0723-01 Ridgeview Country Club, et al. (two signatures), petition to reclassify from S to R-1 property located east of Howard Gnesen Road. -- Assessor

07-0723-02 Minnesota state auditor management and compliance report for the city of Duluth for the year ended December 31, 2006. -- Received

07-0723-13 Robert Eaton communication regarding contract for the construction to extend Lakewalk East from 26th to 36th avenues East (07-0502R). -- Received

07-0723-26 Richard Robertson communication regarding proposed reappointment to the entertainment and convention center authority (07-0459R). -- Received

07-0723-03 The following communications regarding proposed ordinance regulating rubbish and tall grass (07-041-O): (a) Terry Brown; (b) Jocelyn K. Heid; (c) Kristen Larsen; (d) Clayton Oslund; (e) Andy Peterson; (f) Lloyd Schallberg; (g) Beth Skoglund; (h) Beth Wiemken. -- Received

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**REPORTS FROM THE ADMINISTRATION**

Mayor Bergson commented on the shortfall in the 2008 budget and that there is a need for councilors' input and ideas.

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**REPORTS FROM OTHER OFFICERS**

07-0723-04 Assessor:

(a) Assessment roll levied to defray the assessable portion of Contract No. 5393, street improvement on Third Street from Carlton Street to 21st Avenue West (assessable amount: \$170,518);

(b) Letter of sufficiency of petition to reclassify from R-1-B to R-2 property described as Lots 17, 19, 21 and 23, Block 154, Duluth Proper Third Division. -- Received

07-0723-05 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Ducks Unlimited Arrowhead Chapter on September 6, 2007 (raffle); (b) Miller-Dwan Foundation on September 28, 2007. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

07-0723-06 Charter commission minutes of February 21, 2007, meeting. -- Received

07-0723-07 Civil service board minutes of April 17, 2007, meeting. -- Received

07-0723-08 Duluth human rights commission minutes of June 13, 2007, meeting. -- Received

07-0723-09 Duluth/North Shore Sanitary District minutes of June 13, 2007, meeting. -- Received

07-0723-10 Parks and recreation commission minutes of June 13, 2007, meeting. -- Received

07-0723-11 Planning commission minutes of June 12, 2007, meeting. -- Received

07-0723-12 Seaway Port authority of Duluth:

(a) Request for mandatory levy of .01813 percent of 2008 taxable market value for the benefit of the port authority;

(b) 2008 budget. -- Received

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

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll levied to defray the assessable portion of street improvement on Third Street from Carlton Street to 21st Avenue West (Contract #5393; assessable amount - \$170,518), to be deposited in Fund 325, is hereby confirmed.

Resolution 07-0493 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are authorized to execute and implement a contract between the city and PropertyRoom.com, Inc., substantially the same as that on file with the clerk as Public Document No. 07-0723-14, for the public sale of surplus property at a commission rate not to exceed 50 percent of proceeds.

Resolution 07-0480 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

Duluth Softball Players Association, Wheeler Field, for August 18 and 19, 2007, with John Vaydich, manager.

Beerhunters Softball Team, Wheeler Field, for August 3 and 4, 2007, with Ron Herung, manager.

Resolution 07-0481 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar and Grill), 5622 Grand Avenue, for August 3, 2007, with the music and serving ceasing at 1:00 a.m.

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 3, 2007, with the music and serving ceasing at 1:00 a.m.

Dwayne and Kimberly, Inc. (Kom on Inn), 332 North 57th Avenue West, for August 3, 2007, with the music and serving ceasing at 1:00 a.m.

Resolution 07-0482 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Country Club, 3901 East Superior Street, for August 15, 2007, with Gary Schneider, manager.

Resolution 07-0483 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor licenses for the period ending August 31, 2007, subject to departmental approvals:

Lake Avenue Café, Inc. (Lake Avenue Café), 394 Lake Avenue South.

Just Take Action, Inc. (Burrito Union), 1332 East Fourth Street.

Resolution 07-0484 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale Sunday intoxicating liquor license for the period ending August 31, 2007, subject to departmental approvals:

Zenith Duluth, Inc. (Inn on Lake Superior), 350 Canal Park Drive.

Resolution 07-0485 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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

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

<b>Licensee</b>	<b>Gambling Site</b>
Duluth Curling Club	Copasetic Lounge, 322 East Central Entrance
Owls Club #1200	118 East Second Street

Resolution 07-0486 was unanimously adopted.  
Approved July 23, 2007  
HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Ducks Unlimited, Arrowhead Chapter, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 07-0487 was unanimously adopted.  
Approved July 23, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that Ray Riihiluoma Construction, Inc., be and hereby is awarded a contract for the construction of the East Duluth vehicle storage facility for the public works and utility division in accordance with specifications on its low specification bid of \$272,500, terms net 30, FOB job site, \$272,500 payable out of Fund 450, Department/Agency 030, Object 5520 CP 2007 - OT-0709.

Resolution 07-0505 was unanimously adopted.  
Approved July 23, 2007  
HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that A.W. Kuettel and Sons, Inc., be and hereby is awarded a contract for the replacing of roof systems at the park maintenance toolhouse and Longview Tennis Club for the architecture division in accordance with specifications on its low specification bid of \$118,145, terms net 30, FOB job site, \$118,145 payable out of Fund 100, Department/Agency 700, Organization 1420, Object 5530 CM 100 - OT-0710.

Resolution 07-0506 was unanimously adopted.  
Approved July 23, 2007  
HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the Duluth Sister Cities Commission, Inc., (DSCC) has requested that the following agreements between the city and DSCC be terminated:

- (a) Service agreement dated May 5, 1992 (City Contract No. 16197);
- (b) License agreement related to use of the city logo dated July 16, 2007 (City Contract No. 20447);
- (c) Project agreement related to the peace garden memorial in Enger Park dated July 5, 2007 (City Contract No. 20445); and

WHEREAS, the DSCC has restated its articles of incorporation and bylaws pursuant to which the entity will be named Duluth Sister Cities International, Inc., (DSCI), and whose articles and bylaws create an arms length relationship with the city; and

WHEREAS, DSCI desires to enter into agreements with the city to provide services related to participation in sister city relationships including Sister Cities International, to use the city's logo on products produced by DSCI, and to provide for the construction of a peace garden memorial at Enger Park.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby finds as follows:

(a) Sister city relationships stimulate community interest in culture, history, art, and the study of foreign languages; open new dialogues with people of another culture to find unique solutions to municipal problems therefore improving the quality of life for citizens of Duluth; promote Duluth tourism; advertise the city of Duluth; provide invaluable learning and educational experiences for Duluth citizens; provide an opportunity for improving local relations through working together for a common objective; promote trade and stimulate the local economy by associating local products with the city marketing name (branding); and provide doors through which Duluth's citizens can experience and come to understand other countries and their people and cultures, thus furthering global understanding and world peace;

(b) The city desires to participate in sister city relationships between the city and cities of other countries in part through participation in Sister City International which participation includes international exchanges of citizen visits, correspondence, artwork, culture, music and education;

(c) The city desires to enter into a licensing agreement allowing the use of the new city logo in marketing efforts as a way to assist in furthering the sister cities mission;

(d) The city desires to enter into an agreement with DSCI to assist it in constructing a peace garden memorial at Enger Park;

(e) The city has deemed it to be in the public interest to provide funding to the DSCI for these services and to enter into a licensing agreement and a project agreement relating to the peace garden memorial at Enger Park.

FURTHER RESOLVED, that the service agreement between the city and DSCC dated May 5, 1992 (City Contract No. 16197), is hereby terminated.

FURTHER RESOLVED, that the license agreement between the city and DSCC related to the use of the city logo dated July 16, 2007 (City Contract No. 20447), is hereby terminated only insofar as it relates to DSCC and the agreement as it relates to the Duluth Public Arts Fund, Inc., shall continue in effect.

FURTHER RESOLVED, that the project agreement between the city and DSCC related to the peace garden at Enger Park dated July 5, 2007 (City Contract No. 20445), is hereby terminated.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a service agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0723-15(a), with DSCI in an amount not to exceed \$46,534.42 payable from Fund 258.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0723-15(b), with DSCI related to the use of the city logo.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a project agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0723-15(c), with DSCI in an amount not to exceed \$15,000 related to the construction of a peace garden memorial at Enger Park payable from Fund 258.

Resolution 07-0504 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city council finds a sufficient petition was filed with the city clerk requesting the vacation of the alley between 46th Avenue East and Superior Street in Block 45 of the London Addition of Duluth legally described as: from east right-of-way line of 46th Avenue East to the west right-of-way line of Superior Street located in Block 45, London Addition of Duluth (FN 07083); and

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

The city planning commission unanimously approved the vacation of the alley between 46th Avenue East and Superior Street at its July 10, 2007, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the above-described alley, more particularly described on Public Document No. 07-0723-16.

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

Resolution 07-0500 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance amending Section 19 of the City Charter pertaining to selection and tenure of the chief administrative officer; and

WHEREAS, said Section 410.12, subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendments to the City Charter is hereby called for August 13, 2007, at 7:00 p.m., in the Council Chamber at Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by the city of Duluth that on August 13, 2007, at 7:00 p.m., in the Council Chamber at Duluth City Hall, the city council of the city of Duluth will conduct a public hearing on the question of the adoption of an ordinance amending Section 19 of the City Charter in the manner hereinafter set forth:

[text of proposed ordinance]

Resolution 07-0495 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance amending Section 26 of the City Charter pertaining to selection and tenure of the city attorney; and

WHEREAS, said Section 410.12, subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance.

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendments to the City Charter is hereby called for August 13, 2007, at 7:00 p.m., in the Council Chamber at Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by the city of Duluth that on August 13, 2007, at 7:00 p.m., in the Council Chamber at Duluth City Hall, the city council of the city of Duluth will conduct a public hearing on the question of the adoption of an ordinance amending Section 26 of the City Charter in the manner hereinafter set forth:

[text of proposed ordinance]

Resolution 07-0496 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

The city council finds as follows:

(a) That the city of Duluth has applied to the department of natural resources for a grant from the regional trails program for the construction of the Lakewalk East trail extension Phase II, from the end of Phase I of the existing trail at 36th Avenue East to approximately 47th Avenue East, S.P. 118-090-013, City Project No. 0580TR;

(b) The grant has been approved and the amount of the grant has been determined to be \$130,000.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and authorizes the proper city officials to execute and implement the grant agreement wherein the city agrees to maintain the facilities, trail and equipment for no less than 20 years and requires the city of Duluth to provide matching funds equal to the grant amount.

FURTHER RESOLVED, that Wayne Parson, city auditor, having an address of 411 West First Street, Room 107 City Hall, Duluth, Minnesota 55802, is hereby designated as fiscal agent to receive said grant, and grant monies received hereunder shall be deposited into the Capital Improvement Fund 0450, Agency 035, Object 5530, City Project No. 0580TR.

Resolution 07-0447 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0284 awarding a contract to Northwest Sealing, Inc., for the year 2007 crack sealing be amended as follows:

Increase attributable to preservation of existing streets constructed under the street improvement program is \$15,500, payable out of the General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5403, City Project Number 0247TR.

Resolution 07-0468 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Morton International, Inc., Morton Salt Division, for the purchase and delivery of road salt for the 2007 - 2008 year in accordance with specifications and its low bid of \$485,240 plus sales tax of \$31,540.60, for a total estimated amount of \$516,780.60, terms net 30, FOB destination, payable as follows from the General Fund 100, Department/Agency 500, Organization 1920-2550 and Object 5223:

(a) \$232,551.27 for budget year 2007 (October through December); and

(b) \$284,229.33 for budget year 2008 (January through April).

Resolution 07-0490 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to award contracts on a per line item basis to six vendors:

(a) Capp Inc;

(b) Dey Distributing;

(c) Ferguson Enterprise;

(d) Grainger Industrial Supply;

(e) Johnstone Supply; and

(f) United Refrigeration, Inc.;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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for the purchase and delivery of various appliance/furniture parts during year 2007 at an estimated amount of \$44,289.25 plus sales tax of \$2,878.80 for a total estimated amount of \$47,168.05, terms net 30, FOB destination, and payable from the Gas Fund 520, Department/Agency 500, Organization 1940-2420, Object 5220.

Resolution 07-0491 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Gerard Chimney Company for professional services to include concrete chimney inspection, condition assessment and repair recommendations for the Duluth Steam Utility District No. 1 at the facility located at One Lake Place Drive, Duluth, Minnesota, for an estimated amount of \$11,400, terms net 30, payable from Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530. Said agreement is to be substantially in the form of Public Document No. 07-0723-18 on file in the office of the city clerk.

Resolution 07-0492 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to John and Peggy Cloutier the sum of \$10,401.52 in full and final settlement of the claim which arose out of a break in a city watermain occurring near 224 South 90th Avenue West on January 19, 2007; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 07-0497 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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

On Juniata Street in front of 5216 Juniata Street.

Resolution 07-0314 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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

On East Seventh Street in front of 310 East Seventh Street.

Resolution 07-0315 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street, Bristol Street and 57th Avenue West between Grand Avenue and Central Avenue on August 3, 2007, from 6:00 p.m. to 1:00 a.m. (August 4) in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 07-0488 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that city officials are hereby authorized to contract with Louise M. Beyea, D.V.M., for professional services as a provider of veterinary care to animals at the Lake Superior Zoo during year 2007 (with four one-year renewal options) in accordance with specifications and a total estimated amount not to exceed \$10,000, payable from the General Fund 100, Department/Agency 400, Organization 1814, Object 5310. Said agreement is to be substantially in the form of Public Document No. 07-0723-19 on file in the office of the city clerk.

Resolution 07-0498 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement a contract between the city of Duluth and Duluth Police Explorer Post 244, substantially the same as that on file with the clerk as Public Document No. 07-0723-20, for services as a concessionaire at the Playfront parking lot during the presentation of the Bayfront Blues Festival and at no cost to the city of Duluth.

Resolution 07-0499 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to execute the amended Exhibit A and Exhibit F to service agreement with Blue Cross and Blue Shield of Minnesota, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0723-23, to provide administrative services, stop loss insurance and care support program

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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to the city's group health insurance plans effective January 1, 2007; payable from the group health fund.

Resolution 07-0494 was adopted upon the following vote:

Yeas: Councilors Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Abstention: Councilor Krause -- 1

Absent: Councilor Gilbert -- 1

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

Resolutions 07-0509 and 07-0510, by Councilor Krause, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, were introduced for discussion.

Councilor Stewart noted the legalities associated with the definition of "contiguous" and that the council was advised that the area being requested for expansion does not meet this definition and, if approved, it could set a very bad precedence.

Resolution 07-0509, approving the expansion, failed upon the following vote (Public Document No. 07-0723-24):

Yeas: Councilors Little, Reinert and Stauber -- 3

Nays: Councilors Johnson, Krause, Ness, Stewart and President Stover -- 5

Absent: Councilor Gilbert -- 1

*[Editor's Note: Resolution 07-0509 was reconsidered at the August 13, 2007, council meeting.]*

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Resolution 07-0510 was adopted as follows:

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby denies the application for permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2007:

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street.

Resolution 07-0510 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Ness, Stewart and President Stover -- 5

Nays: Councilors Little, Reinert and Stauber -- 3

Absent: Councilor Gilbert -- 1

Approved July 23, 2007

HERB W. BERGSON, Mayor

*[Editor's Note: Resolution 07-0510 was reconsidered at the August 13, 2007, council meeting.]*

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a supplemental labor agreement with the Confidential Unit of the city of Duluth, represented by UNITE HERE Local 150, which is on file in the office of the city clerk as Public Document No. 07-0723-21, that adds language requiring employees hired on or after January 1, 2006, to pay

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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the entire cost of their retiree health insurance and requiring the city to deposit the sum of \$12,000 for these new hires into a health care savings plan account after 36 months of employment.

Resolution 07-0511 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement with the Confidential Unit of the city of Duluth, represented by UNITE HERE Local 150, containing the same terms and conditions, and being in the same form (except for typographic or insubstantial corrections) as the contract on file with the city clerk as Public Document No. 07-0723-22, covering the years 2007-2009.

Resolution 07-0512 was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0459, by Councilor Gilbert, confirming the reappointments of Marti Buscaglia and Marsha Signorelli to the entertainment and convention center authority, was introduced for discussion.

Councilor Stauber moved divide the resolution to consider each reappointment separately, which motion was seconded carried upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Stauber and Stewart -- 6

Nays: Councilors Reinert and President Stover -- 2

Absent: Councilor Gilbert -- 1

Resolution 07-0459(a), regarding Marti Buscaglia's reappointment, failed upon the following vote (Public Document No. 07-0723-25):

Yeas: Councilors Ness, Reinert, Stewart and President Stover -- 4

Nays: Councilors Johnson, Krause, Little and Stauber -- 4

Absent: Councilor Gilbert -- 1

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Resolution 07-0459(b), regarding Marsha Signorelli's reappointment, was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment to the entertainment and convention center authority by Mayor Bergson of Marsha Signorelli, for a term expiring on June 30, 2010, is confirmed.

Resolution 07-0459(b) was unanimously adopted.

Approved July 23, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0501, by Councilor Stauber, objecting to the proposed reclassification to nonconservation and sale of certain tax forfeited parcels by the board of commissioners of Saint Louis County (June 8, 2007, reclassification), was introduced for discussion.

Councilor Stewart opposed the resolution, stating that unless there is a true public purpose, lands should not be removed from the conservation list and that the private market should do land packaging.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Robert Bruce, director of planning and development, noted that all the tracts except Tract 4, have very substantial reasons to be withheld from sale and that the planning department would not object to have the steep slope purpose of Tract 4 removed from the resolution.

Councilor Stewart moved to amend the resolution to remove Tract 4, which motion was seconded and carried upon the following vote:

Yeas: Councilors Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Gilbert -- 1

Resolution 07-0501, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city council objects to the reclassification to nonconservation and sale of the following tax forfeited parcels by the board of county commissioners of Saint Louis County (FN 07075):

Parcel ID and legal description	Location	Reason
010-0090-00040 010-0090-00080 Auditors Plat Lester Park Garden Tract Lots 4, 8 & 9 Tract #1	east of Skyline Parkway north of Lester Street (Lakeside-Lester Park)	future park acquisition, buffer from Skyline Parkway
010-0150-00090 Atlantic Ave Addition Block 2, Lots 3 thru 13 Tract #2	southeast corner of West 12th Street and 29th Avenue West (Lincoln Park)	future neighborhood collector road
010-0150-00200 Atlantic Ave Addition Block 2, Lots 14 thru 29 Tract #3	northeast corner of West 11th Street and 29th Avenue West (Lincoln Park)	future neighborhood collector road
010-1620-00291 Fond du Lac Fourth Street That Part of Lots 21 thru 30 Odd No Lots Lying 20 Ft Nly and 20 Ft Sly of a Line Beg at a Pt on the W Line of Lot 21 13.56 Ft S of the NW Cor of Lot 21 Thence to a Pt 54.83 Ft S of the NE Cor Along the E Line of Lot 39 & the Sly 46 Ft of the Nly 98 Ft of Lots 41, 43, 45 and That Part of Lots 47 thru 57 Odd No Lots Described as Beg at a Pt on W Line of Lot 47 52 Ft S of NW Cor of Lot 47 Thence Ely 40 Ft to a Pt on E Line of Lot 47 52 Ft S of the NE Cor of Lot 47 Thence NEly 81.22 Ft to a Pt on E Line of Lot 51 38.1 Ft S of NE Cor of Lot 51 Thence N 17.3 Ft to a Pt on E Line of Lot 51 20.8 Ft S of	West Fourth Street between 132nd and 134th avenues West (Fond du Lac)	city maintained street on the property, acquire for road purposes

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parcel ID and legal description	Location	Reason
the NE Cor of Lot 51 Thence NEly 82.68 Ft to NW Cor of Lot 57 Thence E 40 Ft to NE Cor of Lot 57 Thence S 64.1 Ft along E Line of Lot 57 Thence SWly 242.22 Ft to a Pt on W Line of Lot 47 98 Ft S of the NW Cor of Lot 47 Thence N 46 Ft along W Line of Lot 47 to Pt of Beg & Lot 59 Tract #6		
010-2690-01220 W 1/2 of S 1/2 of S 1/2 of S 1/2 of SE 1/4 of NE 1/4, Twp 51N Rng 13W Sect 33 Tract #7	north of Hwy 61 west of Chase Avenue (North Shore)	retain for inclusion with a proposed residential development
010-3530-01350 Nortons Lakewood Gardens Block 6, Lot 18, E 1/2 Tract #8	west side of 80th Avenue East north of Highway 61 (North Shore)	stormwater protection, coordinated development proposal
010-3530-01540 010-3530-01550 Nortons Lakewood Gardens Block 7, Lots 11 & 12 Tract #9	east side of 78th Avenue East north of Highway 61 (North Shore)	stormwater protection, coordinated development proposal
010-3530-01560 010-3530-01565 Nortons Lakewood Gardens Block 7 W 1/2 of Lot 13, and Block 7, E 1/2 of Lot 13 Tract #10	east side of 78th Avenue East north of Highway 61 (North Shore)	stormwater protection, coordinated development proposal
010-3530-02170 010-3530-02180 Nortons Lakewood Gardens Block 10, Lots 23 & 24 Tract #11	west side of 79th Avenue East north of Highway 61 (North Shore)	stormwater protection, coordinated development proposal

Resolution 07-0501, as amended, was adopted upon the following vote:  
 Yeas: Councilors Johnson, Little, Ness, Reinert, Stauber and Stewart -- 7  
 Nays: Councilor Krause and President Stover -- 2  
 Absent: Councilor Gilbert -- 1  
 Approved July 23, 2007  
 HERB W. BERGSON, Mayor

- - -

Resolution 07-0503, by Councilor Stauber, denying a rezoning petition to provide for the reclassification from R-1-b, one- and two-family residential, to C-1, commercial, property at the southwest corner of Woodland Avenue and Norton Street (Carol Anderson), was introduced for discussion.

Councilor Stauber moved to table the resolution until the accompanying Ordinance 07-046 is considered at the August 13 council meeting, which motion was seconded and unanimously carried.

- - -

Resolution 07-0507, by Councilor Stauber, denying a rezoning petition to provide for the reclassification from R-3, apartment residential, to C-1, commercial, a triangle-shaped block of property bounded by Grand Avenue, South 69th Avenue West and Sherburne Street (Michael Koski, WKK, Inc.), was introduced for discussion.

Councilor Stauber moved to table the resolution until the accompanying Ordinance 07-048 is considered at the August 13 council meeting, which motion was seconded and unanimously carried.

- - -

Resolution 07-0502, by Councilor Johnson, awarding a contract to Stout Mechanical, Inc., for construction of Lakewalk East extension from 26th Avenue East to 36th Avenue East in the amount of \$821,471, was introduced for discussion.

Councilor Stauber moved to table the resolution to give residents more time for input on the project, which motion was seconded and carried upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Ness, Stauber, Stewart and President Stover -- 7

Nays: Councilor Reinert -- 1

Absent: Councilor Gilbert -- 1

- - -

Resolution 07-0508, by Councilor Johnson, authorizing addendum to Contract No. 20429 with Clyde Industrial Park, Inc., authorizing reimbursement for storm sewer construction not to exceed \$104,612, was introduced for discussion.

Councilor Stauber felt that the city has made its contribution to this project, the state is paying for the infrastructure and that it would be nice a project to be able to do, but that at this time of tight budgeting it is not necessary.

John Hall, chief administrative officer, stated that the administration has qualified support for this project, which is based on good, prudent planning and that the funding comes from the stormwater utility fund.

Resolution 07-0508 failed upon the following vote (Public Document No. 07-0723-17):

Yeas: Councilors Johnson, Reinert and President Stover -- 3

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Abstention: Councilor Ness -- 1

Absent: Councilor Gilbert -- 1

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

07-045 - A SECOND ORDINANCE AMENDING ORDINANCE 9828 ADDING A PLAT NAME TO THE LEGAL DESCRIPTION OF THE SUBJECT PROPERTY.

- - -

BY COUNCILOR STAUBER

07-046 - 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, ONE- AND TWO-FAMILY RESIDENTIAL TO C-1, COMMERCIAL, PROPERTY AT THE SOUTHWEST CORNER OF WOODLAND AVENUE AND NORTON STREET (CAROL ANDERSON).

- - -

BY COUNCILOR STAUBER

07-048 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 12 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3, APARTMENT RESIDENTIAL, TO C-1, COMMERCIAL, A TRIANGLE-SHAPED BLOCK OF PROPERTY BOUNDED BY GRAND AVENUE, SOUTH 69TH AVENUE WEST AND SHERBURNE STREET (MICHAEL KOSKI, WKK, INC.).

- - -

BY COUNCILOR STAUBER

07-051 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

- - -

BY PRESIDENT STOVER

07-049 - AN ORDINANCE AMENDING SECTION 19 OF THE CITY CHARTER PERTAINING TO SELECTION AND TENURE OF THE CHIEF ADMINISTRATIVE OFFICER.

- - -

BY PRESIDENT STOVER

07-050 - AN ORDINANCE AMENDING SECTION 26 OF THE CITY CHARTER PERTAINING TO SELECTION AND TENURE OF THE CITY ATTORNEY.

- - -

BY COUNCILOR REINERT

07-044 - AN ORDINANCE GOVERNING PARKING ON NON-SNOW EMERGENCY ROUTES DURING SNOW EMERGENCIES, AMENDING SECTIONS 33-97.1, 33-97.3, 33-97.4 AND 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR REINERT

07-047 - AN ORDINANCE REPEALING ARTICLE XX OF CHAPTER 2 OF THE CITY CODE RELATING TO THE SISTER CITY COMMISSION.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR KRAUSE

07-041 (9847) - AN ORDINANCE REGULATING RUBBISH AND TALL GRASS, AMENDING SECTION 24-6 AND 24-37 OF THE DULUTH CITY CODE.

Councilor Krause moved to suspend the rules to hear from a speaker on the ordinance, which motion was seconded and unanimously carried.

- - -

Councilor Gilbert took his seat at this time.

- - -

Clayton Oslund spoke in support of the ordinance, but presented information (Public Document No. 07-0723-03(d)) which would amend Section 24-6 to clarify the intent of what the ordinance does not regulate.

Councilors Little, Stewart and Reinert opposed the ordinance for reasons of: the solid waster compliance officer will not know what type of vegetation is or is not allowed; enforcement will be difficult; questioned how grass over eight inches tall is a danger to health or safety; public property is excluded, so why is there not a problem on public property of these nuisances; there is other legislation that addresses the primary areas of concern; it is unfair to ask private citizens to do what government is not going to be required to do and this is too much power to be put in the hands of the solid waste compliance officer.

Councilors Krause, Stauber and Ness expressed support for the ordinance for reasons of: there are yards with knee high grass that has rats, wood ticks and deer ticks; ornamental gardens are allowed; staff will not be driving around town looking for these sites, it will only be a tool when there are neighbor complaints; local government cannot dictate to other higher levels of government; gardens are not covered by this ordinance; this came about from absentee landlords who have rental property that is not kept up; it also addresses many aspects in addition to grass, including weeds, dirt, garbage, rubbish, dirt, litter, dead animals, etc., and everyone needs to do their part to protect the quality of life in the neighborhoods.

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

Councilor Krause accepted the amendment proposed by Dr. Oslund to the last sentence in subsection 24-6(b) of the ordinance, to read as follows:

"This Section 24-6 does not regulate or prohibit compost or composting as set out in MSA Section 18C.005, nor cultivation of beach grass, ornamental grasses or sedges of any height intended for perennial garden displays and recognized as suitable for such use by the University of Minnesota Extension Service, nor the establishment of a natural area that is not a lawn and is intended to allow the natural vegetation and trees to exist in a state similar to the native forest or prairie environment nor special purpose plantings intended to generate specific environmental benefits such as in a watergarden.

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness and Stauber -- 5

Nays: Councilors Little, Reinert, Stewart and President Stover -- 4

*[Editor's note: Ordinance 9847 was vetoed by Mayor Bergson on July 31, 2007 (Public Document No. 07-0813-09).]*

- - -

BY COUNCILOR JOHNSON

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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07-042 (9848) - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN WEST DULUTH AND AUTHORIZING SALE OF SAME TO LEONARD A. AND AVIS R. GRECINGER FOR \$4,584.40.

Councilor Johnson moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR JOHNSON

07-043 (9849) - AN ORDINANCE ALIENATING CERTAIN PROPERTY IN WEST DULUTH AND AUTHORIZING SALE OF SAME TO WESLEY C. BRADFORD FOR \$1,931.10.

Councilor Johnson moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:18 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9848**

BY COUNCILOR JOHNSON:

AN ORDINANCE ALIENATING CERTAIN PROPERTY IN WEST DULUTH AND AUTHORIZING SALE OF SAME TO LEONARD A. AND AVIS R. GRECINGER FOR \$4,584.40.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 2 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That the proper city officials are hereby authorized to sell and convey, subject to an environmental liability waiver and indemnification in favor of the city and approved by the city attorney, the following described property in St. Louis County, Minnesota, by quit claim deed to Leonard A. and Avis R. Grecinger for \$4,584.40 to be deposited in parks and recreation fund and to execute all documents necessary with regard to said conveyance:

Lots 3 and 4 (easterly 42 feet of westerly 83 feet), and Lot 4 (southerly 20 feet of westerly 41 feet), Block 148, WEST DULUTH FIFTH DIVISION.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 26, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 23, 2007

Approved July 23, 2007

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9849**

BY COUNCILOR JOHNSON:

AN ORDINANCE ALIENATING CERTAIN PROPERTY IN WEST DULUTH AND AUTHORIZING SALE OF SAME TO WESLEY C. BRADFORD FOR \$1,931.10.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 2 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That the proper city officials are hereby authorized to sell and convey, subject to an environmental liability waiver and indemnification in favor of the city and approved by the city attorney, the following described property in St. Louis County, Minnesota, by quit claim deed to Wesley C. Bradford for \$1,931.10 to be deposited in parks and recreation fund and to execute all documents necessary with regard to said conveyance:

Lot 3 (westerly 41 feet) and Lot 4 (westerly 41 feet of northerly five feet), Block 148, WEST DULUTH FIFTH DIVISION.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 26, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 23, 2007  
Approved July 23, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Monday, August 6, 2007, 6:10 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

**MOTIONS AND RESOLUTIONS**

The following entitled resolution was read for the first time:

BY COUNCILOR STAUBER

07-0514 - RESOLUTION ACCEPTING THE BUSINESS SUBSIDY REPORT AND APPROVING THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY AND DULUTH TECHNOLOGY PARK I, LLC.

- - -

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

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, August 13, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0813-01 DTA, by ATE Management, Inc., concurrent use permit application for construction of new bus shelters on Superior Street. -- Planning commission

07-0813-02 Mark Mitchell, Mitch's Bar and Grill, concurrent use permit to use portion of sidewalk at 2113 West Superior Street. -- Planning Commission

07-0813-03 Dan Murphy, et al. (seven signatures), petition for the the bituminous surfacing of Plum Street from Eighth Avenue East to Skywood Lane. -- Assessor

07-0813-04 Minnesota state auditor submitting:

(a) Management and compliance report for the year ended December 31, 2006, for Western Lake Superior Sanitary District;

(b) Comprehensive annual financial report for the year ended December 31, 2006, for Western Lake Superior Sanitary District. -- Received

07-0813-05 Arrowhead regional development commission proposed 2008 tax levy request and budget. -- Received

07-0813-06 Robert Eaton communication regarding contract for the construction to extend Lakewalk East from 26th to 36th avenues East (07-0502R). -- Received

07-0813-19 Joseph Kleiman communication regarding proposed project labor agreement regulations (07-0552R and 07-054-O). -- Received

07-0813-07 David Patrick, by Ryan Mears, agent, acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9844 granted on July 9, 2007. -- Received

07-0813-08 The following communications regarding the proposed ordinance relating to rental licensing (07-051-O): (a) Jim Aird (5); (b) Michele Brown; (c) Casey Knutson Carbert; (d) Janet Draper; (e) Steve Filipovich; (f) Theresa Jensen; (g) Pat Johnson; (h) Joseph Kleiman; (i) Mona Knutson; (j) John Powers; (k) Sandy Robinson; (l) Jim Snow; (m) Gundars Stumbris; (n) Jeff Urbaniak. -- Received

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**REPORTS FROM THE ADMINISTRATION**

07-0813-09 Mayor Bergson veto of Ordinance 9847, amending Sections 24-6 and 24-37 of the Duluth City Code, 1959, as amended; regulating rubbish and tall grass. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

John Hall, chief administrative officer (CAO), introduced Terry Groshong, interim city architect, who gave an update on the status of the Harrison Community Club since the recent fire. In reviewing the amount of damage and the sequence of work that has been done, Mr. Groshong concluded that he hoped that it would be open within 90 days.

- - -

Mr. Hall introduced Bob Bruce, planning department director, relative to the staffing and attendance at planning district meetings. Mr. Bruce reviewed at length the history of planning districts and how, in some cases, their issues were in conflict with citywide planning. In conclusion, Mr. Bruce noted that he would assist districts with electronic notifications but that currently he would not be able to send staff to district planning meetings. He felt that the continuation of the district meetings was good, in that the districts could discuss issues and bring them forward to the city, and in return the city could use the meetings to bring an issue to a district.

- - -

07-0813-10 Assessor:

(a) Affidavit of mailing of notice of the levying of assessments against the property specially benefitted for unpaid delinquent stormwater utility bills;

(b) Letter of sufficiency of petition to reclassify from S to R-1 a, property described as approximately 19 acres located in the S1/2 of NW1/4 of Section 3, Township 50, Range 14.  
-- Received

07-0813-11 Building official appeal of the board of zoning appeals decision to deny an appeal of the interpretation of the definition of "garage, public" under Section 50-1.32 and dispute the city's determination that the proposed process is steel fabrication which is not allowed in the C-2 zoning district located at 2901 Morris Thomas Road (James Bechthold). -- Committee 2 (planning and economic development)

07-0813-12 Community development division manager 2006 consolidated plan end of year review. -- Received

07-0813-13 Parks and recreation department interim director:

(a) Rental agreement with Ashley Hron and Matt Smith for residential dwelling unit located at Enger Park Clubhouse at 1801 West Skyline Parkway, pursuant to Section 2-35, Duluth City Code. -- Mayor for execution

(b) Lake Superior Zoological Society minutes of May 23, 2007, meeting. -- Received

07-0813-14 Purchasing agent emergency order awarded to AMI Consultant to inspect the inside piping of the West End water reservoir and insert bladder plug in intake pipe. -- Received

- - -

### REPORTS OF BOARDS AND COMMISSIONS

07-0813-15 Commission on disabilities minutes of June 6, 2007, meeting. -- Received

07-0813-16 Duluth airport authority:

(a) Balance sheet for May 31, 2007;

(b) Minutes of June 19, 2007, meeting. -- Received

07-0813-17 Seaway Port authority of Duluth:

(a) Minutes of:

(1) March 22;

(2) April 25;

(3) May 31;

(4) June, 27, 2007, meetings;

(b) Budget format for 2008 -- Received

07-0813-18 Spirit Mountain recreation area authority minutes of:

(a) June 21;

(b) July 9, 2007, meetings. -- Received

- - -

At this time, the public hearing on the Charter amendment pertaining to the selection and tenure of the chief administrative officer (Ordinance 07-049) began.

Daniel Maddy, president of the Duluth Charter Commission, reviewed the details and rationale for this proposed change.

Mr. Hall, speaking as an individual and not as the current CAO, expressed concern that the council consider that a CAO should have a long-term perspective, as that comes from working within the organization, because they would leave less damage than the experts who have been brought in from outside of the organization. He felt that there are plenty of reasons now to discourage a mayor from firing a CAO because of the significant political cost. In conclusion, Mr. Hall urged the council to not make this change, unless they are absolutely certain of the need for this change and the consequences.

At this time this public hearing was declared closed.

- - -

At this time, the public hearing on the Charter amendment pertaining to the selection and tenure of the city attorney (Ordinance 07-050) began.

Daniel Maddy, president of the Duluth Charter Commission, reviewed the details and rationale for this proposed change.

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

- - -

#### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Marcia Larrivy expressed her concern that there should be fines relative to property owners who do not keep their grass cut. She also stated that a neighbor continually has parties where there are drug deals. Ms. Larrivy added that since no one is getting tickets or fines, those parties start up right after the police leave and that there are fires there.

- - -

Tom Johnson expressed the same concerns as Ms. Larrivy relative to the problems with the specific neighbor she referred to.

- - -

Jerry Schlafer noted that the bureau of labor statistics states that there are 137,000 jobs in Duluth. He felt that if each citizen contributed a small amount to the city each day for a year and, over ten years, that any problem could be solved and a lot would get done. Mr. Schlafer then presented a check to the city for \$100.

- - -

Kay L. Lewis commented that: safety procedures be implemented for the bears that will be coming into town due to the drought; those securing low income housing should first check with the building safety office relative to existing conditions and that there not be clear cutting on the areas not needed for building by Tischer Creek.

Ms. Lewis donated a quarter to the city.

- - -

#### **RESOLUTIONS TABLED**

Councilor Stauber moved to remove Resolution 07-0503, denying a rezoning petition to

provide for the reclassification from R-1-b, one- and two-family residential, to C-1, commercial, property at the southwest corner of Woodland Avenue and Norton Street (Carol Anderson), from the table, which motion was seconded and unanimously carried.

- - -

### **INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-046 (9851) - 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, ONE- AND TWO-FAMILY RESIDENTIAL TO C-1, COMMERCIAL, PROPERTY AT THE SOUTHWEST CORNER OF WOODLAND AVENUE AND NORTON STREET (CAROL ANDERSON).

Councilor Stauber moved to suspend the rules to consider Ordinance 07-046 at this time, which motion was seconded and unanimously carried.

- - -

Resolution 07-0503 failed upon the following vote (Public Document No. 07-0813-20):

Yeas: President Stover -- 1

Nays: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber and Stewart -- 8

- - -

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

- - -

Councilor Stauber moved to remove Resolution 07-0507, denying a rezoning petition to provide for the reclassification from R-3, apartment residential, to C-1, commercial, a triangle-shaped block of property bounded by Grand Avenue, South 69th Avenue West and Sherburne Street (Michael Koski, WKK, Inc.), from the table, which motion was seconded and unanimously carried.

- - -

### **INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-048 (9852) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 12 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3, APARTMENT RESIDENTIAL, TO C-1, COMMERCIAL, A TRIANGLE-SHAPED BLOCK OF PROPERTY BOUNDED BY GRAND AVENUE, SOUTH 69TH AVENUE WEST AND SHERBURNE STREET (MICHAEL KOSKI, WKK, INC.).

Councilor Stauber moved to suspend the rules to consider ordinance 07-048 at this time, which motion was seconded and unanimously carried.

Councilor Stauber moved to suspend the rules to hear a speaker on the issue, which motion was seconded and unanimously carried.

Kris Ridgewell stated that: the neighbors would like the existing green space; they realize that this area will be developed one way or the other and they support this proposed change . She felt that the area is conducive to commercial activity from 9:00 a.m. to 5:00 p.m.

Mr. Bruce stated that the planning commission and the comprehensive plan do not support this area as a commercial corridor. He further noted that if this reclassification is approved, it cannot be restrictive of the type of business that can be located there.

Resolution 07-0507 failed upon the following vote (Public Document No. 07-0813-21):

Yeas: Councilors Krause, Stauber and Stewart -- 3

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert and President Stover -- 6

- - -

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert and President Stover -- 6

Nays: Councilors Krause, Stauber and Stewart -- 3

- - -

Councilor Johnson moved to remove Resolution 07-0502, awarding a contract to Stout Mechanical, Inc., for construction of Lakewalk East extension from 26th Avenue East to 36th Avenue East in the amount of \$821,471, from the table, which motion was seconded and unanimously carried.

Resolution 07-0502 was adopted as follows:

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Stout Mechanical, Inc., for the construction of the Lakewalk East extension, Phase I, from 26th Avenue East to 36th Avenue East for the engineering division for its low bid of \$821,471, payable out of Fund 0450, Department/Agency 030, Object 5530, City Project No. CP2005 - C0502; Federal Project No. TEAX 6906 (105).

Resolution 07-0502 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

### **RESOLUTIONS RECONSIDERED**

Councilor Ness moved to reconsider resolutions 07-0509 and 07-0510, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, which motion was seconded and unanimously carried.

Councilor Ness noted that the city of Minneapolis has a means to allow this type of activity and that he would move to table both resolutions for further review, which motion was seconded and unanimously carried.

- - -

### **MOTIONS AND RESOLUTIONS**

The following entitled resolution was read for the second time:

BY COUNCILOR STAUBER

07-0514 - RESOLUTION ACCEPTING THE BUSINESS SUBSIDY REPORT AND APPROVING THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY AND DULUTH TECHNOLOGY PARK I, LLC.

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

- - -

**CONSENT AGENDA**

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

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

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

Waltman-Tessier Memorial Fund (Waltman-Tessier Memorial Tournament), Wheeler Field, for August 24, 25 and 26, 2007, with John McAdamis, manager.

Resolution 07-0517 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the following on sale intoxicating liquor 2:00 a.m. beverage license for the period ending August 31, 2007:

Player's Grandstand, Inc. (Player's Sports Bar), 4024 Grand Avenue.

Duluth Entertainment Convention Center, 350 Harbor Drive.

Resolution 07-0518 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2007, subject to departmental approvals, with any specific restrictions:

D&D Enterprises of Cloquet (Mr. D's Bar & Grill), 5622 Grand Avenue.

Resolution 07-0519 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR KRAUSE:

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

Duluth-Superior GLBT Pride, Inc. ((Duluth-Superior GLBT Pride Festival), Bayfront Park, for September 1, 2007, with Carolyn Reisberg, manager.

Resolution 07-0520 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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, 2007, subject to departmental approvals and the payment of sales and property taxes:

Professional Golf Management, Inc. (Enger Park Golf Course), 1801 West Skyline Parkway, with Paul Schintz, 50 percent stockholder and Jud Crist, 50 percent stockholder, transferred from Anderson Golf, Inc. (Enger Park Golf Course), same address.

Resolution 07-0521 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale 3.2 percent malt liquor license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

Professional Golf Management, Inc. (Lester Park Golf Course), 1860 Lester River Road, with Paul Schintz, 50 percent stockholder and Jud Crist, 50 percent stockholder, transferred from Paul Schintz, Inc. (Lester Park Golf Course), same address.

Resolution 07-0522 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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

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

<b>Licensee</b>	<b>Gambling Site</b>
Irving Community Association	- Gopher Lounge, 402 North Central Avenue - Mitch's Bar, 2113 West Superior Street - Shotz Bar, 1321 Commonwealth Avenue - Stadium Lanes, 132 North 34th Avenue West

**Licensee**

**Gambling Site**

---

- Moldeez, 1426 Commonwealth Avenue
- Hero's, 323 West First Street

Resolution 07-0528 was unanimously adopted.  
Approved August 13, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Arrowhead Bowhunters Alliance, 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 07-0529 was unanimously adopted.  
Approved August 13, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2007, subject to departmental approvals and the payment of sales and property taxes:

J&J Miller, Inc. (Copasetic Lounge), 322 East Central Entrance, with Gerald Miller, president and 300 Shares, Joel Miller, secretary and 300 shares, and Charles Flaig, treasurer and 300 shares.

Resolution 07-0530 was unanimously adopted.  
Approved August 13, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On July, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of JNC Liquors, d/b/a Wild West Liquor, 318 North Central Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0813-22;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on August 13, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0813-22 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of JNC Liquors, d/b/a Wild West Liquor, 318 North Central Avenue, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0538 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On July, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of J&J Miller, Inc., d/b/a Copasetic Lounge, 322 East Central Entrance, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0813-23;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on August 13, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0813-23 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of J&J Miller, Inc., d/b/a Copasetic Lounge, 322 East Central Entrance, are adopted.

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 revoke the licenses issued to the licensee pursuant to Resolution 06-0729, such revocation to be effective September 1, 2007, if the licensee has failed to have the licenses for the current licensing period issued to him on or before August 31, 2007.

Resolution 07-0539 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On July, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Bunsie, Inc., d/b/a Spirit Bottle Shoppe, 5801 Grand Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0813-24;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on August 13, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0813-24 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Bunsie, Inc., d/b/a Spirit Bottle Shoppe, 5801 Grand Avenue, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0540 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On July, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of City Wine & Liquor Store, Inc., d/b/a Warehouse Liquor Store, 104 West Central Entrance, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-0813-25;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on August 13, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-0813-25 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of City Wine & Liquor Store, Inc., d/b/a Warehouse Liquor Store, 104 West Central Entrance, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0541 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson to the entertainment and convention center authority of James A. Laumeyer for a term expiring on June 30, 2010, replacing John Bray, is confirmed.

Resolution 07-0533 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby accepts \$4,933.94 in settlement of the debt owed by Joshua Thomas Volden, d/b/a Brother Earth, to the revolving loan fund formerly operated by NSCDC payable into Fund 263 and authorizing the city's manager of community development to execute a release substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0813-26.

Resolution 07-0513 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

BE IT RESOLVED, that the city of Duluth (the city) act as the legal sponsor for project contained in the redevelopment grant program application submitted on August 1, 2007, and that the mayor and the city clerk are hereby authorized to apply to the department of employment and economic development for a grant in the amount of \$500,000 for funding of this project on behalf of the Duluth airport authority (DAA).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BE IT FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate project administration.

BE IT FURTHER RESOLVED, that the city hereby commits to provide up to \$500,000 in matching funds for the project if said grant is awarded by the state and accepted by the city, which funds are to be provided by Duluth airport authority, pursuant to a development agreement.

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

BE IT FURTHER RESOLVED, that upon approval of its application by the state, the acceptance thereof shall be subject to further resolution of the council authorizing such acceptance pursuant to approval of the form of the above-referenced development agreement and the commitments contained therein.

Resolution 07-0537 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to enter into a contract (Public Document No. 07-0813-27) to oversee the development of neighborhood revitalization plans for West Duluth and Morgan Park in the amount of \$15,000 from Federal Fund 262-020-5434, Project CD007CD - ADMC-AD02.

Resolution 07-0545 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

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 August 1, 2007, through July 31, 2010. Based on current square footage and rental rates, rent is expected to total \$57,123.00. IN the event that rental rates or square footage are increased, total costs are not to exceed \$65,000 payable from Fund 0268.

FURTHER RESOLVED, a copy of this agreement shall be in substantially the form of the agreement on file with the city clerk as Public Document No. 07-0813-28.

Resolution 07-0489 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 11, 2007, municipal primary election and November 6, 2007, for the municipal and school general election:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

**POLLING PLACE LIST**

<b>POLLING PLACE</b>	<b>ADDRESS</b>
1. St. Michael's Catholic Church (lower level)	4901 East Superior Street
2. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
3. Lutheran Church of the Good Shepherd (lower level)	1325 North 45th Avenue East
4. Faith Lutheran Church (lower level)	1814 North 51st Avenue East
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Glen Avon Presbyterian Church	2105 Woodland Avenue
8. Duluth Congregational Church	3833 East Superior Street
9. Pilgrim Congregational Church	2310 East Fourth Street
10. U.M.D. Kirby Student Center	1120 Kirby Drive
11. Kenwood Lutheran Church	324 West Cleveland Street
12. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
13. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
14. Temple Israel	1602 East Second 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. First Presbyterian Church (avenue entrance)	300 East Second Street
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**

<b>POLLING PLACE</b>	<b>ADDRESS</b>
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. Wheeler Club House	35th Avenue West and Grand Avenue
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 (Room 27)	715-101st Avenue West

\* Harrison Community Center became unavailable after the recent fire.

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 11, 2007, and November 6, 2007, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 11, 2007, and November 6, 2007, 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 07-0543 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 11, 2007,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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municipal primary election and the November 6, 2007, municipal and school board general election, as listed in Public Document No. 07-0813-29.

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 \$.485 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 07-0544 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY PRESIDENT STOVER:

RESOLVED, that the city council approves the appointment of Kathleen Bergen to the position of director of parks and recreation on interim basis, effective August 3, 2007; compensation and benefits as set out for the position of director of parks and recreation, except that no severance pay is included and return rights are granted to her previous position.

Resolution 07-0549 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Duluth Superior Erection, Inc., for the replacement and repair of two steam vaults - roofs and walls - on Third Avenue East and Superior Street and Third Avenue East and First Street Alley for the Duluth Steam Utility District No. 1 in accordance with specifications and the contractor's low bid of \$55,550, payable from the Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 07-0532 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Kathryn J. Makoutz the sum of \$19,192.06 in full and final settlement of the claim which arose out of a break in a city watermain occurring near 229 North 54th Avenue East on March 11, 2007; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 07-0542 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires to complete engineering services for the year 2008 street improvement program for Morley Heights.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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The city desires to hire a consulting engineer to provide the design and construction engineering services required for the project.

Ayres Associates has submitted a proposal for engineering services in connection with this project.

The proper city officials are hereby authorized to enter into an agreement with Ayres Associates to provide the city with such engineering services.

FURTHER RESOLVED, that the cost of said engineering services, estimated at \$134,932, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Object 5530.

Resolution 07-0546 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the city of Duluth desires to complete engineering services for the year 2008 street improvement program for Lakeside-Rockview.

The city desires to hire a consulting engineer to provide the design and construction engineering services required for the project.

Krech Ojard & Associates has submitted a proposal for engineering services in connection with this project.

The proper city officials are hereby authorized to enter into an agreement with Krech Ojard & Associates to provide the city with such engineering services.

FURTHER RESOLVED, that the cost of said engineering services, estimated at \$144,222, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Object 5530.

Resolution 07-0547 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with E&W Properties LLC for professional services in the management of Minnesota Tenant Remedies Act (TRA) properties as controlled by the city until such time as properties are returned to said property owners in accordance with city specifications and fees not to exceed the consultant's schedule of fees, terms net 30, payable from the Greater Minnesota Housing Fund (GMHF) Revolving Fund 230, Department/Agency 100, Object 5441. Said agreement is to be substantially in the form of Public Document No. 07-0813-30 on file in the office of the city clerk. Contract performance shall be completed at such time as the city decides to terminate the contract.

Resolution 07-0531 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to accept from the United States department of justice, bureau of justice assistance, office of justice programs, an Edward Byrne

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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memorial justice assistance grant in the amount of \$66,561 and to execute any documents required to be executed to accept such grant. Funds to be deposited in Fund 215, Agency 200, Organization 2267, Revenue Source 4209-02.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to enter into a memorandum of understanding, a copy of which is on file in the office of the city clerk as Public Document No. 07-0813-31, with St. Louis County to establish each party's share of the grant proceeds.

Resolution 07-0536 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the city is authorized to enter into a sponsorship agreement with NorthShore Inline Marathon under which the city will contribute \$15,000, plus in-kind services, to assist with promotion of the year 2007 marathon, which agreement is on file in the office of the city clerk as Public Document No. 07-0813-32, and such contribution shall be paid from Fund 258-030-5436-06.

Resolution 07-0410 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to accept a grant from the state of Minnesota in the amount of \$270,000, such funds to be used to support the operation of the Lake Superior Zoo, and to execute the grant agreement; said agreement to be substantially in the form of Public Document No. 07-0810-33 on file in the office of the city clerk; funds to be deposited in Fund 100, Agency 400, Organization 1814, Source 4220-02.

Resolution 07-0515 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Friends of the Duluth Public Library during 2007 for use by the Duluth public library, said gifts to be deposited in Fund 240, Agency 300, Organization SG50, Revenue Source 4660, and, on behalf of the city, thank the Friends of the Duluth Public Library for their generous gifts.

Resolution 07-0535 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 07-0516, by Councilor Stauber, requesting the free conveyance of 466.6 acres of tax forfeited land for public recreation and trail purposes and free conveyance of 4.13 acres of tax forfeited land for public roadway and utility purposes, located in the Amity Creek-lester River watershed area, north of Superior Street to the northern city limits, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Councilor Stewart opposed the resolution because he felt that all this land should not be taken off the tax rolls, in that some of it could likely be used for development purposes.

Resolution 07-0516 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for public recreation and trail purposes (FN 07068 AND FN 07088).

LEGAL DESCRIPTION	PARCEL ID
AUDITOR'S PLAT LESTER PARK GARDEN TRACTS LOT 1	010-0090-00010
AUDITOR'S PLAT LESTER PARK GARDEN TRACTS LOT 4	010-0090-00040
AUDITOR'S PLAT LESTER PARK GARDEN TRACTS LOTS 8 & 9	010-0090-00080
DULUTH LANDS IN THE CITY LOT/SEC 32 BLK/TWN 51, RANGE 13, N 1/2 OF NW 1/4 EX W 20 ft of NW 1/4 of NW 1/4	010-2690-01080
DULUTH LANDS IN THE CITY LOT/SEC 32 BLK/TWN 51, RANGE 13, N 1/2 OF NE 1/4	010-2690-01060
DULUTH LANDS IN THE CITY LOT/SEC 32 BLK/TWN 51, RANGE 13, S 1/2 OF NE 1/4 EX 22 53/100 AC of SW 1/4 of NE 1/4 FOR BLVD AND PARK	010-2690-01070
DULUTH LANDS IN THE CITY LOT/SEC 32 BLK/TWN 51, RANGE 13, NE 1/4 of SE 1/4	010-2690-01150
DULUTH LANDS IN THE CITY LOT/SEC 32 BLK/TWN 51, RANGE 13, SE 1/4 OF SE 1/4 EX PART FOR BLVD AND PARK	010-2690-01160
Edgewater, LOT 4, EX PART FOR BLVD	010-1410-00040
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, SW 1/4 OF NW 1/4 OF NW 1/4	010-2690-01310
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, SE 1/4 OF NW 1/4 OF NW 1/4	010-2690-01320
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, NE 1/4 OF SW 1/4 OF NW 1/4	010-2690-01330
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, NW 1/4 OF SW 1/4 OF NW 1/4	010-2690-01340
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, SW 1/4 OF SW 1/4 OF NW 1/4	010-2690-01350
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, SE 1/4 OF SW 1/4 OF NW 1/4	010-2690-01360

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

LEGAL DESCRIPTION	PARCEL ID
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, NW 1/4 OF SW 1/4 EX PART SE'LY OF LESTER RIVER ROAD	010-2690-01410
DULUTH LANDS IN THE CITY LOT/SEC 33 BLK/TWN 51, RANGE 13, SW 1/4 OF SW 1/4 EX PART E OF LESTER RIVER ROAD	010-2690-01420
PINEHURST ON THE LESTER BLOCK /TWN1, LOT/SEC 1	010-3790-00010
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 2	010-3790-00020
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 3	010-3790-00030
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 4	010-3790-00040
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 5	010-3790-00050
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 6	010-3790-00060
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 7	010-3790-00070
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 8 - 11	010-3790-00080
PINEHURST ON THE LESTER BLOCK/TWN 1, LOT/SEC 12	010-3790-00120
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 2	010-3790-00140
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 3	010-3790-00150
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 4	010-3790-00160
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 7	010-3790-00190
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 8	010-3790-00200
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 11	010-3790-00230
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 12	010-3790-00240
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 13	010-3790-00250
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 14, 15 & 16	010-3790-00260
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 17	010-3790-00290
PINEHURST ON THE LESTER BLOCK/TWN 2, LOT/SEC 18	010-3790-00300
PINEHURST ON THE LESTER BLOCK/TWN 3, LOT/SEC 2	010-3790-00320
PINEHURST ON THE LESTER BLOCK/TWN 3, LOT/SEC 5, ONLY THE N'LY 100 FEET	010-3790-00345

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

LEGAL DESCRIPTION	PARCEL ID
PINEHURST ON THE LESTER BLOCK/TWN 3, LOT/SEC 5, EX THE N'LY 100 FEET	010-3790-00350
PINEHURST ON THE LESTER BLOCK/TWN 3, LOT/SEC 6	010-3790-00370
PINEHURST ON THE LESTER BLOCK/TWN 3, LOT/SEC 7	010-3790-00380
PINEHURST ON THE LESTER BLOCK/TWN 3, LOT/SEC 8	010-3790-00390
PINEHURST ON THE LESTER BLOCK/TWN 3, LOT/SEC 9	010-3790-00400

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for public roadway and utility purposes:

LEGAL	PARCEL ID
EDGEWATER, LOT 4 ALL THAT LYING SW'LY OF A LINE BEGINNING AT A POINT ON THE WEST LINE OF SAID LOT 4, 600 FT N OF THE SW CORNER; THENCE SE'LY TO A PT ON THE S LINE OF SAID LOT 4, WITH SAID POINT BEING 600 FEET E OF THE SW CORNER OF SAID LOT 4 AND THERE TERMINATING	NOT ASSIGNED OTHER PART OF LOT 4 PARCEL ID IS: 010-1410-00040

Resolution 07-0516 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Little and Stewart -- 2

Approved August 13, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0552, by Councilor Krause, adopting form of project labor agreement as set out in Section 2-29 of the Duluth City Code, 1959, as amended, was introduced for discussion.

Councilor Stauber moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Craig Olson, president of the Duluth Building Trades Council, expressed support for this issue, noting the previous number of project labor agreements that have been in place in Duluth, and how important they are.

Councilor Ness moved to table the resolution until the accompanying ordinance is considered, which motion is seconded and unanimously carried.

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Resolution 07-0548, by President Stover, authorizing an application for temporary private use of Garfield Avenue, was introduced for discussion.

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

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BY COUNCILOR LITTLE:

RESOLVED, that the city of Duluth accepts a gift in the amount of \$6,000 from Allen and Janice Willman.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized, in accordance with the conditions of the donors, to use the funds so gifted to purchase and care for a police canine, and for the training of the canine and its police handler; funds to be deposited in Fund 210, Agency 030, Organization 3123, Object 4660.

Resolution 07-0534 was unanimously adopted.

Approved August 13, 2007

HERB W. BERGSON, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

07-054 - AN ORDINANCE CREATING A NEW SECTION 2-29 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REQUIRING PROJECT LABOR AGREEMENT FOR CITY PROJECTS.

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BY COUNCILORS STAUBER AND KRAUSE

07-053 - AN ORDINANCE AMENDING SECTIONS 50-35 AND 50-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LOCATION OF RESIDENTIAL CARE FACILITIES AND ELDERLY CONGREGATE HOUSING AND REQUIRING THAT ALL SUCH HOUSING TYPES BE AUTHORIZED BY SPECIAL USE PERMIT.

Councilor Stauber moved to refer the ordinance to the planning commission, which motion was seconded and unanimously carried.

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BY COUNCILOR JOHNSON

07-052 - AN ORDINANCE AUTHORIZING RECONVEYANCE OF PROPERTY IN THE RIVERSIDE AREA KNOWN AS TALLUS ISLAND TO THE STATE OF MINNESOTA.

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The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

07-045 (9850) - A SECOND ORDINANCE AMENDING ORDINANCE 9828 ADDING A PLAT NAME TO THE LEGAL DESCRIPTION OF THE SUBJECT PROPERTY.

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

- - -

BY COUNCILOR STAUBER

07-051 (9853) - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Judith McKeever, George Garnett, Gil Harries and John Paszak expressed support for the ordinance for reasons of: the high increase in the number of rental houses that are starting up in residential areas; 3-bedroom homes are being converted into 5-6 bedroom rental units with each renter having their own vehicle, which creates parking on lawns, blocking of driveways, elimination

of on street parking spaces, congestion in the winter time with alternate side parking being ignored and unsafe for school bus drivers; this will also create triple amounts of garbage, loud music, speeding, underage drinking and parties; there are eight rentals on East Niagara Street, nine rentals on Missouri Avenue, six on East Toledo Street, three on West Toledo Street, six on Kenwood Avenue, two on Mississippi

Avenue, four on East Buffalo Street, three on West Buffalo Street, five on Artavia Avenue, four on Lyons Street, 12 on Brainerd Avenue and three on West Niagara Street; private home ownership is declining in Duluth; Duluth needs to provide an environment supportive to healthy neighborhoods; these units are more than a rental as they are turning into boarding houses; with the increase in rental units in one area the cost to the city increases in the form of policing; the neighborhoods with these rentals are deteriorating and looking shabby; people do not purchase a home in an area if there is a majority of rental units and the city already regulates duplexes and other kinds of rentals that were originally constructed to be a rental.

Gregg Echmaedeke, Jeff Urbaniak, JoAnn Thomas and Jim Aired spoke in opposition to the ordinance for reasons of: there is a need for rentals; there are plenty of existing laws that address the conditions listed that need to be enforced; renters should be allowed to choose where they live; when one buys real estate they should be allowed to use it, within the law, as they wish; the council needs to consider the real effects of what this ordinance would do; a neighborhood plan should be developed and implemented as has been done successfully in the Irving and Ramsey neighborhoods; there are elderly, that for temporary financial reasons, need to rent their home, which this ordinance would restrict; there will be an extreme workload increase upon the city to respond to inquiries as to the number of rentals on one block; there will be problems with duplex owners in expecting them to only sell to a owner/occupant; R-2, R-3 and R-4 districts by their nature are rentals and it does not make sense for one of these units to be sold to an owner/occupant.

Councilors Ness, Gilbert, Krause, Little and Johnson supported the ordinance for reasons of: there is a home ownership crisis that should not be ignored; there has been an increase of irresponsible behaviors from some landlords and tenants; single family homes are built and designed for single families, not to be converted into high density housing; high density housing should be created in commercial areas that would benefit all; there is a limit to a healthy mix of rental and single family housing before problems begin; this problem has grown and increased into other neighborhoods since it was first discussed in 2003; law enforcement of existing laws is not enough; homestead laws are being unfairly utilized by out of town parents who purchase houses for their children to live in; housing is not a major concern for educational institutions because they cannot get the amount of funding as they do for programs; this has gotten out of hand and the interests of the homeowner residents who live there and take care of their property needs to be taken care of and this was given a chance in 2004 to be resolved without this ordinance and the conditions have not improved.

Councilors Reinert, Stewart and President Stover opposed the ordinance for reasons of: Duluth has a unique situation compared to other college towns that have high density housing, retail and mixed use around a university; it is unrealistic to live close to a university with over 10,000 students enrolled and not be affected by it; the vast majority of the students are good people who want to get an education and improve their lives; if the supply of rentals is restricted in some neighborhoods, the city will drive those rentals to other districts that are not zoned R-1; the sale prices of these homes will be adversely affected when they come on the market; students desire to live on or near the campus; there will be an increase in units that are not licensed, in that

there will still be houses purchased by parents for their child's use and their friends; this is discriminatory to the lower and moderate income and racial minorities; it is unfair to homeowners who wish to temporarily rent their house out; reductions to the number of permit parking permits allowed has made those excess vehicles parked there illegal; the commission on higher education is studying and working on the issues raised here; a task force needs to be put together to look at appropriate places for students to live; a citywide solution is being applied to a situation which is only in a specific area; a moratorium on rental housing in this area would allow for this issue to be studied versus the 300 foot restriction; a program to take rental housing out of stock and convert them back to home ownership is needed; development of professional student housing districts needs to be considered and the University of Minnesota-Duluth (UMD) needs to be involved in solving this problem.

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

Yeas: Councilors, Gilbert, Johnson, Krause, Little, Ness and Stauber -- 6

Nays: Councilors Reinert, Stewart and President Stover -- 3

- - -

BY PRESIDENT STOVER

07-049 - AN ORDINANCE AMENDING SECTION 19 OF THE CITY CHARTER PERTAINING TO SELECTION AND TENURE OF THE CHIEF ADMINISTRATIVE OFFICER.

Councilors Gilbert, Krause, Little and Johnson expressed opposition to the ordinance for reasons of: the original request to the commission was to only study the city manager form of government, not these issues; these issues are not significant enough to go to the voters; under this proposal the chief administrative officer (CAO) would be serving "two different masters"; it lacks a tightening up of the "business" definition relative to the experience of the CAO; the mayor should be allowed to determine, without council involvement, who his CAO would be and that the citizens will not be able to understand what they might be asked to vote on.

President Stover moved passage of the ordinance and the same failed upon the following vote (needed a 9/0 vote to be adopted) (Public Document No. 07-0813-34):

Yeas: Councilors Little, Ness, Stauber and Stewart -- 4

Nays: Councilors Gilbert, Johnson, Krause, Reinert and President Stover -- 5

- - -

BY PRESIDENT STOVER

07-050 - AN ORDINANCE AMENDING SECTION 26 OF THE CITY CHARTER PERTAINING TO SELECTION AND TENURE OF THE CITY ATTORNEY.

Councilor Krause opposed the ordinance because of the lack of better qualifications for the city attorney.

President Stover moved passage of the ordinance and the same failed upon the following vote (needed a 9/0 vote to be adopted) (Public Document No. 07-0813-35):

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

- - -

Councilor Johnson left her seat at this time.

- - -

BY COUNCILOR REINERT

07-044 (9854) - AN ORDINANCE GOVERNING PARKING ON NON-SNOW EMERGENCY ROUTES DURING SNOW EMERGENCIES, AMENDING SECTIONS 33-97.1, 33-97.3, 33-97.4 AND 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

Councilor Johnson returned to her seat at this time.

- - -

BY COUNCILOR REINERT

07-047 (9855) - AN ORDINANCE REPEALING ARTICLE XX OF CHAPTER 2 OF THE CITY CODE RELATING TO THE SISTER CITY COMMISSION.

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

- - -

### COUNCILOR QUESTIONS AND COMMENTS

To Councilor Stauber's questioning, Mr. Hall gave a report on the status and financing of overtime pay.

- - -

The meeting was adjourned at 9:57 p.m.

JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 9850

BY COUNCILOR STAUBER:

A SECOND ORDINANCE AMENDING ORDINANCE 9828 ADDING A PLAT NAME TO THE LEGAL DESCRIPTION OF THE SUBJECT PROPERTY.

The city of Duluth does ordain:

Section 1. That Ordinance 9828, which establishes the Alfred and Jane McCordic Residence (Immigrant House Bed and Breakfast), 2104 East Superior Street, as a Duluth heritage preservation landmark, is amended by adding thereto a new section three to read as follows:

Section 3. The legal description of the subject property is as follows:

Endion Division, Lots 1 and 2, Block 53 and westerly 25 feet of Lot 3, Block 53, including 25-1/2 feet of vacated Branch Street, adjoining.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 23, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:

Passed August 13, 2007  
Approved August 13, 2007

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9851**

BY COUNCILOR STAUBER:

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, ONE- AND TWO-FAMILY RESIDENTIAL TO C-1, COMMERCIAL, PROPERTY AT THE SOUTHWEST CORNER OF WOODLAND AVENUE AND NORTON STREET (CAROL ANDERSON).

The city of Duluth does ordain:

Section 1. That Plate No. 38 of the zoning district maps as contained in the Appendix to Chapter 50 of the Duluth City Code 1959, as amended, is amended to read as follows:

[MAP]

*[See Plate No. 38 at end of meeting]*

(Reference Planning Commission File No. 07066)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 28, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

Passed August 13, 2007

Approved August 13, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9852**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 12 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3, APARTMENT RESIDENTIAL, TO C-1, COMMERCIAL, A TRIANGLE-SHAPED BLOCK OF PROPERTY BOUNDED BY GRAND AVENUE, SOUTH 69TH AVENUE WEST AND SHERBURNE STREET (MICHAEL KOSKI, WKK, INC.).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 1. That Plate Nos. 12 and 14 of the zoning district maps as contained in the Appendix to Chapter 50 of the Duluth City Code 1959, as amended, are amended to read as follows:

[MAPS]

*[See Plate Nos. 12 and 14 at end of meeting]*

(Reference Planning Commission File No. 07079)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 28, 2007)

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert and President Stover -- 6

Nays: Councilors Krause, Stauber and Stewart -- 3

Passed August 13, 2007

Approved August 13, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9853**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

The city of Duluth does ordain:

Section 1. That Section 29A-32 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29A-32. Licenses--terms and conditions.

(a) Each license shall be displayed in a conspicuous place within the common way or near the main entrance of the dwelling and shall state the name, address and telephone number of the owner or managing agency which is managing the dwelling. No license shall be transferred to another dwelling or rental unit;

(b) If there is a change in either ownership or management of a dwelling, the person or agency managing such dwelling prior to such change in ownership or management shall give written notice of the name and address of the new owner and/or manager to the building official;

(c) A new license shall be issued to the dwelling for the remainder of the license period with the name of the new manager and/or owner upon payment of the required fee and submission of all required application forms;

(d) Any licensed one-family or two family dwellings in a district zoned R-1-a, R-1-b or R-1-c shall provide a minimum of two off street parking spaces. In addition, for each additional bedroom in excess of three, there shall be provided one additional off street parking space. Any off-street parking spaces shall comply with the standards for off-street parking set forth in Section 50-26. The number of

required off-street parking spaces shall be determined by the building official at the time of licensure;

(e) Except as otherwise provided in this Section, any licensed one-family or two-family dwelling, lawfully existing on September 1, 2007, may continue to be so used even though such use does not conform to the provisions of this Section. If the number of bedrooms is increased in a licensed one-family or two-family dwelling located in a district zoned R-1-a, R-1-b or R-1-c after September 1, 2007, the off-street parking requirements of this section shall apply to the entire licensed property. If the license for such non-conforming use is revoked or lapses for any period of time, any subsequent licensed use must comply with all provision of this Chapter;

(f) Except as otherwise provided, in areas zoned R-1-a, R-1-b or R-1-c, no license shall be issued for any dwelling, structure, rooming house, rental unit or housekeeping unit, within a distance of 300 feet from any other licensed dwelling. The distance restriction shall not apply to a two-family dwelling as defined by Chapter 50-1.20 in which an owner thereof occupies one of the dwelling units; except that no rental occupancy shall be allowed in such owner occupied dwelling unit;

(g) In areas zoned R-2, R-3 or R-4, no license shall be issued for any single-family dwelling within a distance of 300 feet from any other licensed single-family dwelling;

(h) Any licensed dwelling, structure, rooming house, rental unit or housekeeping unit lawfully existing on September 23, 2007, may continue, even though such use does not conform to the provisions of this Chapter. If the license for such non-conforming use is revoked or lapses for any period of time, any subsequent licensed use must comply with all provisions of this Chapter;

(i) In all residentially zoned districts restrictions shall not apply to short-term licenses. Except as otherwise provided, the building official may issue short-term licenses for a period not to exceed 12 consecutive months. A short-term license may not be issued more frequently than once in any three year period. Such short-term licenses shall be applied for in the same manner as other rental licenses and all rental requirements for such dwelling unit shall otherwise meet all rental licensing requirements. A short-term license may be issued for any single-family or two-family dwelling under the following circumstances:

(1) The owner is the current occupant of the dwelling unit, and

(2) For professional, educational or military service reasons the owner intends to reside in another community located at least 50 miles from the dwelling unit, and

(3) The owner provides sufficient evidence of such intention to temporarily relocate to the building official. Such evidence may include, but is not limited to written offers of employment, employment transfer directives, letter of acceptance from an educational institution, or military orders.

A short-term license may be extended for an additional six months period provided that an application for extension is received prior to the expiration of the short-term license and adequate evidence justifying such an extension is submitted

with the application. The building official shall act upon such application for extension within 15 business days of delivery of the application.

The action of the building official is subject to appeal as provided in Section 29A-34.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: September 23, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness and Stauber -- 6

Nays: Councilors Reinert, Stewart and President Stover -- 3

Passed August 13, 2007

Approved August 13, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

### ORDINANCE NO. 9854

BY COUNCILOR REINERT:

AN ORDINANCE GOVERNING PARKING ON NON-SNOW EMERGENCY ROUTES DURING SNOW EMERGENCIES, AMENDING SECTIONS 33-97.1, 33-97.3, 33-97.4 AND 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-97.1 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 33-97.1. Snow emergency--parking regulated.

(a) Whenever the director of public works, or his representative, determines that existing weather conditions or forecasted weather conditions require that traffic be expedited or snowplowing be carried out, he shall put into effect the snow emergency prohibitions established by this Article by declaring, in a manner prescribed by this Article, that a snow emergency exists;

(b) Once in existence, a snow emergency under this Article shall remain in effect until terminated by announcement of the director of public works, or his representative, in accordance with this Article;

(c) No person shall park or allow to remain parked, any vehicle on any portion of any public street or highway in violation of the snow emergency provisions of this Division when a snow emergency exists;

(d) Notwithstanding the provisions of Section 33-97.8 below, commencing at 8:00 a.m. on the morning next following the declaration of a snow emergency and for 24 hours thereafter or until the street or highway has been plowed from curb line to the opposite parking lane, whichever occurs first, vehicular parking on streets and highways other than a snow emergency routes shall be prohibited on the side of the street or highway upon which parking is prohibited by Section 33-97.8(a) below;

(e) Notwithstanding the provisions of Section 33-97.8 below, commencing at 8:00 a.m. on the second morning next following the declaration of a snow emergency and for 24 hours thereafter or until the street or highway has been

plowed from curb line to the opposite parking lane, whichever occurs first, vehicular parking on streets and highways other than a snow emergency routes shall be prohibited on the side of the street or highway upon which parking is permitted by Section 33-97.8(a) below.

Section 2. That Section 33-97.3 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 33-97.3. Same--Operation of vehicles.

(a) No person operating a motor vehicle, when a snow emergency exists, shall allow such vehicle to become wholly or partly stalled because the drive wheels thereof are not equipped with tire chains or snow tires;

(b) No person operating a motor vehicle, when a snow emergency exists, shall allow such vehicle to become stalled because the motor fuel supply is exhausted or the battery has become inoperative;

(c) No person shall allow a motor vehicle owned by, operated by or under his or her control to be parked or otherwise left standing on any street or highway at a location where parking is prohibited during a time when parking at such location is prohibited by the snow emergency provisions of this Division.

Section 3. That Section 33-97.4 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 33-97.4. Same--Stalled vehicles.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this Article, when a snow emergency exists, the operator of such vehicle shall take immediate action to have the vehicle towed or otherwise removed so as not to be in violation of the snow emergency provisions of this Division. No person shall abandon or leave his vehicle in the roadway in violation of this Division when a snow emergency exists.

Section 4. That Section 33-97.8 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 33-97.8. Alternate side parking.

(a) Except as provided in part (b) of this Section, all persons parking vehicles on streets and highways shall park such vehicles according to the following system:

Beginning 12:01 a.m. on November 1, 1973, and until the end of the week in which November 1, 1973, falls and during every second week thereafter, vehicles shall be parked on that side of the street or avenue which abuts premises, whether improved or unimproved, that are or may be identified with reference to odd numbered addresses.

During the week following the week in which November 1, 1973, falls and during every second week thereafter, vehicles shall be parked on that side of the street or avenue which abuts premises, whether improved or unimproved, that are or may be identified with reference to even numbered addresses.

Every Sunday between the hours 4:00 p.m. and 8:00 p.m. shall be a changeover period and the provisions of this Section shall not be in force during such time.

For purposes of this Section, the term "week" shall designate a period beginning and ending at 8:00 p.m. Sunday;

(b) Part (a) of this Section shall not be applicable to:

(1) Any space during the time that the space is regulated as a truck zone or a loading zone pursuant to Section 33-87 of this Chapter;

(2) Any space designated as a bus stop or a taxicab stand pursuant to Section 33-88 of this Chapter;

(3) Any police business zone established pursuant to Section 33-88.1 of this Chapter;

(4) That portion of any street or avenue designated as a no parking zone or space pursuant to sections 33-96 or 33-97 of this Chapter, except where expressly authorized in the resolution establishing the zone, and that portion of any street or avenue designated as a parking meter zone pursuant to Section 33-108 of this Chapter; and if a parking area on only one side of a street or avenue is so designated, the parking area on that portion of the street or avenue directly opposite the designated portion;

(5) Parking on any street in conformance with the requirements of this Division during a snow emergency declared pursuant to Section 33-97.1 above;

(6) That portion of any street or avenue which is designated as a no stopping or standing zone pursuant to Section 33-97.9 of this Chapter;

(c) The city council, by resolution, may exempt any street or highway from the provisions of part (a) of this Section for the period each year beginning at 12:01 a.m. June 1 and ending 11:59 p.m. October 31;

(d) The council may, by resolution, limit the hours of the day during which alternate side parking applies to any street, avenue or any designated portion thereof. Any such limitation shall be noticed by official signs posted adjacent thereto designating the hours when alternate side parking is applicable and designating the area to which the limited applicability of alternate side parking is applicable. During times when alternate side parking is not applicable to any area so designated, other applicable parking limitations and restrictions shall apply.

Section 5. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: September 23, 2007)

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

Yeas: Councilors Gilbert, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Johnson -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed August 13, 2007  
Approved August 13, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9855**

BY COUNCILOR REINERT:

AN ORDINANCE REPEALING ARTICLE XX OF CHAPTER 2 OF  
THE CITY CODE RELATING TO THE SISTER CITY COMMISSION.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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The city of Duluth does ordain:

Section 1. That Article XX of Chapter 2 of the Duluth City Code, 1959, as amended, relating to the sister city commission is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: September 23, 2007)

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

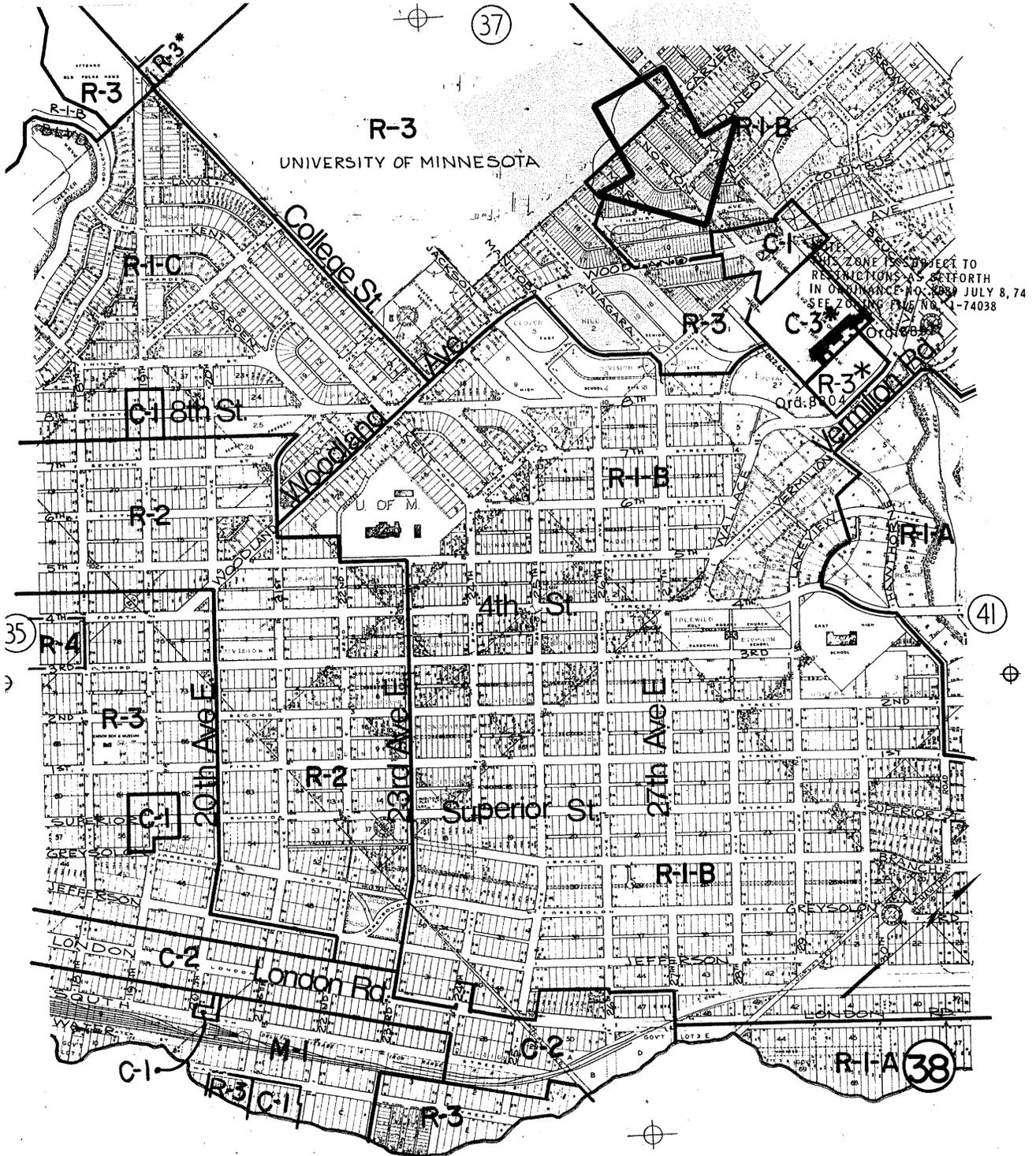
Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

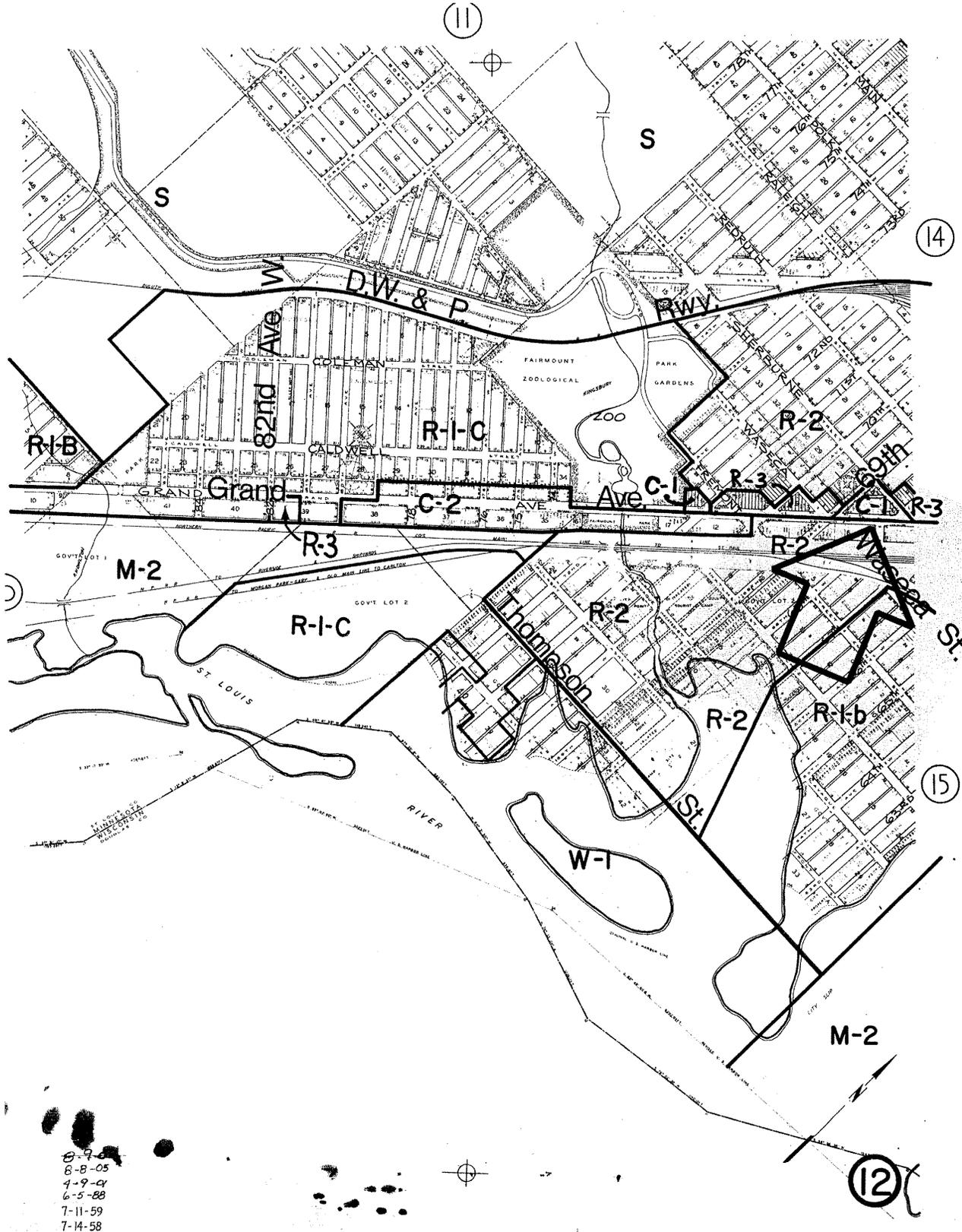
ATTEST:  
JEFFREY J. COX, City Clerk

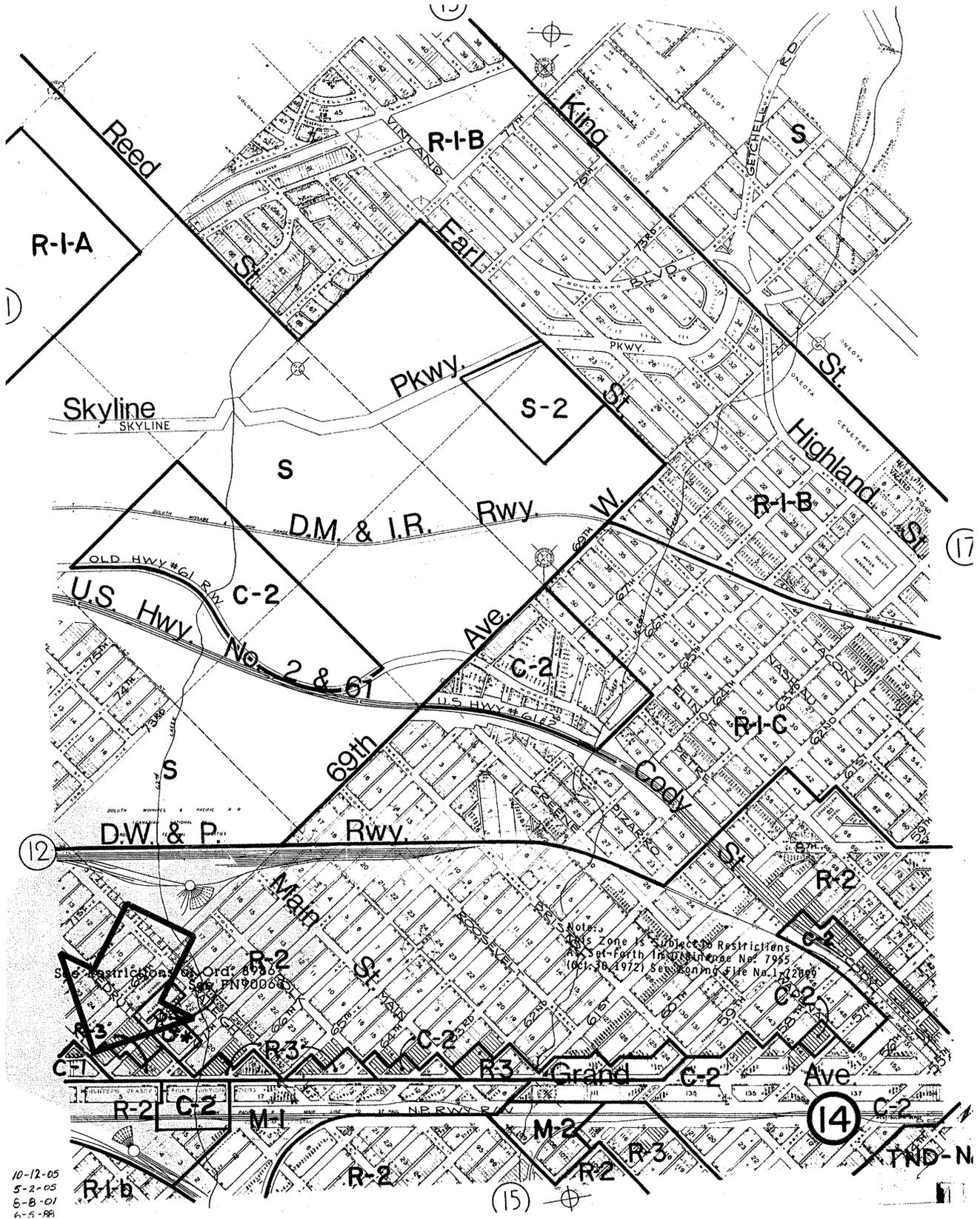
Passed August 13, 2007  
Approved August 13, 2007  
HERB W. BERGSON, Mayor

- - -



\* THIS ZONE IS SUBJECT TO RESTRICTIONS AS SET FORTH IN THE INDICATED ORDINANCE NUMBER  
 10-9-04  
 7-14-58





**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, August 27, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Absent: Councilors Gilbert and Little -- 2

- - -

The minutes of council meetings held on June 11 and 25, 2007, were unanimously approved.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0827-02 Allete, Inc., et al. (two signatures), petition to vacate a portion of the existing public skywalk space located on the second floor of the Lake Superior Place Building, formerly know as the MacDonald Building. -- Assessor

07-0827-01 Joseph B. and Linda L. Johnson:

(a) Petition to construct watermain in West 12th Street from 90 feet southwesterly of Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive and sanitary sewer in West 12th Street from Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive. -- Assessor

(b) Waiver agreement for construction of watermain in West 12th Street from 90 feet southwesterly of Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive and sanitary sewer in West 12th Street from Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive. -- Engineering

07-0827-09 The following communications regarding proposed resolution adopting form of project labor agreement and proposed ordinance requiring a project labor agreement for city projects over \$150,000 (07-0552R and 07-054-O): (a) John Bourgoyne; (b) Kurt Deraas; (c) Bart Haugen; (d) Aaron R. Hill; (e) Kyle Koller; (f) Keith Olafson; (g) Bryce Sjoquist; (h) Daniel Ward. -- Received.

- - -

**REPORTS FROM OTHER OFFICERS**

07-0827-03 Assessor letter of sufficiency of petition to construct watermain in West 12th Street from 90 feet southwesterly of Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive and sanitary sewer in West 12th Street from Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-0827-04 Alcohol, gambling and tobacco commission minutes of: (a) June 6; (b) June 26; (c) July 12; (d) July 17, 2007, meetings. -- Received

07-0827-05 Civil service board minutes of May 10, 2007, meeting. -- Received

07-0827-06 Duluth human rights commission minutes of July 11, 2007, meeting. -- Received

07-0827-07 Entertainment and convention center authority minutes of: (a) April 30; (b) May 21 building committee; (c) May 21 Special; (d) June 4; (e) June 26; (f) July 30, 2007, meetings. -- Received

07-0827-08 Planning commission minutes of July 10, 2007, meeting. -- Received

- - -

At this time, 7:05 p.m., Councilor Gilbert took his seat.

- - -

### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Ken Jackson and Marie Lassmon explained that the basic unit of AFSCME agrees with the administration on salaries and health insurance, but disagrees on the definition of seniority and are discouraged by the lack of respect for the workers by the administration.

- - -

Greg Price stated his report on the barrels dumped in Lake Superior is now available on the Internet.

- - -

Jerry Schlafer stated that Duluth has money, but the problem with the budget is the attitude of the people in this city always thinking that someone else should pay.

- - -

### **RESOLUTIONS TABLED**

Councilor Krause moved to remove Resolution 07-0552, adopting form of project labor agreement as set out in Section 2-29 of the Duluth City Code, 1959, as amended, from the table, which motion was seconded and unanimously carried.

--

### **INTRODUCTION AND CONSIDERATION - OF ORDINANCE**

The following entitled ordinance was read for the second time:

BY COUNCILOR KRAUSE

07-054 (9856) - AN ORDINANCE CREATING A NEW SECTION 2-29 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REQUIRING PROJECT LABOR AGREEMENT FOR CITY PROJECTS.

President Stover moved that Ordinance 07-054 also be considered at this time, which motion was seconded and unanimously carried.

- - -

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

Craig Olson, president of the Duluth building trades, stated that this ordinance is a good tool for public projects as it ensures projects are completed on time and on budget, and ensures a steady supply of skilled labor and efficient methods of solving labor disputes. He also stated that project labor agreements (PLA's) save money for the project owner and the public, and they would help keep young men and women in the community.

Mike Calaman, Sandra Johnson, Andrew Campeau, Pat DeBoer, Clayton Hink, Bryce Sjoguest and Joe Lauertka urged the council to support the ordinance as they have been able to work and live in Duluth because they belong to the trades and the trades have been able to give them a chance at a new job belonging to the apprenticeship program.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Councilor Stauber stated he does not support PLA's as they favor union contractors and there are many nonunion contractors in the city. He continued by saying that when you have only union contractors bidding on a project, it restricts competition which increases costs for taxpayers. Councilor Stauber added that PLA's do not protect against potential work site stoppages if workers from other parts of the project go on strike.

Resolution 07-0552 was adopted as follows:

BY COUNCILOR KRAUSE:

The city adopts, for purpose of Section 2-29 of the Duluth City Code, 1959, as amended, the form of the required project labor agreement to be substantially that which is on file with the city clerk as Public Document No. 07-0827-10.

Resolution 07-0552 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Nays: Councilors Stauber and Stewart -- 2

Absent: Councilor Little -- 1

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Nays: Councilors Stauber and Stewart -- 2

Absent: Councilor Little -- 1

- - -

Councilor Ness moved to remove resolutions 07-0509 and 07-0510, approving and denying, respectively, the permanent expansion of the on sale intoxicating liquor license of Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, from the table, which motion was seconded and unanimously carried.

Councilor Krause voiced concern that this would be setting a precedent for other establishments and that the area is too small for the public to perceive as a public walkway.

Resolution 07-0509 was adopted as follows:

BY COUNCILOR NESS:

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, 2007, subject to departmental approvals:

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street.

Resolution 07-0509 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Little -- 1

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0510 failed upon the following vote (Public Document No. 07-0827-11):

Yeas: Councilor Krause -- 1

Nays: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Absent: Councilor Little -- 1

- - -

President Stover moved to remove Resolution 07-0548, authorizing an application for temporary private use of Garfield Avenue, from the table, which motion was seconded and unanimously carried.

Councilor Krause stated it would be prudent for the applicant to get police department approval before starting the process and voiced concern over the private property owners' rights in that area.

Resolution 07-0548 was adopted as follows:

BY PRESIDENT STOVER:

RESOLVED, that the proper city officials are authorized to issue the permit provided for in Duluth City Code, Chapter 45, Article V, to Kerns and Kompany for an automobile timing event in September, 2007, on Garfield Avenue, conditional upon the applicant's compliance with all regulations and standards and procedures and fees set out in the City Code.

Resolution 07-0548 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilor Krause -- 1

Absent: Councilor Little -- 1

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

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

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

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 83 on sale intoxicating liquor, 86 on sale Sunday intoxicating liquor, eight additional bar, 15 on sale dancing, three late hour entertainment licenses and 36 2:00 a.m. beverage licenses, for the period beginning September 1, 2007, and ending August 31, 2008, 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. 07-0827-12.

Resolution 07-0523 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 15 on sale wine licenses for the period beginning September 1, 2007, and ending August 31, 2008, 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. 07-0827-13.

Resolution 07-0524 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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, 2007, and ending August 31, 2008, 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. 07-0827-14.

Resolution 07-0525 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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, 2007, and ending August 31, 2008, 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. 07-0827-15.

Resolution 07-0526 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of two brewery malt liquor off sale intoxicating liquor licenses for the period beginning September 1, 2007, and ending August 31, 2008, 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. 07-0827-16.

Resolution 07-0527 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals with any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Fond Du Lac Management, Inc. (Fond Du Luth Casino), 129 East Superior Street,  
for September 6, 2007, from 5:00 p.m. to 9:00 p.m.

Resolution 07-0585 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

The city council finds as follows:

Section 1. Osman Ersed Akcasu recently purchased property at 2215 East Second Street.

Section 2. Osman Ersed Akcasu requested termination of a special use permit currently in effect allowing bed and breakfast use at the subject property, legally described as Lots 11, 12, 13, 14 and 15 and the westerly 3.5 feet of the southerly 34 feet of Lot 16 in Block 8, Endion Division of Duluth, and fractional Block 3 in New Endion Division of Duluth containing 1.106 acres.

Section 3. Said request was heard by the city planning commission on August 14, 2007, and the city planning commission subsequently recommended termination of this special use permit on the finding that no public purpose would be compromised by this termination.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit granted to this property by city council action on November 24, 1997, is terminated.

Resolution 07-0569 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to apply for and to accept, if offered, a grant from the John S. and James L. Knight Foundation for the purposes of assisting in the creation of a unified development code, which funds shall be paid into Fund 100, Organization 1202, Activity 4700.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant and to execute any documents required to accept such grant.

Resolution 07-0570 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the city of Duluth is hereby authorized to execute the grant agreement filed as Public Document No. 07-0827-17 for the state fiscal years of 2008 and 2009 with the Minnesota department of public safety, office of justice programs, 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 Fund 210, Agency 030, Organization 3126, Revenue Source 4220.

Resolution 07-0561 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract (Public Document No. 07-0827-18) with H&R Construction Company for installation of Type C directional bikeway signing for the engineering division for its low bid of \$35,611.25, to be reimbursed from federal funds in the amount of \$28,489, from St. Louis County in the amount of \$826.88, and from the city of Proctor in the amount of \$499.97. The city of Duluth's portion is payable out of Fund 0411, Department/Agency 035, Object 5530, City Project Number 0624TR, S.P. 91-00307, Federal Project No. TEAX 6906 (126).

Resolution 07-0551 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Midwest Region gas task force for membership for the year 2007 for the natural gas division in accordance with the fee of \$17,891.74, payable out of Gas Fund 520, Department/Agency 500, Organization 1915, Object 5319.

Resolution 07-0554 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the following is the revised 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
92277	26th Avenue West	\$1,550,000	\$650,000		\$900,000	2008
69812	27th Avenue West	\$1,300,000	\$800,000		\$500,000	2008
L8491	38th Avenue West	\$115,000	\$69,000		\$46,000	2008
L8516	Fairmont Street	\$230,000	\$138,000		\$92,000	2008
L8476	Lincoln Park Drive	\$700,000	\$550,000		\$150,000	2008
L5931	Niagara Street	\$70,000			\$70,000	2008
93402	Second Street	\$850,000	\$500,000		\$350,000	2009

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
91143	Third Street	\$680,000	\$544,000		\$136,000	2009
L3140	63rd Avenue West	\$420,000	\$160,000		\$260,000	2009
L5833	Triggs Avenue	\$140,000	\$100,000		\$40,000	2010
L8496	Toledo Street	\$140,000	\$100,000		\$40,000	2010
88550	Central Avenue	\$200,000	\$75,000		\$125,000	2010
L6007	Skyline Parkway	\$800,000	\$600,000		\$200,000	2011

Resolution 07-0555 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Lake Superior Consulting, LLC, for professional services in the review and update of the city's transmission gas line integrity management plan (IMP) in accordance with specifications and the consultant's schedule of fees and proposal for an estimated amount not to exceed \$12,000, terms net 30, payable from the Gas Fund 520, Department/Agency 500, Organization 1915, Object 5319. Said agreement to be substantially in the form of Public Document No. 07-0827-19 on file in the office of the city clerk.

Resolution 07-0556 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution No. 06-0727 be amended and Contract No. 20272 with Apex Mechanical Plumbing, Heating and Utilities be increased by \$20,838.08, for a new total of \$92,938.08, payable from the Steam Fund 520, Department/Agency 920, Organization 1499, Object 5530. The increase provides for additional work required in the installation of a high-pressure steamline extension to First Lutheran Church.

Resolution 07-0558 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Kirk and Connie Linse the sum of \$12,418.08 in full and final settlement of the claim which arose out of a break in a city watermain occurring near 621 Old Howard Mill Road on March 8, 2007; payment to be made from the Self Insurance Fund 610-036-1652-5841.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Resolution 07-0563 was unanimously adopted.  
Approved August 27, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Craig Miska the sum of \$11,810.41 in full and final settlement of the claim which arose out of a break in a city watermain occurring near 2421 West 23rd Street on February 28, 2007; payment to be made from the Self Insurance Fund 610-036-1652-5841.

Resolution 07-0564 was unanimously adopted.  
Approved August 27, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to State Farm Insurance, as subrogee of Chad Hewitt, the amount of \$10,453.92 in full and final settlement of all claims for damage to their insured's property at 2621 West Skyline Parkway resulting from a sewer backup, which occurred on April 19, 2005; payment to be made from the Self Insurance Fund 610-036-1653-5841.

Resolution 07-0565 was unanimously adopted.  
Approved August 27, 2007  
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for Central Entrance sanitary sewer manhole replacement for the engineering division in accordance with its low specification bid of \$64,814.45, payable out of Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5536, City Project No. 0641SN.

Resolution 07-0567 was unanimously adopted.  
Approved August 27, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Duluth Superior Erection, Inc., for construction year 2007 accessibility project curb ramps in the Downtown area of Duluth for the engineering division in accordance with its low specification bid of \$77,757, payable out of CDBG Fund 0262, Department/Agency 020, Object 5530, City Project No. 0639TR.

Resolution 07-0571 was unanimously adopted.  
Approved August 27, 2007  
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into a contract with KTM Paving, Inc., for replacement of fire hydrants at various city locations in accordance with its low specification bid of \$32,017.97, payable out of Water Fund 510, Department/Agency 500, Object 5536, City Project No. 0659WA.

Resolution 07-0572 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

The city council finds as follows:

(a) That it appears that it may be necessary to construct a watermain and sanitary sewer in West 12th Street from 90 feet southwesterly of Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive;

(b) It is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

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

Resolution 07-0575 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

The city council finds as follows:

(a) By resolution of intent numbered 07-0575, the council did request the administration to prepare plans and specifications for the construction of a water main and sanitary sewer line in West 12th Street from 90 feet southwesterly of Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive, at an estimated cost of \$45,000;

(b) Said plans and specifications have been prepared and filed with the secretary of the special assessment board;

(c) All persons affected by the proposed improvement or assessment have executed waiver agreements waiving their rights to a public hearing before the special assessment board and mailed notice thereof, to the report of said board to the council recommending the improvement, and their rights to file a remonstrance petition against the project, all under Section 62 of the Duluth City Charter and sections 45-79 and 45-80 of the Duluth City Code, 1959, as amended, and have requested that the council immediately determine to make subject improvements.

THEREFORE, BE IT RESOLVED, that said improvements as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$45,000, payable from Special Assessment Fund 410, Agency 038, Object 5530, City Project Number 0669WA/0669SN, 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 will satisfy all requirements of Section 60 of the City Charter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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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 07-0576 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into an amendment (Public Document No. 07-0827-20) to an agreement dated April 29, 1987, with Milton M. Siegel Company and with Clyde Industrial Park, Inc., as successor in interest to Milton M. Siegel Company, addressing various minor encroachments on the Michigan Street and 29th Avenue West rights-of-way by vacating portions of said streets, by terminating the agreement.

Resolution 07-0582 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Docview, LLC, dba TRACView.com, for professional services in web-based traffic accident report imaging and data management, including related software and equipment, for the city of Duluth police department; said services, software and equipment to be provided at no cost to the city; said agreement to be substantially in the form of Public Document No. 07-0827-21 on file in the office of the city clerk.

Resolution 07-0557 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into a memorandum of understanding with St. Louis County providing for the temporary relocation of emergency communications equipment at a cost to the city not to exceed \$5,200; said agreement to be substantially in the form of Public Document No. 07-0827-22 on file in the office of the city clerk; to be paid from Fund 100, Agency 200, Organization 1610, Source 5401.

Resolution 07-0574 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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 First Avenue East and Second Avenue East on September 6, 2007, from 6:00 p.m. to 9:00 p.m., in conjunction with the Rock the Block concert 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 2007

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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 07-0586 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the city of Duluth ratifies and hereby authorizes the execution of the grant agreement filed as Public Document No. 07-0827-23 with the Minnesota department of natural resources under which agreement the city will receive up to \$5,000 to reimburse it for costs incurred in maintaining cross country ski trails in the city of Duluth during the 2007-2008 ski season. The reimbursement should be deposited in General Fund 100, Agency 500, Organization 1920, Revenue Source 4225.

Resolution 07-0568 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the Duluth City Council hereby approves the acquisition by the Duluth airport authority (DAA) of 43.6 acres of wetland replacement credits from Arne Heggedal and Gerald Krog for the purchase price of \$455,811.84 and a transaction fee in the amount of \$5,840.87 payable to the board of water and soil resources, for a total amount of \$461,652.71 relating to the construction of the perimeter road, security fence, and airport rescue and fire fighting (ARFF) facility, payable from the DAA construction fund.

Resolution 07-0577 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

The city council finds:

(a) The Duluth Transit Authority has studied Downtown transit passenger usage and proposed changes in bus stop locations; and

(b) The DTA has held public hearings and open meetings as well as met with specific interest groups in the Downtown; and

(c) The DTA plan better serves its customers as well as the Downtown; and

(d) The DTA has requested that the city of Duluth formally designate these stops.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request to modify Downtown bus stops by adding:

(a) Second Avenue East on Superior Street northwest corner first 55 feet, southeast corner first 55 feet; and

(b) On Third Avenue East above the alley both sides of the street first 55 feet.

FURTHERMORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request to modify Downtown bus stops by deleting:

(a) Second Avenue East above Superior Street northwest corner first 45 feet, northeast corner first 55 feet.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Changes to be effective September 2, 2007.  
 Resolution 07-0580 was unanimously adopted.  
 Approved August 27, 2007  
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

The city council finds:

- (a) 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
- (b) The Duluth transit authority has requested and the city of Duluth has committed the necessary local funding for the projects via the DTA's levy; and
- (c) The DTA has completed the necessary state and federal requirements to qualify for the following grants in years 2007 and 2008:

Grant #	Year	Federal	State	Purpose
<b>2007 Grants</b>				
MN-04-0007	2007	\$ 781,994		Downtown improvements and passenger amenities
MN-90-X240	2007	\$ 1,255,962		Operating and small capital
MN-DOT Operating	2007		\$ 6,277,253	Minimum two grants
MN-03-XXXX		\$ 851,200		Replacement vehicles
<b>2008 Grants</b>				
MN-04-XXXX	2008	\$ 680,000		Supplemental vehicles
MN-90-XXXX	2008	\$ 1,750,000		Operating and small capital
MN/DOT Operating	2008		\$ 6,277,253	Minimum two grants

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request to accept operating grants and capital grants from the state of Minnesota and the federal government for the years 2007 and 2008 and apply for state and federal funds in 2008, as set out above.

Resolution 07-0581 was unanimously adopted.  
 Approved August 27, 2007  
 HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Progressive Contractors, Inc., for the municipal turnback project, reconditioning of Michigan Street

from 21st Avenue West to Carlton Street, 27th Avenue West from Michigan Street to Third Street, and 14th Avenue East from London Road to Third Street, for the engineering division in accordance with its low specification bid of \$983,571.07, payable out of the Public Improvement Fund 0411, Agency 035, Object 5530, City Project Nos. 0248TR, SAP 118-172-04(MTB); 0249TR, SAP 118-115-05(MTB); 0250 TR, SAP 118-194-04(MTB).

Resolution 07-0573 was unanimously adopted.

Approved August 27, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0562, by Councilor Stauber, denying 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, one family residential, to R-2, two family residential, property located at East Tenth Street and North First Avenue East (Terry Hauer), was introduced for discussion.

Councilor Stauber moved to table the resolution for consideration with companion Ordinance 07-055 on September 10, which motion was seconded and unanimously carried.

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Resolution 07-0584, by councilors Ness and Reinert, setting the form of a ballot for votes to amend the sections 19 and 26 of the City Charter, pertaining to the chief administrative officer and the city attorney, was introduced for discussion.

Councilor Reinert moved to table the resolution for further clarification of the ballot language, 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 STAUBER

07-055 - 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, ONE FAMILY RESIDENTIAL, TO R-2, TWO FAMILY RESIDENTIAL, PROPERTY LOCATED AT EAST TENTH STREET AND NORTH FIRST AVENUE EAST (TERRY HAUER).

- - -

BY COUNCILOR STAUBER

07-056 - AN ORDINANCE AMENDING SECTIONS 50-52 AND 50-55.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE USES IN S AND S-2 SUBURBAN RESIDENTIAL DISTRICTS.

- - -

BY COUNCILOR STAUBER

07-057 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-36.2 TO ELIMINATE THE 20 ACRE MAXIMUM LIMIT APPLICABLE TO LOW DENSITY PLANNED DEVELOPMENT SPECIAL USE PERMITS.

- - -

BY COUNCILOR STAUBER

07-058 - AN ORDINANCE AMENDING SECTION 50-1.28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, DEFINING THE WORD FAMILY.

BY COUNCILOR NESS

07-059 - AN ORDINANCE AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CHANGING TAXICAB RATES.

The following entitled ordinances were read for the second time:

BY COUNCILORS STAUBER AND KRAUSE

07-053 - AN ORDINANCE AMENDING SECTIONS 50-35 AND 50-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LOCATION OF RESIDENTIAL CARE FACILITIES AND ELDERLY CONGREGATE HOUSING AND REQUIRING THAT ALL SUCH HOUSING TYPES BE AUTHORIZED BY SPECIAL USE PERMIT.

Councilor Stauber moved to table the ordinance for consideration by the planning commission, which motion was seconded and unanimously carried.

BY COUNCILOR JOHNSON

07-052 (9857) - AN ORDINANCE AUTHORIZING RECONVEYANCE OF PROPERTY IN THE RIVERSIDE AREA KNOWN AS TALLUS ISLAND TO THE STATE OF MINNESOTA.

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

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

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

**ORDINANCE NO. 9856**

BY COUNCILOR KRAUSE:

AN ORDINANCE CREATING A NEW SECTION 2-29 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REQUIRING PROJECT LABOR AGREEMENT FOR CITY PROJECTS.

The city of Duluth does ordain:

Section 1. That the Duluth City Code, 1959, as amended, be amended by adding a new Section 2-29 to Chapter 2, Article IV, to read as follows:

Sec. 2-29. Project labor agreements.

(a) Policy. The city, as a purchaser of construction services, has a compelling interest in ensuring that city construction contracts proceed in a timely, cost-effective manner with the highest degree of quality and with minimal delays and disruptions. City contracts should be performed with the highest degree of safety for workers and the public, and in a manner that provides meaningful training and employment opportunities for residents. Throughout the state and country, public and private construction owners regularly utilize and require project labor agreements for billions of dollars worth of construction each year. St. Louis county is successfully using project labor agreements on county construction contracts. Project labor agreements that establish uniform terms and conditions of employment

for the contractors and other parties working on a project have been shown to provide an effective mechanism for construction management because they allow project owners to:

- (1) Predict their labor costs and requirements, and, therefore, more accurately estimate actual total project costs;
- (2) Promote cost-efficient, timely and safe construction project delivery, by providing access to a reliable supply of properly trained and skilled construction craft personnel for all aspects of the project;
- (3) Assure greater productivity and workmanship quality from construction craft personnel, thereby yielding high quality, cost-efficient projects, while also reducing maintenance and repair costs over the life of the project;
- (4) Integrate work schedules and standardize work rules for the project to provide a well-coordinated, efficiently functioning construction worksite that will minimize delays, promote quality, and maintain project safety; and
- (5) Assure that construction will proceed without interruption from staffing shortages, high employee turnover, safety incidents, and labor disputes by providing reliable project staffing, contractual guarantees against work stoppages and mutually binding procedures for resolving disputes;

(b) Project labor agreement required. A project labor agreement, in substantially the form adopted by resolution of the council from time to time and kept by the city clerk as a public document, shall be required to be used on each city construction project, as project is defined in Section 2-25, with a total project cost of \$150,000 or more. Any project labor agreement entered into by the city shall be made binding on all contractors and subcontractors working on the project. The city shall implement the project labor agreement by requiring adherence to the agreement in the bid specifications in all relevant bid documents. No contractor shall be required to be or become a party to a collective bargaining agreement on any other construction project in order to qualify to work under a project labor agreement implemented for a particular city project.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: October 7, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Nays: Councilors Stauber and Stewart -- 2

Absent: Councilor Little -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 27, 2007  
Approved August 27, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9857**

BY COUNCILOR JOHNSON:

AN ORDINANCE AUTHORIZING RECONVEYANCE OF PROPERTY  
IN THE RIVERSIDE AREA KNOWN AS TALLUS ISLAND TO THE  
STATE OF MINNESOTA.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 1. That the proper city officials are hereby authorized to reconvey the below-described property in St. Louis County, Minnesota, previously free-conveyed to the city, to the state of Minnesota:

Parcel 1 (2746-00290)

Lands in the city of Duluth, Section 23, Township 49 North, Range 15 West, that part of Government Lot 2 lying SE'yly of the SE'yly right-of-way of the St. Paul and Duluth and Northern Pacific Railway including riparian rights.

EXCEPT: That part of Government Lot 2 beginning at the intersection of the south line of Lot 2 and the SE'yly right-of-way of the St. Paul and Duluth and Northern Pacific Railway; thence E'yly along the south line of said Lot 2 a distance of 150 feet to a point; thence deflect to the left and continue in a straight line to a point on the SE'yly line of said railway right-of-way said point distant 150 feet northeast of the point of beginning; thence deflect to the left and continue SW'yly along the SE'yly line of said railway right-of-way a distance of 150 feet to point of beginning and there terminating.

EXCEPT FURTHER: That part of Government Lot 2 commencing at the point of intersection of the south line of Lot 2 and the SE'yly right-of-way of the St. Paul and Duluth and Northern Pacific Railway; thence NE'yly along the SE'yly line of said railway right-of-way a distance of 1064 feet to point of beginning; thence deflect 44° 12' 27" to the right a distance of 105.44 feet to a point; thence deflect 85° 16' 07" to the left a distance of 111.92 feet more or less to a point on the SE'yly line of said railway right-of-way; thence deflect to the left and continue SW'yly along the SE'yly line of said railway right-of-way a distance of 160 feet more or less to point of beginning and there terminating.

Parcel 2 (2746-00245)

Lands in the city of Duluth, Section 23, Township 49 North, Range 15 West, that part of Government Lot 1, including riparian rights, lying S'yly of the Northern Pacific Short Line right-of-way except 5 18/100 acres for Northern Pacific Main Line and except a strip of land 75 feet wide and adjoining the Northern Pacific Main Line right-of-way and formerly used as right-of-way by Duluth Transfer Railway 2 67/100 acres, also except that part lying north of Grand Avenue 72/100 acres and except a strip of land adjacent to the Old Transfer Railway right-of-way containing 2 13/100 acres. Revised Description #40, Recorder of Deeds, Book 686, Page 440.

EXCEPT: That part of Government Lot 1 lying S'yly of the Northern Pacific Short Line right-of-way and N'yly of the Old Transfer Railway right-of-way.

EXCEPT FURTHER: That part of Government Lot 1 lying S'yly of the Northern Pacific Main Line right-of-way and lying N'yly of a line parallel to and lying 305 feet S'yly of the north line of said Government Lot 1.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 7, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Little -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed August 27, 2007  
Approved August 27, 2007  
HERB W. BERGSON, Mayor

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, September 10, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0910-01 Dennis Johnson petition to vacate existing 20 foot unoccupied utility easement located in Lot 5, Block 2, Oatka Beach Addition. -- Assessor

07-0910-06 Linda Cadotte communication regarding the proposed ordinance pertaining to changing taxicab rates (07-059-O). -- Received

07-0910-08 Kathy and Scott Turner communication regarding the proposed ordinance pertaining to garbage collection (07-061-O). -- Received

07-0910-07 The following communications regarding the proposed ordinance defining the word "family" (07-058-O): (a) Jim Gruba; (b) Alicia Johnson; (c) Michelle Peterson; (d) John Powers; (e) Tod Venberg. -- Received

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**REPORTS FROM THE ADMINISTRATION**

07-0910-05 Mayor Bergson: (a) 2008 budget address; (b) 2008 proposed general fund budget. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

07-0910-02 Assessor letters of sufficiency of petitions:

(a) For the the bituminous surfacing of Plum Street from Eighth Avenue East to Skywood Lane;

(b) To vacate a portion of the existing public skywalk space located on the second floor of the Lake Superior Place Building, formerly know as the MacDonald Building. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-0910-03 Duluth airport authority: (a) Balance sheet of June 30, 2007; (b) Minutes of July 17, 2007, meeting. -- Received

07-0910-04 Duluth transit authority: (a) Income statement for April, 2007; (b) Minutes of May 30, 2007, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

David Barschdorf commented on his communication regarding answers to the city's monetary problems (Public Document No. 07-0910-18) which addressed the issues of: the St. Mary's/Duluth Clinic (SMDC) parking ramp should have city employees running it; the city should put the fish from the Lake Superior Aquarium into a large building that could be built at the

zoo; all the city owned golf courses should be privatized; all the tax free zones should be eliminated and the Duluth Entertainment Convention Center (DECC) expansion, Heritage Hockey Center, trails and Lakewalk expansion are wasting taxpayers' money.

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Jerry Schlafer commented on those who feel that increasing population solves problems and felt that increasing population will not solve any problems. As seen by the large five county metro area, there is less parking, peace and quiet and quality of life, which we do not want to happen here.

- - -

Kay L. Lewis commented on: Fourth Street and if a study is being done to see if there is a sufficient increase in traffic to justify signals; if there could be a report on the amount of large and small road work and construction jobs that have been done this year; if the city could not order SMDC employees to park in the ramp by the hospital, instead of the DECC and on the Vonjaro Company's plans to build a nine story building on Superior Street that would look out of place and block the view for many.

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### RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 07-0562, denying 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, one family residential, to R-2, two family residential, property located at East Tenth Street and North First Avenue East (Terry Hauer), from the table, which motion was seconded and unanimously carried.

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### INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-055 (9858) - 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, ONE FAMILY RESIDENTIAL, TO R-2, TWO FAMILY RESIDENTIAL, PROPERTY LOCATED AT EAST TENTH STREET AND NORTH FIRST AVENUE EAST (TERRY HAUER).

Councilor Stauber moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

- - -

Resolution 07-0562 failed upon a unanimous vote (Public Document No. 07-0910-09).

- - -

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

- - -

Councilor Ness moved to remove Resolution 07-0584, setting the form of a ballot for votes to amend the sections 19 and 26 of the City Charter, pertaining to the chief administrative officer and the city attorney, from the table, which motion was seconded and unanimously carried.

Councilor Ness moved to amend the resolution by changing the wording explaining the questions to read as follows:

“Question 1

Should an ordinance amending Section 19 of the City Charter pertaining to selection and tenure of the chief administrative officer be adopted?

A YES vote means that the selection and termination of the chief administrative officer would require a majority support of the city council and would set forth additional qualification standards for that position, amending Section 19 of the City Charter.

A NO vote means that the selection and tenure of the chief administrative officer outlined in Section 19 of the City Charter would not be amended.

Question 2

Should an ordinance amending Section 26 of the City Charter pertaining to selection and tenure of the city attorney be adopted?

A YES vote means that the selection and termination of the city attorney would require a majority support of the city council and would set forth policy as it relates to city attorney conflict of interest, amending Section 26 of the City Charter.

A NO vote means that the selection and tenure of the city attorney outlined in Section 26 of the City Charter would not be amended,”

which motion was seconded and unanimously carried.

Councilors Gilbert and Johnson opposed the resolution for reasons of: this issue is not on the minds of citizens enough to justify a ballot question and the voters will not be informed or able to understand this question and what it means with a simple “yes or no” answer.

Resolution 07-0584, as amended, was adopted as follows:

BY COUNCILORS NESS AND REINERT:

WHEREAS, the Charter commission has proposed amendments to the City Charter as set out in the ordinances on file with the clerk as Public Document Nos. 07-0910-10(a) and 07-0910-10(b); and

WHEREAS, the proposed amendments shall be submitted to the qualified voters at a general or special election.

NOW, THEREFORE, BE IT RESOLVED, that the Charter amendments proposed by the Charter commission in the proposed ordinances on file with the clerk as Public Document Nos. 07-0910-10(a) and 07-0910-10(b) shall be submitted to the voters as set out in MSA 410.12, subdivisions 1 and 4, at the election to be held on November 6, 2007.

BE IT FURTHER RESOLVED, that the statement of the questions on the ballot shall be as follows:

Question 1

Should an ordinance amending Section 19 of the City Charter pertaining to selection and tenure of the chief administrative officer be adopted?

A YES vote means that the selection and termination of the chief administrative officer would require a majority support of the city council and would set forth additional qualification standards for that position, amending Section 19 of the City Charter.

A NO vote means that the selection and tenure of the chief administrative officer outlined in Section 19 of the City Charter would not be amended.

Question 2

Should an ordinance amending Section 26 of the City Charter pertaining to selection and tenure of the city attorney be adopted?

A YES vote means that the selection and termination of the city attorney would require a majority support of the city council and would set forth policy as it relates to city attorney conflict of interest, amending Section 26 of the City Charter.

A NO vote means that the selection and tenure of the city attorney outlined in Section 26 of the City Charter would not be amended.

Resolution 07-0584, as amended, was adopted upon the following vote:

Yeas: Councilors Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Gilbert and Johnson -- 2

Approved September 10, 2007

HERB W. BERGSON, 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 Stover moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STEWART:

RESOLVED, that pursuant to the requirements of Minnesota Statutes, Section 275.065, subdivision 6, the city council hereby sets the following date and time for the public hearing to review the city's final budget of 2008 and final city property tax levy for taxes payable in 2008: December 3, 2007, at 7:00 p.m. in the Duluth City Council Chamber.

Resolution 07-0603 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 2008 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,316,900 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. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,316,900.

Resolution 07-0606 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that in accordance with Amendment 1 to Resolution 07-0283, as approved by council on April 23, 2007, a total of \$1.2 million shall be transferred from Community Investment Fund 256, established by Section 54(E) of the Charter, to Other Post Employment Benefits Fund 280. Such funds shall be periodically transferred to the OPEB irrevocable trust fund administered by Public Employees Retirement Association (PERA) and invested by the State Board of Investment (SBI); provided that all such transfers shall be completed on or before October 1, 2008.

Resolution 07-0610 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license subject to departmental approvals:

Lakeside/Lester Park Business Association (Lester River Festival), Lester Park, for September 22, 2007, with Darlene Marshall, manager (rain date September 23, 2007).

Resolution 07-0596 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2008, subject to departmental approvals, with any specific restrictions:

Mitch's, Inc. (Mitch's Bar & Grill), 2113 West Superior Street.

Resolution 07-0597 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2008, subject to departmental approvals:

Midi Enterprises, Inc. (Midi Restaurant), 600 East Superior Street, with Marie Schmidt, 70 percent stockholder, and Tom Karis, 30 percent stockholder.

Resolution 07-0598 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, 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 2007

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Lake Superior Brewing Company, LLC (Lake Superior Brewing Company), 2711 West Superior Street, for October 13, 2007, with Don Hoag, manager.

Resolution 07-0599 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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, 2:00 a.m. beverage license and application for a late night entertainment license for the period ending August 31, 2008, subject to departmental approvals and the payment of sales and property taxes:

1336 Gary Investments, LLC (Congress Bar), 1334 Commonwealth Avenue, with Jack Puglisi, 100 percent stockholder, transferred from G. W. Peterson, Ent., Inc. (Congress Bar), same address.

Resolution 07-0600 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption (raffle) to Memorial Blood Center and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 07-0601 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

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 August 14, 2007, and which are filed with the city clerk as Public Document No. 07-0910-11, 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, \$5,838 per month.

Resolution 07-0592 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proposed specifications for the new civil service classification of water plant supervisor, which were approved by the civil service board on August 14, 2007, and which are filed with the city clerk as Public Document No. 07-0910-12, are approved; that said classification shall be subject to the city's collective bargaining unit with its supervisory unit employees; and that pay range for the said classification shall be Pay Range 1075, \$4,384 to \$5,326 per month.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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RESOLVED FURTHER, that the proper city officials are authorized to execute and implement an agreement with the supervisory union to provide for employing one or more unit members consistent with this resolution.

Resolution 07-0593 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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 2008 allocation of LIHTCs is estimated at \$263,894; 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 2008 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city received one application for a project requesting allocation of 2008 LIHTCs (the project); and

WHEREAS, the application for the project has been scored in accordance with the plan.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the city hereby approves prioritization of the project to receive 2008 low income housing tax credits as set forth below:

First priority - Harbor Highlands Phase IV.

Resolution 07-0553 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB Architects and Engineers to provide complete engineering services for the reconstruction of Bridge L8516 on Fairmont Street at Tischer Creek, the rehabilitation of Bridge L5931 at Niagara Street at Chester Creek and the rehabilitation of Bridge L8491 on 38th Avenue West at Lemagie Creek, in an amount not to exceed \$51,901, payable from Fund 0411, Agency 035, Object 5530.

Resolution 07-0550 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to accept a corrected donation of easements for utility purposes located southeast of Arrowhead Road and Kenwood Avenue, a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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copy of which is on file in the office of the city clerk as Public Document No. 07-0910-13 from Billman Construction, Inc., at no cost to the city.

Resolution 07-0578 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to accept the donation of easements for utility purposes located southeast of Arrowhead Road and Kenwood Avenue, a copy of which is on file in the office of the city clerk as Public Document No. 07-0910-14 from Coral O. and Marcia A. Stephens at no cost to the city.

Resolution 07-0579 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Duluth Superior Erection, Inc., for the repair of the City Hall retaining wall and stairs in accordance with its low specification bid of \$45,400, payable out of Fund 0450, Department/Agency 030, Object 5530, CP2007-OT-0703.

Resolution 07-0587 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

BE IT RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the reconditioning of Airport Road from Haines Road to Rice Lake Road in the amount of \$399,889.57, payable out of Public Improvement Fund 0411, Agency 035, Object 5530, City Project No. 0621TR.

Resolution 07-0590 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Construction Services, Inc., for construction of the foundation and installation of a rotary bowl mill at the Duluth steam plant facility at One Lake Place Drive, in the amount of \$156,890, in accordance with specifications and the vendor's bid of \$156,890, payable from the Steam Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 07-0611 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Mobile Radio Engineering, Inc., for the purchase and delivery of police and fire radio system equipment in

accordance with specifications and the vendor's low bid of \$36,395.33, terms net 30, payable as follows:

(a) Fire - \$12,131.78 payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project: CE250-E705;

(b) Police - \$24,263.56 payable from the Duluth Police Grant Programs Fund 215, Department/Agency 200, Organization 2276, Object 5241.

This purchase is tax exempt.

Resolution 07-0588 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to exercise the buyout option in vehicle leases with Kari Toyota, Inc., for five 2005 Toyota Matrixes in the amount of \$49,310 plus \$3,173.30 (sales tax) for a combined total amount of \$52,483.30, payable as follows:

(a) \$22,052.30 from the Capital Equipment Fund 250, Department/Agency 015, Organization 2005, Object 5580, Project: CE250-V503 (Fire Vehicles 1502);

(b) \$11,347.00 from the Capital Equipment Fund 250, Department/Agency 015, Organization 2006, Object 5580, Project: CE250-V603 (Fire Apparatus 1502);

(c) \$19,084.00 from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project: CE250-V702 (Fire Vehicles 100).

Resolution 07-0589 was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0604, setting a proposed budget for the fiscal year 2008, and Resolution 07-0605, proposing the sum to be raised by taxation for general purposes for the year 2008, by Councilor Stewart, were introduced for discussion.

Councilor Stauber moved to suspend the rules to hear a speaker on the resolutions, which motion was seconded and unanimously carried.

George Hanson opposed the proposed levy increase for reasons of: citizens have already suffered with increased utility rates; new regulations regarding houses being used as rentals will make it harder for individuals to sell their houses and recapture their equity; there has been frivolous spending throughout the year and how core services are achieved need to be addressed.

Councilor Krause opposed the levy resolution because he did not support the concept of approving a high proposed levy and then coming down.

Resolution 07-0604 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 31, 2008.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

GENERAL		
010	Total legislative and executive	2,444,600
015	Total administrative services	7,060,700
020	Total planning and development	649,200
030	Total finance	2,890,700
100	Total fire	17,011,600
200	Total police	17,319,900
300	Total library	4,189,900
400	Total parks and recreation	2,578,000
500	Total public works	9,861,400
700	Total transfers	16,904,300
100	General fund total	80,910,300

Resolution 07-0604 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Krause and Little -- 2

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0605 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that pursuant to Minnesota Statutes, Section 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2008 for general operations is hereby determined to be the sum of \$13,543,600 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$7,761,500.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$5,047,100.

Section 4. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$422,100.

Section 5. There will be levied for other post employment benefits - retiree insurance, the sum of \$312,900.

Resolution 07-0605 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Krause and Little -- 2

Approved September 10, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0607, by Councilor Stewart, proposing the sum to be raised by taxation for the special taxing district, Seaway Port Authority, for the year 2008, was introduced for discussion.

Councilors Krause, Reinert and Stewart opposed the resolution for reasons of: nonelected officials are allowed to levy the tax; the authority has other sources of deriving revenues from other business ventures other than this avenue of revenue and the city council has no choice but to approve this because state law requires that the city approve this levy.

Resolution 07-0607 was adopted as follows:

BY COUNCILOR STEWART:

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 2007 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$932,200 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 \$981,700.

Resolution 07-0607 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Stauber and President Stover -- 6

Nays: Councilors Krause, Reinert and Stewart -- 3

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0608, by Councilor Stewart, proposing the sum to be raised by taxation for the special taxing district, Housing and Redevelopment Authority, for the year 2008, was introduced for discussion.

Councilor Stewart moved to suspend the rules to hear speakers at this time, which motion was seconded and unanimously carried.

Bob Reichert, chair of the Housing and Redevelopment Authority (HRA) finance committee, Jim Booth, HRA board chair, Rick Ball, HRA executive director, supported the resolution for reasons of: the HRA needs this levy to assist the city in reducing the high level of rental units in the University of Minnesota-Duluth (UMD) neighborhood by returning rental housing back to single family residents and this levy amount would re-instate the amount that was approved in 2005.

George Hanson spoke in opposition to this resolution for reasons of: those in the private sector who have trouble selling their property do not get this type of assistance and that funding this is a tax.

Councilor Stauber moved amend the resolution as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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(a) In sections 1 and 2 of the body of the resolution, delete the amount of "\$779,800" and insert "\$614,900";

(b) In the statement of purpose, amend the language to read as follows:

"This resolution sets the proposed tax levy for the year 2008 for the Duluth housing and redevelopment authority - HRA. The HRA requested \$779,800, which is the full levy allowable by law of .0144 percent of market value. However, the resolution was amended to set the levy at \$614,900 which equals last year's levy. This is the fourth consecutive year the HRA's levy was set at this rate,"

which motion was seconded and discussed.

Councilors Stauber, Gilbert, Stewart, Krause and President Stover supported the amendment for reasons of: this is not a core service of what is needed by the HRA; the HRA is a large inefficient bureaucracy; the HRA should not be subsidized to compete in the private market; there already are complaints received about individual HRA sites that are not being kept up; instead of continually taxing at the maximum rate, they should be better stewards of their resources; the HRA should first wrap up some of their projects before starting in a new area and there has been no discussion by the HRA to do this project in other areas of the city, such as the third, fourth and fifth council districts, where many blocks are heavily rental.

Councilors Ness, Johnson and Reinert opposed the amendment for the reasons of: HRA members have been at previous meetings and questions/concerns have not been raised; this is only a maximum levy, while the council has a discussion with the HRA over the next two months relative to the concerns raised here; their board has put many hours into developing this budget; their proposal will be part of solving the UMD rental housing issue and they are thankful the HRA has been willing to think "outside the box."

The amendment carried as follows:

Yeas: Councilors Gilbert, Krause, Little, Stauber, Stewart and President Stover -- 6

Nays: Councilors Johnson, Ness and Reinert -- 3

Resolution 07-0608, as amended, was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that pursuant to Minnesota Statutes, Section 469.033, subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2008 for the housing and redevelopment authority taxing district's operations is hereby determined to be the sum of \$614,900 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 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$614,900.

Resolution 07-0608, as amended, was unanimously adopted.

Approved September 10, 2007

HERB W. BERGSON, Mayor

*[Editor's Note: Resolution 07-0608 was reconsidered, amended and adopted at the September 24, 2007, council meeting.]*

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BY COUNCILOR KRAUSE:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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
Elk's Club, #133	<ul style="list-style-type: none"> <li>• Afterburner Lounge, 4701 Grinden Drive</li> <li>• The Great American Bar &amp; Grill, 1600 Miller Trunk Highway</li> </ul>
Multiple Sclerosis Society	All American Club, 1931 West Michigan Street
Northland Vietnam Veterans Association	Kom On Inn, 332 North 57th Avenue West
Lester Park Hockey Association	<ul style="list-style-type: none"> <li>• O'Gilby's Bar, 511 East Fourth Street</li> <li>• Round Up Bar &amp; Grill, 415 East Fourth Street</li> </ul>

Resolution 07-0602 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

Resolutions 07-0559 and 07-0560, affirming and reversing, respectively, the decision of the board of zoning appeals that James Bechthold's current use of property located at 2901 Morris Thomas Road does not conform to the limitations applicable to a public garage as defined by Section 50-1.32 of the Zoning Code, by Councilor Stauber, were introduced for discussion.

Councilor Stauber moved to suspend the rules to hear a speaker on the issue, which motion was seconded and unanimously carried.

Allen Willman supported Resolution 07-0560 for the reasons of: this is a small businessman who has taken a former Methamphetamine [meth] house next to this location and has cleaned it up to make it his own house; this businessman took an old county garage and turned it into a thriving business and supporting this will tell small businesses, "Yes, there is a place for you in Duluth."

Councilors Krause and Reinert supported Resolution 07-0559 and opposed Resolution 07-0560 for the reasons of: what is being done here is what is referred to as "just in time manufacturing," which is not allowed under the zoning for this location; this could be setting a pattern for other areas in the city; there are area residents who oppose this and there is concern that the site is properly developed for welding and painting.

Resolution 07-0559 (affirming the decision of the board of zoning appeals) failed upon the following vote (Public Document No. 07-0910-15):

Yeas: Councilors Krause and Reinert -- 2

Nays: Councilors Gilbert, Johnson, Little, Ness, Stauber, Stewart and President Stover -- 7

- - -

Resolution 07-0560 was adopted as follows:

BY COUNCILOR STAUBER:

BE IT RESOLVED, that the council finds as follows:

(a) James Bechthold (Bechthold) requested an interpretation by the building official that his current use of property located at 2901 Morris Thomas Road and zoned C-2, was an authorized use with the scope of the definition of "garage, public" provided in Section 50-1.32 of the Zoning Code;

(b) The building official opined that Bechthold's use was not an authorized use in a C-2 zone, but was a use allowed in the C-4 zoning classification;

(c) Bechthold timely appealed the building official's determination to the board of zoning appeals (BZA) pursuant to Section 50-47(a) of the Zoning Code;

(d) At its July 24, 2007, meeting the BZA heard Bechthold's appeal and determined that the building official had correctly applied the Zoning Code;

(e) Bechthold timely appealed the BZA decision to the city council which has heard the appeal as required by Section 50-49 of the Zoning Code;

(f) The building official has correctly in interpreted the definition of "garage, public" as provided in Section 50-1.32 of the Zoning Code.

BE IT FURTHER RESOLVED, that the board of zoning appeals' decision of July 24, 2007, is hereby reversed.

Resolution 07-0560 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Stauber, Stewart and President Stover -- 7

Nays: Councilors Krause and Reinert -- 2

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0591, by Councilor Stauber, authorizing a third amendment to the fiscal year 2005 home program housing development project purchase/rehabilitation/resale Fourth Street revitalization Agreement #19864 with Neighborhood Housing Services, extending the term 12 months. was introduced for discussion.

Councilor Krause opposed the resolution since this is the second extension for this project.

Resolution 07-0591 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into a third amendment substantially in the form of the copy on file in the office of the city clerk as Public Document No. 07-0910-16 to the HOME program housing development projects purchase/rehabilitation/resale agreement with Neighborhood Housing Services (NHS) in order to extend the term of the agreement to August 31, 2008.

Resolution 07-0591 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Krause and Stewart -- 2

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0594, by Councilor Stauber, authorizing an amendment to the project agree-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

ment with Northern Communities Land Trust (NCLT) to increase the amount payable thereunder from \$150,000 to \$180,000, was introduced for discussion.

Councilor Stauber moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

George Hanson and Marcia Stromgren opposed the resolution for the reasons of: this is one of the areas that should be left to the private sector; properties are being purchased, sold and subsidized using taxpayer dollars (which includes the speaker's dollars) to compete with himself; questioned if these properties are on the tax rolls at a reduced rate, as opposed to full market value; new owners are required to maintain these at a lower price, with less sweat equity; rental properties should not be "painted" with a broad brush of bringing down values; doing this will set a bad precedence and the council should not be "bailing out" those that cannot run their business properly.

Jeff Corey, representing NCLT, answered councilor questions regarding the need for increased funding.

Councilors Krause and Stauber opposed the resolution for the reasons of: the perception of these units is that you are not getting very much for your money; it is not the city's roll to subsidize developers; there is no accountability, because they just come back to the city; nonconforming lots further perpetuates the opposites of what the neighborhood wants and the reason that this came to the city is because of the softening real estate market and recent criminal activity, which is not likely to change very soon.

Resolution 07-0594 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to Agreement 20139 with NCLT substantially in the form of that on file in the office of the city clerk as Public Document No. 07-0910-17, increasing the amount payable thereunder from \$150,000 to \$180,000 and payable from Fund 262 020-5434, Project CD06CD-HOUS-2270, said additional funding being received from the 2007 contingency account.

Project	Project Name	Budget	New Amount	Amount of Change
2006 HOUS 2270	NCCLT deconstruction/ reconstruction	\$150,000	\$180,000	\$30,000
2007 ADMC-AD04	Contingency	\$75,969	\$45,969	-\$30,000

Resolution 07-0594 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0595, by Councilor Johnson, amending Resolution No. 07-0492 authorizing a contract with Gerard Chimney Company for inspection and repair of the Duluth Steam Plant

chimney to increase the amount by \$6,000 for a new total of \$17,400, was introduced for discussion.

City Attorney Brown requested that the resolution be pulled from the agenda and returned to the administration.

Councilor Johnson moved to remove the resolution from the agenda and return it 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 COUNCILOR STAUBER

07-062 - AN ORDINANCE AMENDING SECTIONS 47-20 AND 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO TAXICAB VEHICLE STANDARDS AND INSPECTION AND NOTICE OF RATES.

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BY COUNCILOR NESS

07-061 - AN ORDINANCE AMENDING SECTION 24-20 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO GARBAGE COLLECTION.

Councilor Ness moved to amend the last sentence of subsection 24-20(a) of the ordinance to read as follows:

"No collections shall be made in a residential district before 7:00 a.m. on Saturday, nor before 6:00 a.m. on any other day," which motion was seconded unanimously carried.

- - -

BY COUNCILOR JOHNSON

07-060 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON GARFIELD AVENUE TO THE SEAWAY PORT AUTHORITY OF DULUTH FOR \$16,025.

Councilor Stauber moved to amend Section 2 of the ordinance by deleting the phrase "General Fund 100-700-1420-4640" and inserting the phrase "the parks and recreation fund," which motion was seconded and carried upon the following vote:

Yeas: Councilors Johnson, Little, Reinert, Stauber and President Stover -- 5

Nays: Councilors Gilbert, Krause, Ness and Stewart -- 4

- - -

At this time, Councilor Little his seat.

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The following entitled ordinances were read of the second time:

BY COUNCILOR STAUBER

07-056 (9859) - AN ORDINANCE AMENDING SECTIONS 50-52 AND 50-55.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE USES IN S AND S-2 SUBURBAN RESIDENTIAL DISTRICTS.

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

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BY COUNCILOR STAUBER

07-057 (9860) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-36.2 TO ELIMINATE THE 20 ACRE MAXIMUM LIMIT APPLICABLE TO LOW DENSITY PLANNED DEVELOPMENT SPECIAL USE PERMITS.

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

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At this time, Councilor Little returned to his seat.

- - -

BY COUNCILOR STAUBER

07-058 - AN ORDINANCE AMENDING SECTION 50-1.28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, DEFINING THE WORD FAMILY.

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

George Hanson opposed the ordinance, for reasons of: he felt there was an error because the change is from six to four, not six to five, with the wording of five unrelated persons to the actual person that is there; that when a rental license expires, the proposed change would mean that landlords will not be able to rent to the same amount of individuals as are living there now and therefore should be reimbursed until the property is sold.

Councilor Stauber moved to table the ordinance until the planning commission reviews the ordinance, which motion was seconded and unanimously carried.

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BY COUNCILOR NESS

07-059 (9861) - AN ORDINANCE AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CHANGING TAXICAB RATES.

Councilor Ness moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Dan O'Hearon stated that owners are not likely to be changing rates that often, just for the sake of changing. He added that if the city is going to keep charging for every little aspect, then taxi owners should be given more cab stands.

Councilor Ness moved to amend the last sentence in the first paragraph of Section 47-33, by deleting the word "different" and inserting the word "higher," which motion was seconded and unanimously carried.

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Stauber and President Stover -- 7

Nays: Councilors Reinert and Stewart -- 2

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The meeting was adjourned at 9:23 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9858**

BY COUNCILOR STAUBER:

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, ONE FAMILY RESIDENTIAL, TO R-2, TWO FAMILY RESIDENTIAL, PROPERTY LOCATED AT EAST TENTH STREET AND NORTH FIRST AVENUE EAST (TERRY HAUER).

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 follows:

[MAP]

(Reference File No. 07091)

*[see map at end of meeting]*

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 21, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed September 10, 2007

Approved September 10, 2007

HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9859**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING SECTIONS 50-52 AND 50-55.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE USES IN S AND S-2 SUBURBAN RESIDENTIAL DISTRICTS.

The city of Duluth does ordain:

Section 1. That Section 50-52 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 50-52. Permitted uses.

A building or premises in the S suburban district shall be used only for the following purposes:

(a) Agricultural uses, such as field crops, truck gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse and a sales room for the sale of products grown on the premises;

(b) Farms devoted to the hatching, raising and marketing of poultry, rabbits and other small animals, fish and other creatures; provided, that no killing or dressing of poultry, rabbits or other small animals, fish or creatures shall be

permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(c) Farms for grazing, breeding and raising horses, cattle, sheep, dogs or goats and goat or cattle dairies; provided, that all buildings and enclosures, including fences, for the feeding, breeding or milking, but not including pasturing and grazing, of such animals be located not less than 200 feet from any lot line;

(d) One-family dwelling;

(e) Church or other place of worship or Sunday school;

(f) Public school, elementary and high, parochial school or private school having a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;

(g) Universities and colleges;

(h) Publicly owned or operated forest reserve, park, playground or community building;

(i) Country club or golf course, except a miniature course or driving range for commercial purposes;

(j) Kennel, veterinary hospital or riding stable; provided, that any building or enclosure so used shall be located not less than 100 feet from any lot line;

(k) Hospital or institution of an educational, religious, charitable or philanthropic nature; provided, that such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;

(l) Home occupation;

(m) Seasonal camp or cabin, buildings to be located not less than 200 feet from a R district;

(n) One roadside stand offering for sale only farm products produced on the premises; provided, that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

(o) Accessory building or use, customarily incident to the above uses; provided, that any such accessory building erected prior to the construction of the principal building shall comply with the following conditions:

(1) That the construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory use;

(2) That prior to issuance of a building permit for such accessory use, a building demolition bond approved by the city attorney and in an amount sufficient to demolish such accessory structure be filed with the building official;

(3) That the owner execute a license, in a form approved by the city attorney, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section.

One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to

or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

- (p) Residential care facility serving six or fewer persons;
- (q) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children.

Section 2. That Section 50-55.1 of the Duluth City Code, as amended, is amended to read as follows:

Sec. 50-55.1. Permitted uses.

A building or premises in the S-2 suburban residential district shall be used only for the following purposes:

- (a) One-family dwelling;
- (b) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;

(c) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;

(d) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;

(e) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;

(f) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;

(g) Home occupation;

(h) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building erected prior to the construction of the principal building shall comply with the following conditions:

(1) That the construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory use;

(2) That prior to issuance of a building permit for such accessory use, a building demolition bond approved by the city attorney and in an amount sufficient to demolish such accessory structure be filed with the building official;

(3) That the owner execute a license, in a form approved by the city attorney, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section;

(i) Residential boat dockage under the following conditions:

(1) General provisions:

(A) Dockage of boats owned and primarily used by a resident of the property in question is a permitted accessory use to the primary residential use and shall not be limited in number;

(B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage on an improved street;

(C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:

1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and

2. The boat is owned and primarily used by the owner of the property;

(2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];

(3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;

(4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;

(j) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(k) Bed and breakfast inn containing no more than 12 habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 21, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Little -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 10, 2007  
Approved September 10, 2007  
HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9860**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 50-36.2 TO ELIMINATE THE 20 ACRE MAXIMUM LIMIT APPLICABLE TO LOW DENSITY PLANNED DEVELOPMENT SPECIAL USE PERMITS.

The city of Duluth does ordain:

Section 1. That Chapter 50 of the Duluth City Code, 1959, as amended, be amended to amend Section 50-36.2 to read as follows:

Sec. 50-36.2. Same--Eligibility.

The owner of any tract of land comprising an area of more than four acres may submit to the city council a plan for the use and development of all such tracts for one-family homes, two-family homes, townhouses, and/or multiple dwellings containing no more than eight dwelling units, provided that such tracts are located within the S suburban, S-2 suburban residential district, R-1 one-family residential districts, the R-2 two-family residential district, R-3 apartment residential or a combination of such districts. No use or development shall be permitted except in conformity with a specific plan complying with the standards and requirements hereinafter set forth. With respect to low density planned development, such standards and requirements shall supersede any inconsistent standards or requirements set forth elsewhere in this Chapter.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 21, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Absent: Councilor Little -- 1

Passed September 10, 2007  
Approved September 10, 2007  
HERB W. BERGSON, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9861**

BY COUNCILOR NESS:

AN ORDINANCE AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CHANGING TAXICAB RATES.

The city of Duluth does ordain:

Section 1. That Section 47-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-33. Rates--notice of rates change.

There shall be prominently displayed in all taxicabs a rate statement card no smaller than 8.5"x11" setting out in large size print all the various rates charged to passengers for all the various services offered. This card shall also contain a sentence informing passengers that the driver has printed copies of the entire text of the rate statement card which will be supplied to them upon request. All the information on the rate statement card shall be prominently displayed on each side of the outside of the vehicle in text at least 1.5 inches high. It is a violation of this Code to charge a rate higher than that stated on the rate statement card.

In order to change a rate, the licensee shall do the following:

(a) Register the new rate with the city clerk at least seven days before it is implemented;

(b) Pay to the clerk a rate change registration fee in an amount determined as set out in Section 2-16;

(c) Change the rate notices required by this Article.

The clerk shall post the changed rate on the city website for an appropriate period of time.

The driver of any taxicab shall upon demand give any passenger a receipt for the fare charged, which receipt shall include the name of the driver, the identification of the vehicle, the amount charged and the date of the transaction.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: October 21, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Stauber and President Stover -- 7

Nays: Councilors Reinert and Stewart -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 10, 2007  
Approved September 10, 2007  
HERB W. BERGSON, Mayor



**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, September 13, 2007, 5:02 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Absent: Councilors Gilbert and Krause -- 2

- - -

**MOTIONS AND RESOLUTIONS**

BY PRESIDENT STOVER:

The council finds as follows:

(a) On September 11, 2007, 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;

(b) 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. 07-0913-01) at 5:00 p.m., September 13, 2007, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 21,471 cast votes, said votes having been cast in the following manner:

<b>Mayor</b>	
Charles M. "Charlie" Bell	6,769
Herb W. Bergson	3,064
Meg Bye	2,055
Joanne M. Fay	746
Greg Gilbert	2,886
Todd Gremmels	14
Sunny Helbacka	124
Reiner Nelson	160
Don Ness	5,224
Jim Pratt	224
John Socha	102
Robert Wagner	67

<b>City Councilor at Large</b>	
Jeff Anderson	5,770
Jack Arnold	4,526
Henry L. Banks	1,931
Tony Cuneo	5,365
Jon Donahue	2,667
Becky Hall	8,371
Tim Little	5,942
Tony Salls	714
<b>City Councilor - Third District</b>	
Sharla Gardner	1,549
Heather Rand	970
John Rathe	490
<b>City Councilor - Fifth District</b>	
Allan Beaulier	566
Jay Fosle	1,656
Russell W. Stover	1,707
William Max Unger	232

NOW, THEREFORE, BE IT RESOLVED, that Charles M. Bell and Don Ness, 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 Jeff Anderson, Tony Cuneo, Becky Hall and Tim Little, 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 Sharla Gardner and Heather Rand, having the two largest numbers of the votes cast at said election for councilor - third district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, that Jay Fosle 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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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 07-0609 was unanimously adopted.

Approved September 13, 2007

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 5:05 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, September 24, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-0924-01 Philip and Victoria Filiatrault petition to vacate the five foot easements on Lots 4 and 5, Block 31, Norton's Fairmont Park Division. -- Assessor

07-0924-02 Maurices, Inc., concurrent use permit application for a portion of the alley behind 105 West Superior Street for the installation of three electrical conduits and wire. -- Planning commission

07-0924-03 Tatyana Sirota, et al. (four signatures), petition to vacate 13th Avenue East westerly of Lot 16, Block 109, Endion Division. -- Assessor

07-0924-28 St. Louis County health department communication regarding the proposed ordinance pertaining to elderly congregate housing and residential care facilities (07-053-O). -- Received

07-0924-13 Center City Housing Corporation communication regarding proposed housing investment fund loan agreement with the American Indian Community Housing Organization (07-0619R). -- Received

07-0924-04 Grandma's, Inc., acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9830 on May 14, 2007. -- Received

07-0924-05 Hartl's/DBJ Disposal Companies communication regarding the proposed ordinance pertaining to garbage collection (07-061-O). -- Received

07-0924-07 Sherman and Associates, acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9833 on May 14, 2007. -- Received

07-0924-06 The following communications regarding the proposed ordinance pertaining to taxicab vehicle standards and inspection and notice of rates (07-062-O): (a) Allied Taxi (2); (b) Norman McNeil (2). -- Received

07-0924-08 The following communications regarding the proposed ordinance defining the word family (07-058-O): (a) Sven Berg; (b) Brian Doyle; (c) Friday Properties Management, LLC.; (d) Mindy Granley; (e) Charles and Patricia Hanson; (f) Lou Hedberg; (g) Robert and Karen Kilpo; (h) Rodney Lubiani; (i) Johannah Olson; (j) Mark Peacock; (k) John Perry; (l) John and Diane Powers; (m) Dave Sarvela; (n) Cynthia Storm; (o) Cathy and Art Thompson; (p) Connie Toscano; (q) Wendy Webb; (r) Devin Welsh; (s) Trent and Kim Wickman; (t) Amy Wold. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-0924-09 Assessor:

(a) For confirmation the assessment roll of delinquent stormwater utility fees during the period of January 1, 2006, and December 31, 2006;

(b) Letters of sufficiency of petitions to vacate:

(1) The existing 20 foot unoccupied utility easement located in Lot 5, Block 2, Oatka Beach Addition;

(2) The five foot easements on Lots 4 and 5, Block 31, Norton's Fairmont Park Division. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

07-0924-10 Commission on disabilities minutes of August 1, 2007, meeting. -- Received

07-0924-11 Duluth human rights commission minutes of August 8, 2007, meeting. -- Received

07-0924-12 Planning commission:

(a) Minutes of August 14, 2007, meeting;

(b) Recommendations for approval of proposed ordinances:

(1) 07-053-O, regulating the location of residential care facilities and elderly congregate housing and requiring that all such housing types be authorized by special use permit;

(2) 07-058-O, defining the word family. -- Received

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis expressed her concern that the building project at 7 West Superior Street is replacing a three story building with a nine story building that will block the view of neighbors.

- - -

Jerry Schlafer voiced concern that small crime is running rampant in Duluth and the council needs to concentrate on how to solve crime instead of licensing things that cannot be enforced.

- - -

George Hanson and Neil Evans explained that they attended a planning commission meeting and that the commission was unwilling to listen to an issue as it seemed that the commission had predetermined how they were going to act on it. Mr. Hanson suggested that an act of conduct for boards and commission be created.

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### RESOLUTION RECONSIDERED

Councilor Gilbert moved to reconsider Resolution 07-0608, proposing the sum to be raised by taxation for the special taxing district, Housing and Redevelopment Authority, for the year 2008, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

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

Rick Ball, representing the Housing and Redevelopment Authority (HRA), explained that they are receiving less money from the federal government, which affects Duluth by not having affordable and safe housing for Duluthians. He continued by saying that the HRA board would not have come forward with this request if it was not absolutely necessary and requested the council approve the levy that is being requested.

Pam Kramer urged the council to support the proposed levy as the HRA has worked with several local initiatives to provide housing.

George Hanson stated that when people are applying for these programs, they should be residents of Duluth.

City Attorney Brown reviewed that the resolution setting the levy limit was passed at the last meeting and delivered to the county auditor and, after September 15, the levy cannot be exceeded. He continued by saying that any resolution that is passed will not be able to be certified by the county auditor and that the HRA cannot certify a levy.

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

Yeas: Councilors Krause, Little, Stauber and Stewart -- 4

Nays: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Councilor Gilbert moved to amend the resolution as follows:

(a) In sections 1 and 2, delete "\$614,900" and insert "\$779,000";

(b) Amend the statement of purpose to read as follows:

"STATEMENT OF PURPOSE: This resolution sets the proposed tax levy for the year 2008 for the Duluth housing and redevelopment authority based on the full levy allowable by law of .0144 percent of market value. The levy will increase at the request of the authority in the amount of \$164,100 over 2007,"

which amendment was seconded and carried as follows:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Resolution 07-0608, as amended, was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that pursuant to Minnesota Statutes, Section 469.033, subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2008 for the housing and redevelopment authority taxing district's operations is hereby determined to be the sum of \$779,000 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 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$779,000.

Resolution 07-0608, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved September 24, 2007

HERB W. BERGSON. Mayor

- - -

### RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 07-0514, accepting the business subsidy report and approving the amended and restated development agreement between the Duluth economic development authority and Duluth Technology Park I, LLC, from the table, which motion was seconded and unanimously carried.

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

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**MOTIONS AND RESOLUTIONS**

The following entitled resolution was read for the first time:

BY COUNCILOR STAUBER

07-0624 - RESOLUTION AMENDING THE MINNESOTA INVESTMENT FUND (MIF) AGREEMENT WITH THE STATE OF MINNESOTA AND AUTHORIZING A LOAN AGREEMENT, NOTE AND SECURITY AGREEMENT MODIFICATION AGREEMENT WITH NORTHSTAR MACHINE & TOOL, INC., D.B.A. NORTHSTAR AEROSPACE, INCREASING THE TIME FOR LOAN PAYBACK.

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**CONSENT AGENDA**

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

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

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute a supplemental agreement with the city of Duluth Supervisory Association, which is on file in the office of the city clerk as Public Document No. 07-0924-14, which, beginning October 1, 2007, modifies the 2007-2009 collective bargaining agreement language to encourage the utilization of generic prescriptions to provide a cost savings to the group health fund.

Resolution 07-0613 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute a supplemental agreement with Local 101, International Association of Fire Fighters, which is on file in the office of the city clerk as Public Document No. 07-0924-15, which, beginning October 1, 2007, modifies the 2007-2009 collective bargaining agreement language to encourage the utilization of generic prescriptions to provide a cost savings to the group health fund.

Resolution 07-0614 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute a supplemental agreement with the Duluth Police Local, which is on file in the office of the city clerk as Public Document No. 07-0924-16, which, beginning October 1, 2007, modifies the 2004-2006 collective bargaining agreement language to encourage the utilization of generic prescriptions to provide a cost savings to the group health fund.

Resolution 07-0615 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute a supplemental agreement with the city of Duluth Confidential bargaining unit represented by Unite-Here Local 150, which is on file in the office of the city clerk as Public Document No. 07-0924-17, which, beginning October 1, 2007, modifies the 2007-2009 collective bargaining agreement language to encourage the utilization of generic prescriptions to provide a cost savings to the group health fund.

Resolution 07-0616 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that as of the date of this resolution, Resolution No. 96-0447 is hereby repealed and funds held for this purpose within the general fund are hereby transferred to Parking Enterprise Fund 505.

Resolution 07-0622 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 07-0924-09(a), which is levied to collect delinquent stormwater utility fees payable during the period of January 1, 2006, to December 31, 2006, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 07-0637 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of superintendent, building maintenance, which were approved by the civil service board on September 12, 2007, and which are filed with the city clerk as Public Document No. 07-0924-18, are approved.

FURTHER RESOLVED, that this classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1090 - 1105, \$4,719 to \$6,163 per month.

Resolution 07-0630 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of facility operations supervisor, which were approved by the civil service board on September 12, 2007, and which are filed with the city clerk as Public Document No. 07-0924-19, are approved; that said classification shall remain subject to the city's collective bargaining

agreement with its supervisory unit employees, that the pay range will change from Pay Range 1035, pay rate of \$3,788 to \$4,610 per month to Pay Range 1075, pay rate of \$4,384 to \$5,326.

RESOLVED FURTHER, that 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 07-0631 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city council finds the following:

(a) The city council adopted Resolution 05-0094 on February 14, 2005, granting a Section 50-38 special use permit to Mark Lambert of Summit Management, LLC, for Campus Park II, a common interest community development on 31 acres near Rice Lake Road and Blackman Avenue;

(b) The city council adopted Resolution 05-0481 on July 11, 2005, granting an amendment to the previously approved Section 50-38 special use permit; and

(c) Mark Lambert of Summit Management, LLC, has submitted to the city council a request for a second amendment to the Section 50-38 special use permit for a common interest community development on 31 acres of property legally described as follows:

(1) In Clague and Prindle's Addition to Duluth: all of Blocks 2, 3, 4 and those parts of Blocks 5 and 6 lying southwest of Rice Lake Road, including those parts of dedicated unbuilt streets and alleys lying adjacent thereto;

(2) In Triggs and Kennedy's Addition to Duluth: those parts of Blocks 38, 39, 42, 43, 44 and 45 lying southwest of Rice Lake Road, and that part of Lots 10, 12, 14 and 16, Block 41, lying southeast of the northeasterly extension of Hickory Street to intersect with Rice Lake Road at Chinook Drive, including those parts of dedicated unbuilt streets and alleys lying adjacent thereto; and

(3) In Benson Heights Addition to Duluth, Lots 5, 6 and Outlot;

(d) Said permit application was duly referred to the city planning commission for a study, report and public hearing held during their regular meeting on September 11, 2007, and the commission has subsequently reported its recommendation of conditional approval to the city council;

(e) The applicant's compliance with conditions set out in this permitting resolution will remedy any shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents and that compliance with the conditions contained herein, will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32 (reference Planning Commission File No. 07095);

(f) That an amendment to the previously approved amended special use permit is hereby granted to Mark Lambert and Summit Management, LLC, for a common interest community development of apartments and townhouses, a recreation building, and a maintenance building on 31 acres of property located on the southwest side of Rice Lake Road between Pecan Avenue and Hickory Street, with the following terms and conditions:

(1) That the project be limited to, developed, and maintained according to the following plans and identified as Public Document No. 07-0924-20:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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- (A) Sheet 3/13, site plan, titled "Boulder Ridge Luxury Student Housing" as drawn by RLK Kuusisto, received 7/11/2007 (contains changes to Phase I and II);
- (B) "Phase 3, Version 1, Boulder Ridge" dated 8/20/2007, drawn by SEH;
- (C) "Phase 3, Version 2, Boulder Ridge" dated 8/20/2007, drawn by SEH;
- (D) "Phase 3, Version 1, Landscape Plan, Boulder Ridge" dated 8/20/07, drawn by SEH;
- (E) "Phase 3, Version 2, Landscape Plan, Boulder Ridge" dated 8/20/07, drawn by SEH;
- (F) "Phase 3 Right Turn Lane, Boulder Ridge" dated 8/28/2007, drawn by SEH;
- (G) "Boulder Ridge, Site Plan for Building E-1" dated 7/23/2007, received 8/28/2007, drawn by SEH;
- (H) Sheet A2 "New Bus Garage for Boulder Ridge" dated 3/19/2007, received 8/29/2007, drawn by RHA Architect's, Inc.;
- (I) Sheet A2 "Boulder Ridge 59 Unit Apartment" dated 8/24/2006, received 7/11/2007, drawn by RHA Architect's, Inc.;
- (J) Sheet A5 "Boulder Ridge 47 Unit Apartment" dated 8/24/2006, received 7/11/2007, drawn by RHA Architect's, Inc.;
- (K) Sheet A7 "Boulder Ridge Town Homes" dated 6/15/2007, received 7/11/2007, drawn by RHA Architect's, Inc.;
- (L) Sheet A8 "Boulder Ridge 18 Unit Apartment" dated 6/15/2007, received 7/11/2007, drawn by RHA Architect's, Inc.;
- (M) Sheet A9 "Boulder Ridge 12 Unit Apartment" dated 6/15/2007, received 7/11/2007, drawn by RHA Architect's, Inc.;
- (N) "Boulder Ridge Sign Detail" dated 8/27/2007, received 8/28/2007, drawn by SEH;
- (O) "Garage Elevations (sample)" received 8/31/2007, drawn by RHA Architect's, Inc.; and
- (P) "Detail of Trash Enclosure" received 8/30/2007, drawn by SEH;
- (2) That the applicant be allowed to construct Phase III according to plans for either version one or version two;
- (3) That any alterations to the approved plans that do not alter major elements of the plan may be approved by the director of planning and development without further planning commission or city council action; however, no such administrative approval shall constitute a variance from the terms of Chapter 50, Article IV;
- (4) Prior to construction, the applicant shall verify that all wetland boundaries are marked with wetland flagging and that silt fences are installed to protect the wetland areas with a ten foot wide buffer;
- (5) Prior to construction, the applicant shall verify that all construction limits are marked on the site as shown in the attached drawings with silt fence or other construction fence to prevent construction equipment from entering the areas to remain natural;
- (6) Prior to construction of Building E-1 (maintenance/bus garage) that the applicant will gain written approval from the director of planning and development for the color and materials to be used on the building exterior;
- (7) Prior to receiving building permits for any building in Phase III, the director of planning and development shall review and approve the lighting plan for the site, the design of

which shall be made up of completely shielded and downcast fixtures to prevent glare and light pollution from impacting the surrounding neighborhood;

(8) That the temporary parking lot that exists across Hickory Street from Phase I be allowed to remain only as long as Phase III is under construction and that it be improved according to a site plan to be reviewed and approved by the director of planning and development;

(9) That the applicant abide by the terms established in the September 5, 2007, email from Jim Foldesi, assistant county engineer, regarding the new access to the site from Rice Lake Road; and

(10) That the project secure necessary building, grading, erosion control and stormwater management permits from the city and MPCA.

Resolution 07-0626 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to amend Contract No. 20675, in substantially the form of the amendment on file with the city clerk as Public Document No. 07-0924-21, with St. Louis County to provide support services to participants in the food support employment and training (FSET) program at costs not to exceed \$2,420.50 for the period July 1, 2007, through June 30, 2008. Said monies under this agreement shall be received from Funding Source 4260 (St. Louis County) and deposited in Fund 268, Agency 031, Organization 6237 (FSET).

Resolution 07-0583 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

- - -

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. 07-0924-22, with Senior Service America, Inc., (SSAI) to serve Duluth residents age 55 and over with work experience training and services in the amount of \$291,569 for the period of July 1, 2007, to June 30, 2008. Program funds will be accepted upon receipt of notices of funds available. Monies received shall be deposited in Fund 270, Agency 031, Organization 6330.

FURTHER RESOLVED, that at the time the city implements its system by which each city program is charged an amount to fund retiree health insurance, which amount is transferred to a fund or trust, the programs funded by this contract will be charged at the same rate and the funds will be transferred and used in the same manner.

Resolution 07-0612 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are authorized to execute an addendum to the memorandum of understanding, substantially the same as that on file with the city clerk as Public Document No. 07-0924-23, between the city and the U.S. department of housing and urban

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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development providing for enforcement of federal civil rights laws and processing of related complaints by the city human rights office and other related matters, which is a revision of the agreement authorized by Resolution 06-0885, passed by the city council on September 21, 2006, to comply with revised federal regulations relating to certification procedures.

Resolution 07-0636 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

WHEREAS, the department of health and human services, administration on developmental disabilities (ADD), administration for children and families (ACF), election assistance for individuals with disabilities (EAID) has allocated to the office of secretary of state funds to pay for actual polling place improvements to assist individuals with disabilities to vote privately and independently, election official training and information about the accessibility of polling places; and

WHEREAS, the city of Duluth has reviewed that the accessibility at the Duluth Heights Community Club, 33 West Mulberry Street, needs improved ramping, sidewalk, stairs, handrails and handicapped accessible parking.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application for \$18,000 to the Minnesota secretary of state for said polling site accessibility improvement.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to accept said grant if tendered by the Minnesota secretary of state and that all revenues are to be deposited into Fund 0100, Agency 700, Organization 1420, Object 4220-02.

Resolution 07-0629 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Todd G. Brown the sum of \$15,496.42 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer near 3019 West Third Street on December 31, 2006; payment to be made from Self-Insurance Fund 610, Agency 036, Organization 1653, Object 5841.

Resolution 07-0617 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Kalkbrenner Plumbing & Heating, Inc., for the 2007 rehabilitation of sanitary sewer laterals in Basin #25 in the amount of \$121,800, payable out of Sanitary Sewer Fund 0530, Agency 500, Organization 1970, Object 5535, City Project No. 0620SN.

Resolution 07-0620 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Traffic Control Corporation for the purchase and delivery of traffic signal controllers and peripheral equipment for the traffic operations division in accordance with state of Minnesota Contract #431573, Release T-639(5) specifications and pricing in the amount of \$41,642.50 plus \$2,706.76 sales tax for a combined total of \$44,349.26, terms net 30, FOB destination, payable from General Fund 100, Department/Agency 500, Organization 1930-2320, Object 5226.

Resolution 07-0623 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into an amended easement agreement for public utility purposes at the site of the United Health Care development, a copy of which is on file in the office of the city clerk as Public Document No. 07-0924-24 with Duluth United, LLC, at no cost to the city.

Resolution 07-0633 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Wendy Lewis and her attorney, Jeffrey Montpetit, \$100,000 in full and final settlement of a claim which arose out of a motor vehicle accident occurring on September 5, 2003, and giving rise to the civil action *Wendy Lewis v. City of Duluth, et. al*, St. Louis County District Court File Number 69DU-CV-06-2813; payment to be made from Self Insurance Fund 610, Agency 036, Organization 1652, Object 5841.

Resolution 07-0634 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the city acknowledges the historical significance of the site of John Jacob Astor's American Fur Trading Company.

RESOLVED, that the proper city officials are hereby authorized to accept a quit claim deed for Lot 39, FOND DU LAC SECOND STREET, as a gift from both the Daughters of Liberty Chapter and the Greysolon du Lhut Chapter of the Daughters of the American Revolution.

RESOLVED FURTHER, that the Duluth City Council hereby permanently dedicates this property as a passive city park and names this site "Historical Park."

Resolution 07-0627 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 07-0619, by Councilor, Stauber, authorizing housing investment fund (HIF) loan agreement of \$600,000 with American Indian Community Housing Organization (AICHO), was introduced for discussion.

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

Dr. Powless explained that the proposed 29-unit apartment building to be housed in the YWCA would not have one ethnic group in the building and that he would anticipate that it would be a 65:35 percent ratio, with the 35 percent having access to the gym and work out center within the facility. He continued by saying that they hope to attract young people into the facility to use what is there.

Pam Kramer, Jim Michler Philbin, Rick Ball, Zoe LaBeau, Sherry Tibbetts, Kim Nordin, Rachel Lafrinere, Phoebe Smith Ellis, Steve O'Neill and Maria Danz urged support of the resolution for the following reasons: this project would meet a neighborhood and regional need while saving an historic building; it would improve lives with education; it would help to get people into their own housing and transform people's lives; it would stabilize families and communities; it would help get people off the street and save taxpayers money and it is located in the Downtown area where support services are available.

Councilor Krause stated the city has an obligation to provide housing for all citizens, not just for one culture.

Councilor Stauber reviewed that this money was to be set aside for streets and should not be used for housing projects.

Resolution 07-0619 failed upon the following vote (Public Document No. 07-0924-25):

Yeas: Councilors Gilbert, Johnson, Ness and President Stover -- 4

Nays: Councilors Krause, Little, Reinert, Stauber and Stewart -- 5

*[Editor's note: Resolution 07-0619 was reconsidered and adopted at the October 9, 2007, council meeting.]*

- - -

Resolution 07-0625, by Councilor Stauber, denying a concurrent use permit to Mitch's, Inc., dba Mitch's Bar and Grill, for the sidewalk abutting 2113 West Superior Street (Mark Mitchell), was introduced for discussion.

Councilor Stauber moved to table the resolution so that it could be considered with Ordinance 07-063 on October 9, which motion was seconded and unanimously carried.

- - -

Resolution 07-0632, by President Stover, designating day following Thanksgiving a holiday; eliminating Columbus Day, was introduced for discussion.

Without objection, the resolution was returned to the administration, per their request.

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 06-0726 be amended and Contract #20271 with Apex Mechanical Plumbing, Heating and Utilities be increased by \$58,879.22 to provide for additional costs and work involved in the installation of a steamline extension to the San Marco Apartments, for a total amount of \$139,579.22, payable from Steam Fund 540, Department/Agency 920, Organization 1499, and Object 5530.

Resolution 07-0618 was unanimously adopted.

Approved September 24, 2007

HERB W. BERGSON, Mayor

- - -

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

### ORDINANCES TABLED

BY COUNCILOR STAUBER

07-058 - AN ORDINANCE AMENDING SECTION 50-1.28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, DEFINING THE WORD FAMILY.

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 from speakers on the ordinance.

The following speakers spoke in favor of the proposed rental ordinance for the following reasons: Joe Martin, Al Makynen, Judith McKeever, Dave Barschdorf, Vicki Sanville, Sandy Robinson -- neighborhoods composed of single family houses are being turned into rental neighborhoods; more off campus housing apartments should be made available to students; the behavior of the students is driving families away and over crowding on the streets is creating parking issues.

The following speakers spoke against the proposed rental ordinance for the following reasons: George Quinn, Brad Anderson, Trudy Carlson, Gary Aleff, Mike Schraepfer, Nick Adams, John Murrin, Steve Aleff, Jim Gruba, Neil Evans, Greg Schmaedeke, Blake Schippee, Gary Kalliger, Linn Eng, Kurt Bartell, Jamie Ebert, Thomas DeMunico, Maudie Johnson, Alan Kehr, Stephen Thomas, Kaylee Timbers, Philip Warmanen, Steve Walter, Tim Gillen, George Hanson, Trudy Carlson and Mark Pilon -- this ordinance does not solve the problem and the council needs to figure out another way; this ordinance change does not solve the parking or partying problem; it will reduce the number of students able to come to the University of Minnesota-Duluth (UMD); UMD has added a number of jobs, some high paying; get the groups together to solve these problems; this ordinance would take away affordable student housing; landlords are getting together to work with the positive source in neighborhoods when renting houses; the collegiate community should be embraced by the city; enforcing the ordinance would be cumbersome with the reduced city staff; there are ways to work around the inspections that the city would require; it could create a hostile environment for city staff; landlords are a part of this community and this would affect their livelihood; there could be potential human rights violations by city staff asking what the tenants' relationships are to each other; students are part of the community and pour money into the community and the need to go after absentee landlords who are not willing to improve their property.

Councilor Krause stated that this is not just a UMD neighborhood problem, but a problem in other neighborhoods where there is a large decrease in home ownership which often leads to blight and crime.

Councilor Stauber stated that he was amending the ordinance to allow a special use permit process to have more than four non-related renters in the house.

Councilor Stauber stated that the Duluth Association for Responsible Rentals needs to hold to their word when they say they want to try and fix the problems that the neighborhoods are complaining about or he will bring legislation forward on a citywide basis to try and fix the problems.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Councilor Stauber moved passage of the ordinance, as amended, and the same failed upon the following vote (Public Document No. 07-0924-26):

Yeas: Councilors Krause and Stauber -- 2

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stewart and President Stover -- 7

- - -

BY COUNCILORS STAUBER AND KRAUSE

07-053 - AN ORDINANCE AMENDING SECTIONS 50-35 AND 50-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING THE LOCATION OF RESIDENTIAL CARE FACILITIES AND ELDERLY CONGREGATE HOUSING AND REQUIRING THAT ALL SUCH HOUSING TYPES BE AUTHORIZED BY SPECIAL USE PERMIT.

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 from speakers on the ordinance.

Sandra Moore and Trudy Carlson stated this ordinance is in violation of federal and state laws stating that people with disabilities should not be treated differently because they need services and support in their home due to their disability.

Mike Mills explained that this proposed ordinance would not allow more than one resident in an apartment building to receive support services because of the 1,000 foot rule which would not be good idea.

John Nelson stated that persons with disabilities should have the right to choose where they are going to live based on affordability and accessibility to resources they need and for the city to make policy to treat disabled persons differently is not fair and against the law.

- - -

At this time, 10:55 p.m., Councilor Ness moved to extend the meeting until 11:15 p.m., which motion was seconded and unanimously carried.

- - -

Councilor Krause stated that this ordinance has nothing to do with disabled individuals, but rather deals with the frustration of neighborhoods dealing with the traffic from the service providers at all hours by spreading out the group homes located within those neighborhoods.

Councilor Stauber stated that this ordinance was drafted by the attorney's office with the understanding that the requirements followed state law.

Councilor Stauber moved to table the ordinance, which motion was seconded and failed upon the following vote:

Yeas: Councilors Krause, Little, Stauber and Stewart -- 4

Nays: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Councilor Stauber moved passage of the ordinance and the same failed upon the following vote (Public Document No. 07-0924-27):

Yeas: Councilors Krause and Stauber -- 2

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stewart and President Stover -- 7

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The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

07-063 - AN ORDINANCE GRANTING TO MITCH'S, INC., DBA MITCH'S BAR AND GRILL BAR, A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN BENCHES FOR SMOKING AND TO SERVE LIQUOR ON THE SIDEWALK ABUTTING 2112 WEST SUPERIOR

STREET, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

- - -

BY COUNCILOR STAUBER

07-064 - AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND OCCUPY BUS SHELTERS ON THE SIDEWALK AT VARIOUS LOCATIONS ON EAST AND WEST SUPERIOR STREET AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

07-062 (9862) - AN ORDINANCE AMENDING SECTIONS 47-20 AND 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO TAXICAB VEHICLE STANDARDS AND INSPECTION AND NOTICE OF RATES.

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

Jim McClellan stated his frustration that he got eight new cars because of the recently adopted taxicab ordinance and now the ordinance is changing again so he would not have had to get rid of his cars.

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Ness -- 1

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BY COUNCILOR NESS

07-061 (9863) - AN ORDINANCE AMENDING SECTION 24-20 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO GARBAGE COLLECTION.

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Stauber and President Stover -- 7

Nays: Councilors Reinert and Stewart -- 2

- - -

At this time, 11:14 p.m., Councilor Stewart moved to extend the meeting to 11:20 p.m., which motion was seconded and unanimously carried.

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BY COUNCILOR JOHNSON

07-060 (9864) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY ON GARFIELD AVENUE TO THE SEAWAY PORT AUTHORITY OF DULUTH FOR \$16,025.

Councilor Reinert moved to amend the previously amended ordinance, Section 2, to delete the phrase "the parks and recreation fund" and insert the phrase "General Fund 100-700-1420-4640," which motion was seconded and unanimously carried.

Councilor Johnson moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 11:16 p.m.

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

- - -

**ORDINANCE NO. 9862**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING SECTIONS 47-20 AND 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO TAXICAB VEHICLE STANDARDS AND INSPECTION AND NOTICE OF RATES.

The city of Duluth does ordain:

Section 1. That Section 47-20 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-20. Vehicle standards and inspection.

(a) Original inspection. No persons shall operate or permit the operation of a vehicle as a taxicab and the city clerk shall not issue a taxicab vehicle license for any vehicle until such vehicle has been inspected by an inspector designated by the chief of police and has been found by such inspector to be in compliance with all laws respecting motor vehicles which are in force in the city of Duluth and with all rules and regulations prescribed by the chief of police (hereinafter "be found in compliance"). A vehicle that is more than ten model years old or having more than 300,000 miles on the chassis must also be inspected annually by an automobile mechanic who has been certified by the American Society of Engineers and be found in compliance. A vehicle that is more than 20 years old must be completely restored to "as new" condition with all new dual master cylinder hydraulic brake system and all new steering components and has all safety systems required to be on a new vehicle and must be inspected annually by an automobile mechanic who has been certified by the American Society of Engineers and be found in compliance. The cost of inspections required by an automobile mechanic certified by the American Society of Engineers shall be borne by the person seeking the taxicab vehicle license. A vehicle having a window which cannot be seen through from outside, any neon or strobe lighting, brakes not in good operating condition, passenger restraint belts that are not in place and fully operational, or any sign or graphic advertising that can reasonably be expected to be a distraction to other drivers so that they will be inattentive to their driving duties shall not be found in compliance. The age and mileage standards above become effective on January 1, 2008. The chief of police is hereby authorized to adopt such reasonable rules and regulations regarding safety equipment, regulatory devices and sanitary conditions as he shall deem necessary in order to ensure that only safe and sanitary taxicabs are in operation in the city of Duluth. No such regulation shall be effective until 30 days after filing with the city clerk and publication in the legal newspaper of the city.

When the inspector designated by the chief of police finds that a taxicab is in compliance with such laws and rules and regulations he shall issue a certificate to that effect. Such inspector shall also rate the seating capacity of each taxicab

inspected and shall state such capacity in the certificate he issues. No person shall operate or permit the operation of a taxicab unless such a certificate is posted in such taxicab;

(b) Periodic inspections. Every taxicab shall be periodically inspected by the inspector designated by the chief of police in order to determine continued compliance of such taxicab with all laws and rules and regulations respecting taxicabs. Such inspections may be carried out at any time by such inspector, but shall be carried out at least once every six months. All persons holding taxicab licenses shall comply with all requests of such inspector regarding the time and place of such inspections. If at any time the inspector finds that a taxicab does not comply with the required laws and rules and regulations including but not limited to regulations regarding the posting of rates, he shall remove the inspection certificate from such taxicab and shall return it only after such taxicab has been made to comply with such laws and rules and regulations. The purpose of the inspections is to enforce a public policy and the city shall not be liable to any individual as a result of conducting or failing to conduct the inspection;

(c) Qualifications of inspectors. The chief of police shall issue written specifications establishing the minimum qualifications for any inspector that is authorized to certify that any vehicle meets the requirements of this Section; only certifications issued by inspectors so qualified shall meet the certification requirements of this Article. In addition to meeting the requirements of said specifications, any mechanic certifying to the compliance of any vehicle more than ten model years old shall also be certified as an automobile mechanic by the American Society of Engineers.

Section 2. That Section 47-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-33. Rates--notice of rates change.

There shall be prominently displayed in all taxicabs a rate statement card no smaller than 8.5"x11" setting out in large size print all the various rates charged to passengers for all the various services offered. Unless otherwise specifically stated on the rate statement card, the rates charged shall not apply individually to each person riding in the taxicab, but instead shall apply to the ride, whether one or more individuals are in the taxicab at a time. This card shall also contain a sentence informing passengers that the driver has printed copies of the entire text of the rate statement card which will be supplied to them upon request. All the information on the rate statement card shall be prominently displayed on each side of the outside of the vehicle in text all of which shall be at least 1.5 inches high. It is a violation of this Code to charge a rate higher than that stated on the rate statement card.

In order to change a rate, the licensee shall do the following:

(a) Register the new rate with the city clerk at least seven days before it is implemented;

(b) Pay to the clerk a rate change registration fee in an amount determined as set out in Section 2-16;

(c) Change the rate notices required by this Article. The clerk shall post the changed rate on the city website for an appropriate period of time.

The driver of any taxicab shall upon demand give any passenger a receipt for the fare charged, which receipt shall include the name of the driver, the identification of the vehicle, the amount charged and the date of the transaction.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: November 4, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Ness -- 1

Passed September 24, 2007  
Approved September 24, 2007  
HERB W. BERGSON, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9863**

BY COUNCILOR NESS:

AN ORDINANCE AMENDING SECTION 24-20 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO GARBAGE COLLECTION.

The city of Duluth does ordain:

Section 1. That Section 24-20 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-20. Collection schedules to be established; records.

(a) It shall be the duty of any licensed collector to collect and remove any of the solid waste and recyclables referred to in this Chapter and to establish and maintain a schedule for regular ordinary collection of such solid waste and recyclables providing for collection on at least a weekly basis for solid waste and a monthly basis for recyclables and to make available a schedule setting forth the days or day of the week and the hours within which such collections will be made. No collections shall be made in a residential district before 7:00 a.m. on Saturday, nor before 6:00 a.m. on any other day;

(b) It shall also be the duty of any licensed collector to be available to and to make any collection and removal directed by the city pursuant to Section 24-36 of this Chapter. Such direction for service may be given by the city to either an individual licensed collector or through an answering and dispatching agency of two or more licensed collectors;

(c) Licensed collectors shall submit to the WLSSD reports of the type, tonnage and disposition of all recyclable materials collected, processed and marketed. The reports shall be made at times and on forms as directed by the WLSSD;

(d) Each licensed collector shall permit the solid waste compliance officers and representatives of the WLSSD to inspect its customer lists and other business records upon request during business hours.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: November 4, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Stauber and President Stover -- 7

Nays: Councilors Reinert and Stewart -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 24, 2007  
Approved September 24, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9864**

BY COUNCILOR JOHNSON:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY  
ON GARFIELD AVENUE TO THE SEAWAY PORT AUTHORITY OF  
DULUTH FOR \$16,025.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 2 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed to the Seaway Port Authority of Duluth for \$16,025 to be deposited in General Fund 100-700-1420-4640 and to execute all documents necessary with regard to said conveyance:

Lots 174 - 200 (even numbered), Block 38, RICE'S POINT.

That part of Lots 197 and 199, Block 46, RICE'S POINT, which lies southwesterly of the following described line:

Beginning at the northwest corner of said Lot 197; thence run southeasterly to a point on the southeasterly line of said Lot 199, distant 30 feet northeasterly of the southwest corner thereof and there terminating.

Lots 201 - 217 (odd numbered), Block 47, RICE'S POINT.

Subject to easements and servitudes of record.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: November 4, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 24, 2007  
Approved September 24, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Tuesday, October 9, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Absent: Councilor Krause -- 1

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The minutes of council meetings held on July 5, 9 and 23, 2007, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-1009-01 Lonny Milosevich petition to vacate the utility easements in Lot 1 and west 20 feet of Lot 2, Auditor's Plat No. 26, except that portion lying within 15 feet of Hilton Street. -- Assessor

07-1009-12 Clyde Industrial Park, Inc., et al. (two signatures), concurrent use permit application to construct a fence on property described as 30th Avenue West in the area south of Huron Street (southerly two feet of 30th Avenue West). -- Planning commission

07-1009-13 The following communications regarding an ordinance granting to Mitch's, Inc., dba Mitch's Bar and Grill Bar, a concurrent use permit to occupy, serve and maintain benches for smoking and to serve liquor on the sidewalk abutting 2112 West Superior Street (07-063-O): (a) Joseph Kleiman; (b) Jerelyn Speich and Bob Draves. -- Received

07-1009-14 The following communications regarding authorizing housing investment fund (HIF) loan agreement with the American Indian Community Housing Organization (AICHO) (07-0619R): (a) Marjorie Anderson and Gerald Cleveland; (b) Sheila Ballavance; (c) Doug Bowen-Bailey; (d) Stan and Jan Burns; (e) Meg Bye; (f) John and Lyn Clark Pegg; (g) Kathy Dockter; (h) Janet Draper; (i) Julie Engen; (j) Janet Karon; (k) Amber Kinner; (l) Kristen Larsen; (m) Liana McDonald; (n) Paul Ranelli; (o) Monica Roth Day; (p) Karen Sande; (q) Robert and Kay Stevens. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-1009-02 Assessor letters of sufficiency of petitions to vacate:

(a) 13th Avenue East westerly of Lot 16, Block 109, Endion Division;

(b) Utility easements in Lot 1 and west 20 feet of Lot 2, Auditor's Plat No. 26, except that portion lying within 15 feet of Hilton Street. -- Received

07-1009-03 Parks and recreation department director for Lake Superior Zoological Society minutes of July 25, 2007, meeting. -- Received

07-1009-04 Purchasing agent emergency order awarded to Lametti and Sons, Inc., for CIPP rehabilitation of 30th Avenue East sanitary sewer in the amount of \$29,784. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

07-1009-05 Alcohol, gambling and tobacco commission minutes of: (a) June 6; (b) June 26; (c) July 12; (d) July 17; (e) August 1; (f) August 23, 2007, meetings. -- Received

07-1009-06 Civil service board minutes of August 14, 2007, meeting. -- Received

07-1009-07 Duluth airport authority: (a) Balance sheet of July 31, 2007; (b) Minutes of August 21, 2007, meeting. -- Received

07-1009-08 Duluth housing commission minutes of May 10, 2007, meeting. -- Received

07-1009-09 Duluth legacy endowment fund project group minutes of July 24, 2007, meeting. -- Received

07-1009-10 Housing and redevelopment authority minutes of: (a) April 24; (b) June 26; (c) July 31, 2007, meetings. -- Received

07-1009-11 Library board minutes of August 28, 2007, meeting. -- Received

- - -

### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Gordon Peterson, speaking for his neighborhood on 22nd Avenue West, expressed frustration that they have had sewer problems since 1996, they have not gotten any help from city staff and requested that the council pressure the administration to fix the problem.

- - -

KL Lewis suggested an evacuation plan for the Duluth Entertainment Convention Center in case an emergency would happen.

- - -

At this time, 7:07 p.m., the public hearing regarding the extension of Northstar Aerospace loan terms was called to order.

No one appeared who wished to be heard, therefore the public hearing was closed at 7:08 p.m. and the regular order of business was resumed.

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### **RESOLUTION RECONSIDERED**

Councilor Stewart moved to reconsider Resolution 07-0619, authorizing housing investment fund (HIF) loan agreement of \$600,000 with American Indian Community Housing Organization (AICHO), which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stewart and President Stover -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

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

The following speakers urged the councilors to reconsider the resolution for the following reasons: Ricky Defoe, Gail Schoenfelder, Ellen O'Neill, Rene Selleck, Emily Johnson, Virgil Sloan, Sharla Gardner, John Day, Craig Grau, Steve O'Neil, Durbin Keeney, Kris Ridgewell, and Phoebe Smith-Ellis - Native Americans make up one third of the population but do not have the same quality of life that the rest of the city experiences; this facility would meet a critical need of supportive housing for Native American families; it would provide a stable home life and a safe and secured future for the children; the council was asked to consider the amount of planning and time that the American Indian commission and other organizations have been put into this project to make it work; in 2005 the council earmarked the money for Native American housing; the money is coming from the Native American casino and should be spent on Native Americans; the money has been spent on other projects beside streets and this legislation can bring communities together.

- - -

During the speakers on this issue, Councilor Krause took his seat at 7:20 p.m.

- - -

Councilor Stewart reviewed that he has not voted for any projects from this housing investment fund, but in the spirit of compromise offered an amendment where he would vote for the AICHO project but would want to repeal the HIF.

Councilor Stewart moved to amend the resolution to read as follows:

“RESOLVED, that resolutions 05-0269 and 05-0320, which transferred money from the Community Investment Trust Fund 256 to the Housing Investment Fund 266, are repealed in their entirety, and are of no force or effect; provided, however, that funds shall remain in the Housing Investment Fund 266 or shall be transferred from the Community Investment Trust Fund 256 to the Housing Investment Fund 266 in the amount of \$656,758 to provide for the remaining \$36,758 funding obligation to Neighborhood Housing Services pursuant to Resolution No. 05-0641, the funding obligation to SVCNDA in the amount of \$20,000 pursuant to Resolution No. 06-0299, and to provide for the funding obligation to AICHO in the amount of \$600,000 pursuant to Resolution No. 07-0619.

RESOLVED FURTHER, that any funds remaining in the Housing Investment Fund 266, after payment of outstanding obligations in existence at the time this resolution takes effect, shall be transferred to Community Investment Trust Fund 256,” which was seconded for discussion.

Councilor Ness spoke against the amendment because there are two different types of questions; one is voting on a project and the other is voting on policy and each decision should stand on its own merits and should not be voted on as a compromise by putting both issues together.

Councilor Krause stated that the city has severe financial problems and the city has to start making difficult decisions on what services the city should provide to the public.

Councilor Stauber stated that he has been opposed to moving money out of the street fund and the policy of the housing investment fund.

Councilor Little stated that while he has opposed the creation of the HIF, he is willing to support this project and the compromise that Councilor Stewart is proposing.

The amendment failed upon the following vote:

Yeas: Councilors Krause, Little, Stauber and Stewart -- 4

Nays: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Councilor Gilbert moved to table the resolution, along with Resolution 07-0653, repealing resolutions 05-0269 and 05-0320 related to funding the housing investment fund, which motion failed for lack of a second.

Resolution 07-0619 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to enter into a HIF loan agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 07-1009-15, with the agency set forth below in the corresponding funding level set forth below, payable from Fund 266:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

AMOUNT	PROJECT	ORGANIZATION
\$600,000	Gimaadjii Mino-Bimaadiziyaan	American Indian Community Housing Organization (AICHO)

Resolution 07-0619 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

At this time, President Stover moved Resolution 07-0653, repealing resolutions 05-0269 and 05-0320 related to funding the housing investment fund, by Councilor Stewart, forward in the agenda to be considered at this time.

Councilor Stewart stated that councilors need to have the courage to start prioritizing city services and start saying no to projects.

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

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

- - -

**RESOLUTION TABLED**

Councilor Stauber moved to remove Resolution 07-0625, denying a concurrent use permit to Mitch's, Inc., dba Mitch's Bar and Grill, for the sidewalk abutting 2113 West Superior Street (Mark Mitchell), from the table, which motion was seconded and unanimously carried.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-063 (9865) - AN ORDINANCE GRANTING TO MITCH'S, INC., DBA MITCH'S BAR AND GRILL BAR, A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN BENCHES FOR SMOKING AND TO SERVE LIQUOR ON THE SIDEWALK ABUTTING 2112 WEST SUPERIOR STREET, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

Councilor Stauber moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

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

KL Lewis stated she does not object to Mr. Mitchell's customers going onto the sidewalk to smoke or if there are benches on the sidewalk, but there should not be liquor sales there.

Tom Cox urged the councilors to vote in favor of the expanded premises as a matter of fairness since they have approved expanded premises for other restaurants/bars in the Downtown and Canal Park area.

Mark Mitchell explained that he wants to section off the area in front of his bar so customers do not have to leave their drinks on the bar when they go outside to smoke. He continued by saying that the area would have clear boundaries so it would be easy for police to see the area when they drive by.

Councilor Krause expressed concern that this is not a contained area that is accessed through the bar and there would be no staff outside watching the area. He questioned if this is the type of atmosphere our city wants in business districts.

Councilor Ness stated there should be a policy with standards in place that could be applied to all outside premise applications with the police department involved in the decision making process.

Councilor Ness moved to table the resolution and ordinance for a committee meeting with the police department, which motion was seconded and failed upon the following vote:

Yeas: Councilors Johnson and Ness -- 2

Nays: Councilors Gilbert, Krause, Little, Reinert, Stauber, Stewart and President Stover -- 7

Resolution 07-0625, denying the permit, failed upon the following vote (Public Document No. 07-1009-16):

Yeas: Councilors Johnson, Krause, Ness and Reinert -- 4

Nays: Councilors Gilbert, Little, Stauber, Stewart and President Stover -- 5

- - -

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

Yeas: Councilors Gilbert, Little, Stauber, Stewart and President Stover -- 5

Nays: Councilors Johnson, Krause, Ness and Reinert -- 4

- - -

## UNFINISHED BUSINESS

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the MIF agreement with the state of Minnesota increasing by two years the time within which the Northstar Machine & Tool, Inc., d.b.a. Northstar Aerospace (Northstar) must pay back its loan obligation.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a loan agreement, note and security agreement modification agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 07-1009-17 with Northstar increasing by two years the time within which Northstar must pay back its loan obligation.

Resolution 07-0624 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, 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 Stover moved passage of the consent agenda, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR STEWART:

RESOLVED, that Resolution 06-0798 adopting license, permit and fee charges for 2007 be amended to set the taxicab rate change registration fee at \$5.

Resolution 07-0640 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale 3.2 percent malt liquor license and approves the issuance of an on sale wine license for the period ending April 30, 2008, and August 31, 2008, respectively, subject to departmental approvals, the payment of sale and property taxes, and further subject to approval of the liquor control commissioner:

TC, Inc. (Duluth India Palace), 319 West Superior Street, with Thinley Choedon, 100 percent stockholder, transferred from Duluth India Palace, Inc. (India Palace), same address.

Resolution 07-0655 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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

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

<u>Licensee</u>	<u>Gambling Sites</u>
-----------------	-----------------------

Irving Youth Hockey Club	North Pole Bar, 5606 Raleigh Street Club Saratoga, 331 Canal Park Drive
--------------------------	--

Resolution 07-0656 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of firefighter, which were approved by the civil service board on August 14, 2007, and which are filed with the city clerk as Public Document No. 07-1009-18, are approved.

RESOLVED FURTHER, that this classification shall remain subject to the city's collective bargaining agreement with its fire unit employees and compensated at the Pay Range 226.

Resolution 07-0658 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of police lieutenant, which were approved by the civil service board on Septem-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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ber 12, 2007, and which are filed with the city clerk as Public Document No. 07-1009-19, are approved.

RESOLVED FURTHER, that this classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees.

Resolution 07-0659 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson to the entertainment and convention center authority of Darlene Marshall for a term expiring on June 30, 2010, replacing Marti Buscaglia, is confirmed.

Resolution 07-0662 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the land comprising Ridgeview golf course, as shown on Public Document No. 07-1009-29 on file with the clerk, be included in the territory where the annual deer hunt will be conducted in 2007 and that Resolution 07-0450 is amended to include this territory.

Resolution 07-0646 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, 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 and containing the terms of that draft contract on file in the office of the city clerk as Public Document No. 07-1009-20, with Gene Kroupa & Associates, LLC, to provide survey research services on behalf of the Northland Works project between September 1, 2007, and December 31, 2007, in an amount not to exceed \$10,000, payable from Fund 268, Agency 031, Organization 6252.

Resolution 07-0628 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with RJS Construction Group, LLC, for installation of fall protection improvements at city of Duluth wastewater lift stations in the amount of \$324,222.48, payable out of Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5535, City Project No. 0578SN.

Resolution 07-0621 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0246 awarding a contract to Duluth Superior Erection, Inc., for the construction of the 2007 citywide patch and sidewalk project be amended to increase the amount by \$281,000 for a new total of \$671,000, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Object 5403, City Project No. 0230TR.

Resolution 07-0641 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Heath Consultants, Inc., for professional services in completing a leak detection survey of the city of Duluth natural gas distribution system for the department of public works and utilities in accordance with specifications and the consultant's quote of \$22,000, payable from the Gas Fund 520, Department/Agency 500, Organization 1940-2410, Object 5310; said agreement substantially in the form of Public Document No. 07-1009-21 shall be on file in the office of the city clerk.

Resolution 07-0643 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Ziegler, Inc., for the purchase and delivery of an asphalt compactor, related accessories and a seven-year warranty in accordance with state of Minnesota contract specifications and pricing in the amount of \$38,146 plus \$2,479.49 sales tax plus \$1,100 warranty (non-taxable) for a total combined amount of \$41,725.49, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2005, Object 5580, Project CE250-E599.

Resolution 07-0644 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into Modification No. 1 to the military construction cooperative agreement which bears City Contract No. 20378, on file in the office of the city clerk as Public Document No. 07-1009-28, with the Minnesota Air National Guard for the Airport Road reconditioning project, MnANG Project No. FMKM052026 and City Project No. 0621TR, SP 118-197-001, reducing the amount of MnANG's payments thereunder to \$120,627.55.

Resolution 07-0645 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0209 to Hoffman & McNamara Company for tree planting for the 2006 street improvement program at various locations be amended to increase the amount by \$62,624 for a new total of \$127,301.50.

Increase attributable to the 2007 street improvement program is out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project No. 0585TR.

Resolution 07-0648 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with H&L Mesabi Company for the purchase and delivery of truck plow and grader blade edges for the fleet services division in accordance with specifications and the vendor's bids of \$29,173.60 (truck plow blade edges) and \$38,663 (grader blade edges) plus \$4,409.38 (sales tax) for a total combined amount of \$72,245.98, terms net 15, FOB destination, payable from the Fleet Services Fund 660, Department/Agency 015, Object 5221.

Resolution 07-0652 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is hereby established: on Fourth Street in front of 1824 East Fourth Street.

Resolution 07-0638 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into a mutual aid agreement among various law enforcement agencies of northeastern Minnesota and pursuant to Minnesota Statutes Section 471.59, said agreement to be substantially in the form of Public Document No. 07-1009-22 on file in the office of the city clerk.

Resolution 07-0650 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into an equipment lease agreement with Fond du Lac Tribal and Community College, said agreement to be substantially in the form of Public Document No. 07-1009-23 on file in the office of the city clerk; payment of \$1 to be made from Fund 100-200-1610-5331.

Resolution 07-0660 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into a lease agreement with KTJ Limited Partnership One Hundred Eleven, said agreement to be substantially in the form of Public Document No. 07-1009-24 on file in the office of the city clerk; payment of \$1 to be made from Fund 100-200-1610-5331.

Resolution 07-0661 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 07-0635, by Councilor Little, authorizing a consultant agreement with Architectural Resources, Inc., for providing certain professional services to the city of Duluth in connection with the renovation and addition to Fire Station #5 in an amount not to exceed \$54,000, was introduced for discussion.

Councilor Little stated that too much money has gone into this project when it could have been used elsewhere in the city.

Resolution 07-0635 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architectural Resources, Inc., for the sum of not to exceed \$54,000, from Fund 450, Agency 030, Object 5530, CP-OT-0707, for providing certain professional services to the city of Duluth in connection with renovation and addition to Fire Station #5 on Park Point, 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. 07-1009-25.

Resolution 07-0635 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stewart and President Stover -- 7

Nays: Councilors Little and Stauber -- 2

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0649, by Councilor Little, approving settlement of claim of Kenneth Hill, as trustee of the next of kin of Julie Mae Hill and as assignee of Donald L. Bloomer, in the amount of \$20,000, was introduced for discussion.

In response to Councilor Stauber's questioning, City Attorney Brown replied that the police chief gave the order to proceed to tear the house down, but is not aware of who gave the order to tear the house down.

Resolution 07-0649 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to pay to Kenneth Hill, as trustee of the next of kin of Julie Mae Hill and as the assignee of Donald L. Bloomer, \$20,000 in full and final settlement of a claim which arose out of the investigation of the death of Julie Mae Hill, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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giving rise to a cause of action entitled *Donald L. Bloomer v. City of Duluth*, St. Louis County Minnesota File No. C4-04-602759; payment to be made from Fund 100-200-1610-5842.

Resolution 07-0649 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber and Stewart -- 8

Nays: President Stover -- 1

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2008, subject to departmental approvals, with any specific restrictions:

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue.

Chasers of Duluth, Inc. (Bedrock Bar), 2023 West Superior Street, subject to all access to the outside area be through the bar.

Resolution 07-0654 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Approved October 9, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0399 is hereby amended and the blacktop contract with Northland Constructors of Duluth, LLC, increased by \$184,000 for a new estimated total of \$325,645, terms net 30, FOB picked up, payable from the General Fund 100, Department/Agency 500, Organization 1920-2550, Object 5222.

Resolution 07-0651 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0647, by Councilor Reinert, changing bus stop locations, was introduced for discussion.

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

KL Lewis encouraged the councilors to approve the resolution.

Resolution 07-0647 was adopted as follows:

BY COUNCILOR REINERT:

The city council finds:

(a) The Duluth Transit Authority has studied Downtown transit passenger usage and proposed changes in bus stop locations; and

(b) The DTA has held public hearings and open meetings as well as met with specific interest groups in the Downtown; and

(c) The DTA plan better serves its customers as well as the Downtown; and

(d) The DTA has requested that the city of Duluth formally designate these stops.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request to modify Downtown bus stops by:

- (a) Moving the library (Sixth Avenue West and Superior Street, southeast corner) stop to the first 100 feet after the crosswalk (currently 125 feet), sidewalk extended; and
- (b) Shortening the Transit Center East stop (center of the block starting at east side of 214 West Superior Street and going west) from 167 feet to 100 feet, sidewalk extended; and
- (c) Shortening the Holiday stop (center of the block starting at the east side of the Holiday entrance and going east) from 162 feet to 100 feet, sidewalk extended; and
- (d) Creating a new stop at Second Avenue West and Superior Street, southeast corner, extending east 100 feet after the crosswalk, sidewalk extended; and
- (e) Creating a new stop at Lake Avenue and Superior Street, northwest corner, extending 60 feet after the crosswalk; and
- (f) Creating a new stop at Lake Avenue and Superior Street, southeast corner, extending 85 feet after the crosswalk; and
- (g) Creating new stops on Michigan Street near 30th Avenue West in conjunction with the heritage hockey complex; and
- (h) Creating a new stop at Third Avenue East and Second Street, southeast corner, first 60 feet from the crosswalk.

Changes to be effective upon completion of construction for stops (a) through (g) and immediately for stop (h).

Resolution 07-0647 was unanimously adopted.

Approved October 9, 2007

HERB W. BERGSON, Mayor

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## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-064 (9866) - AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND OCCUPY BUS SHELTERS ON THE SIDEWALK AT VARIOUS LOCATIONS ON EAST AND WEST SUPERIOR STREET AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

President Stover moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

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

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The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

07-065 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN A MAXIMUM AMOUNT OF \$2,200,000 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.

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BY COUNCILOR STAUBER

07-066 - AN ORDINANCE ALIENATING THE LINCOLN HOTEL SITE AND AUTHORIZING SALE OF SAME WITHOUT BID TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) PURSUANT TO CONTRACT FOR DEED FOR THE SUM OF \$192,500.

- - -

BY COUNCILOR STAUBER

07-067 - AN ORDINANCE PERTAINING TO THE LICENSING OF RENTAL PROPERTIES; AMENDING CITY CODE SECTION 29A-32.

- - -

BY COUNCILOR NESS

07-068 - AN ORDINANCE REGULATING ELECTRONIC SIGNS; AMENDING CITY CODE SECTIONS 44-2 AND 44-14.

- - -

BY COUNCILOR LITTLE

07-069 - AN ORDINANCE AMENDING SECTION 2-18.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; PERTAINING TO PRE-CHARGE DEFERRAL.

- - -

The meeting was adjourned at 9:30 p.m.

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

- - -

**ORDINANCE NO. 9865**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO MITCH'S, INC., DBA MITCH'S BAR AND GRILL BAR, A CONCURRENT USE PERMIT TO OCCUPY, SERVE AND MAINTAIN BENCHES FOR SMOKING AND TO SERVE LIQUOR ON THE SIDEWALK ABUTTING 2112 WEST SUPERIOR STREET, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

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 Mitch's Inc., DBA Mitch's Bar and Grill, their successors and interests, referred to herein as the permittees, to occupy, serve, and maintain benches and serve liquor on the public sidewalk adjacent to Lot 343, Duluth Proper Second Division, as the same was dedicated to the use of public in the plat of Duluth Proper Second Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

That part portion of West Superior Street lying between two parallel lines at right angles to the south lot line of Lot 343, Duluth Proper Second Division, located at the south east corner of Lot 343 and 20 feet, ten inches west of the south east corner of Lot 343; and between the south lot line of Lot 343 and a parallel line located seven feet south of lot line of Lot 343.

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 resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittees have in force insurance meeting the following requirements:

A commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition. The city reserves the right to amend its insurance requirements and the permittees shall file evidence of insurance that conforms to any amended insurance requirements within ten days of such notice.

Section 3. That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittees file with the city clerk certificates of insurance evidencing that the permittees have in force insurance meeting the following requirements:

Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, the permittees file with the city clerk certificates of insurance evidencing that the permittees have in force insurance meeting the following requirements:

Comprehensive general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 5. 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 30 days 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 6. That upon the giving of the notice of termination as aforesaid, the permittees shall remove all fixtures and pertinences of every kind whatsoever thereto from the tract of land described above within said 30 days, 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 7. 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, its employees, agents, and assigns and agree that such fencing and benches shall be so constructed and at all times maintained so as in no way to interfere with or damage any portion of the sidewalk, or sewer, watermains, gas mains, pipes, conduits, or other public utilities now or to be hereinafter located in any part of said West Superior Street right-of-way and agree that the city of Duluth shall not be liable for damage caused to such fencing and benches while the city is engaged in making repairs to the public sidewalks or public utilities or during snow removal operations, 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 fencing and benches in said West Superior Street right-of-way.

Section 8. The permittees 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 proper city officials by reason of snow removal, 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, the installation or repair of any other type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 9. The permittees shall further observe the following conditions:

- (a) Benches shall be durable and removable for cleaning and security purposes;
- (b) The area shall be delineated from the public pedestrian way by a decorative fence with reflectors or lighting to alert pedestrians of the fence. This fence shall be removed during all times that the benches are not in place as well as when the establishment is not open for business;
- (c) The permitted exterior furnishings located such that a public pedestrian walkway shall be maintained at all times that is not less than six feet in width;
- (d) That the placement of exterior furnishings shall be located according to the criteria above only during the hours of operation of Mitch's Bar and Grill and shall be removed from the sidewalk when the establishment is closed;
- (e) That permittees shall be responsible for policing refuse in the immediate area, which includes removing debris and other waste from the sidewalk at least as frequently as on a daily basis;
- (f) No amplified music shall be used in the sidewalk obstruction area;
- (g) That the applicant be on notice that this permit is not exclusive, and that the city may require the permittees to remove the exterior furnishings for specific events conducted in the West Superior Street area; the areas described above shall be open to the general public, the general public shall have the right to occupy benches in the area subject to this permit without making a purchase from the permittees, so long as said members of the general public are orderly and violate no provisions of the law;

(h) This permit shall be in effect until the property currently held by Mitch's, Inc., is transferred to another party, at which time the permit shall expire;

(i) This permit is subject to revocation by a resolution of the city council and 14 days notice to the permittees for failure to maintain the terms and conditions of this permit or at the discretion of the city;

(j) During winter weather the fencing and benches are not allowed to be placed in the above described area until snowfalls have been cleared from the entire sidewalk;

(k) The permittees shall have the right and responsibility to control the area described above in regard to liquor laws;

(l) There shall be a maximum number of three benches and serving area shall be limited to the designated area shown on page III H-4 of the September 11 staff report to the planning commission (Public Document No. 07-1009-26);

Section 10. The term of this permit shall expire on April 10, 2010.

Section 11. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 18, 2007)

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

Yeas: Councilors Gilbert, Little, Stauber, Stewart and President Stover -- 5

Nays: Councilors Johnson, Krause, Ness and Reinert -- 4

ATTEST:  
JEFFREY J. COX, City Clerk

Passed October 9, 2007  
Approved October 9, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9866**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND OCCUPY BUS SHELTERS ON THE SIDEWALK AT VARIOUS LOCATIONS ON EAST AND WEST SUPERIOR STREET AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations, and restrictions hereinafter set forth, permission is hereby granted to Duluth Transit Authority, their successors and interests, referred to herein as the permittees, to construct and occupy bus shelters at various locations on East and West Superior Street described as follows:

(a) The southeast corner of Sixth Avenue West and West Superior Street. Shelter base is to be located 95 feet east from curbface of Sixth Avenue West and six inches behind current curbface of West Superior Street. Shelter base measures 12 feet by six feet with a roof measuring 16 feet by six feet (Duluth public library);

(b) The northeast corner of Second Avenue West and West Superior Street. Shelter base is to be located 130 feet west of the curbface of Second Avenue West and on the current

curbface of West Superior Street. The shelter will sit on the sidewalk and the base will not exceed 24 feet by six feet with a roof measuring 28 feet by six feet (Holiday Center);

(c) The northwest corner of Lake Avenue and West Superior Street. Shelter base begins 60 feet west from curbface of Lake Avenue and two and one half feet behind current curbface of West Superior Street. Shelter base is 12 feet by two feet with a roof measuring 16 feet by six feet;

(d) The southeast corner of First Avenue East and East Superior Street. Shelter base begins 57 feet east from curbface of First Avenue East and 2-1/2 feet behind current curbface of East Superior Street. Shelter base is 12 feet by two feet with a roof measuring 16 feet by six feet.

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 resolution; a certificate of insurance approved as to form by the city attorney evidencing that the permittees have in force insurance meeting the following requirements:

A commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,000,000 for bodily injuries and in an amount not less than \$300,000 for property damage or \$1,000,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition. The city reserves the right to amend its insurance requirements and the permittees shall file evidence of insurance that conforms to any amended insurance requirements within ten days of such notice.

Section 3. That this permit shall expire on January 1, 2008, for any purpose whatsoever, unless prior to such date, permittees file with the city clerk certificates of insurance evidencing that the permittees have in force insurance meeting the following requirements:

Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,200,000 for bodily injuries and in an amount not less than \$400,000 for property damage or \$1,200,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 4. That this permit shall expire on July 1, 2009, for any purpose whatsoever, unless prior to such date, the permittees file with the city clerk certificates of insurance evidencing that the permittees have in force insurance meeting the following requirements:

Commercial general liability insurance policy shall be maintained in force by permittees in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage. Such coverage shall include all permittees' activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittees. Such policy of insurance shall

be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

Section 5. 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 30 days 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 6. That upon the giving of the notice of termination as aforesaid, the permittees shall remove all fixtures and pertinences of every kind whatsoever thereto from the tract of land described above within said 30 days, 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 7. 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, its employees, agents, and assigns and agree that such bus shelters shall be so constructed and at all times maintained so as in no way to interfere with or damage any portion of the sidewalk, or sewer, watermains, gas mains, pipes, conduits, or other public utilities now or to be hereinafter located in any part of said West Superior Street right-of-way and agree that the city of Duluth shall not be liable for damage caused to such bus shelters while the city is engaged in making repairs to the public sidewalks or public utilities or during snow removal operations, 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 bus shelters in said Superior Street right-of-way.

Section 8. The permittees 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 proper city officials 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, the installation or repair of any other type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 9. The permittees shall further observe the following conditions:

- (a) Bus shelters shall be durable for cleaning and security purposes;
- (b) The permitted exterior furnishings located such that a public pedestrian walkway shall be maintained at all times that is not less than six feet in width;
- (c) That the placement of exterior furnishings shall be located according to the criteria above;
- (d) That permittees shall be responsible for policing refuse and removing debris and other waste from the bus shelters;
- (e) That the applicant be on notice that this permit is not exclusive, and that the city may require the permittees to remove the exterior furnishings for specific events, or closed for specific events, conducted in the Superior Street area; the areas described above shall be open to the general public, the general public shall have the right to occupy bus shelters in the area subject

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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to this permit, so long as said members of the general public are orderly and violate no provisions of the law;

(f) This permit shall be in effect until the bus shelters currently held by the Duluth Transit Authority is transferred to another party, at which time the permit shall expire;

(g) This permit is subject to revocation by a resolution of the city council and 14 days notice to the permittees for failure to maintain the terms and conditions of this permit or at the discretion of the city;

(h) There shall be a maximum number of four bus shelters and they shall be limited to the designated area shown on pages III F-5, III F-8, III F-11, and III F-12 of the September 11, 2007, staff report to the planning commission (Public Document No. 07-1009-27);

Section 10. The term of this permit shall expire on April 10, 2025.

Section 11. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 18, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed October 9, 2007  
Approved October 9, 2007  
HERB W. BERGSON, Mayor

- - -

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, October 22, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on August 6, 13 and 27, 2007, were unanimously approved.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-1022-01 Haines Properties, LLP, et al. (four signatures), petition to reclassify from S to C-5 property described as W1/2 of SE1/4 of SW1/4 of Section 7, Township 50 North, Range 14 West. -- Assessor

07-1022-02 Kozy Bar, by Thomas Cox, application for concurrent use permit for use of sidewalk in front of 129 East First Street. -- Planning commission

07-1022-10 The following communications regarding a proposed living water garden at Bayfront (07-0679R): (a) Patricia Johanson; (b) Eileen Patterson; (c) Sweetwater Alliance, Inc. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

07-1022-03 Clerk application to the Minnesota gambling control board for exemption from lawful gambling licenses (bingo and raffle) from Lincoln Park Business Group on November 15, 2007. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-1022-04 American Indian commission minutes of August 20, 2007, meeting. -- Received

07-1022-05 Charter commission minutes of July 11, 2007, meeting. -- Received

07-1022-06 Commission on disabilities minutes of September 5, 2007, meeting. -- Received

07-1022-07 Duluth human rights commission minutes of September 12, 2007, meetings. -- Received

07-1022-08 Duluth/North Shore Sanitary District minutes of September 12, 2007, meeting. -- Received

07-1022-09 Parks and recreation commission minutes of September 12, 2007, meeting. -- Received

- - -

**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Dave Barschdorf voiced concern that the city is allowing bars to serve alcohol outside on sidewalks which is a public safety issue for the public and customers.

- - -

**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 KRAUSE:

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 07-0664 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

WHEREAS, the city of Duluth presently has one available on sale intoxicating liquor license that is not issued to any operating business; and

WHEREAS, in Resolution 06-0652 the city council adopted the amended policy guidelines, which were recommended for approval by the alcohol, gambling and tobacco commission, concerning under what circumstances available on sale intoxicating liquor licenses should be issued; and

WHEREAS, at its October 3, 2007, meeting the alcohol, gambling and tobacco commission reviewed and reaffirmed its prior approval that the amended license issuing criteria set forth herein and determined that it is now appropriate to issue available licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby reaffirms its prior adoption of the criteria set forth in the document entitled "policy guidelines for the issuance of unissued on sale intoxicating liquor licenses, as amended" (Public Document No. 07-1022-11) as the criteria for the issuance of available but presently unissued on sale intoxicating liquor licenses in the city of Duluth.

Resolution 07-0686 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson of Jeff Jackson and William B. Scalzo to the board of zoning appeals for terms expiring on July 31, 2011, are confirmed.

Resolution 07-0666 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment by Mayor Bergson of Edward B. Shanblott (residential building construction representative) to the building appeal board for a term expiring on February 1, 2010, is confirmed.

Resolution 07-0667 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Lillie A. Kari (basic unit representative), replacing Tammie Walsh who resigned, to the deferred compensation plan commission for a term expiring on December 31, 2010, is confirmed.

Resolution 07-0668 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson of Jeff Anderson, Brad Beckman and Melissa Kadlec to the Duluth legacy endowment fund project group for terms expiring on July 12, 2011, are confirmed.

Resolution 07-0669 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson to the Duluth transit authority of Alexis Livadaros (at large) for a term expiring on June 30, 2010, replacing Timothy A. Bearheart who resigned, is confirmed.

Resolution 07-0670 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointment by Mayor Bergson to the special board of review of Barbara Fischer (real property valuator) for a term expiring on July 31, 2011, is confirmed.

Resolution 07-0671 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson to the tree commission of James W. Larson, (at large), Christine A. Penney (at large) and Ethan Perry (professional) for terms expiring on August 31, 2010, are confirmed.

RESOLVED FURTHER, that the appointments by Mayor Bergson to the tree commission of John Doberstein (at large), replacing Charles Korsch who resigned, for a term expiring on

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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August 31, 2009, and Richard D. Gitar (at large), replacing John T. Moir who resigned, for a term expiring on August 31, 2008, are confirmed.

Resolution 07-0672 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city of Duluth hereby approves the contamination investigation and RAP development grant application to be submitted to the department of employment and economic development (DEED) on November 1, 2007, by the city of Duluth for the Atlas Cement Plant site—IKONICS site.

BE IT FURTHER RESOLVED, that the city of Duluth act as the legal sponsor for the project contained in the Atlas Cement Plant site—IKONICS site contamination investigation and RAP development grant application submitted on November 1, 2007, and that the mayor is hereby authorized to apply to the department of employment and economic development for funding of this project on behalf of the city of Duluth.

BE IT 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.

BE IT FURTHER RESOLVED, that the city hereby commits to provide up to \$15,300 in matching funds for the project if said grant is awarded by the state and accepted by the city, which funds are anticipated to be provided by IKONICS Corporation and by the Duluth economic development authority (DEDA)—whose source of funds will be the proceeds of the sale of land to IKONICS Corporation pursuant to Resolution 07D-36 approved by DEDA on September 6, 2007.

BE IT 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.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, acceptance thereof shall be subject to further resolution of the council authorizing such acceptance which acceptance is contingent on DEDA and IKONICS Corporation entering into a development agreement for the site.

BE IT FURTHER RESOLVED, that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements it accepts.

Resolution 07-0683 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, 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. 07-1022-12, with Job Service for the provision of dislocated worker services pursuant to the Workforce Investment Act and Minnesota Statutes, Chapter 268, at costs not to exceed \$96,000 for the federal program (for the period July 1, 2007 - June 30, 2008), \$170,460 for state program (for the period July 1, 2007 - June 30, 2008), and \$76,000 for the state airline worker program (for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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the period July 1, 2007 - December 31, 2008). Funds will be payable from Fund 268, Agency 031, Organization 6211 (federal program), 6210 (state program) and 6212 (airline workers).

Resolution 07-0642 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, 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 and Public Document No. 07-1022-13, with Elizabeth Mathias, independent licensed teacher, to serve as a part time contract teacher to provide basic education instructional services to Workforce Investment Act program participants at the Duluth Workforce Center for the period October 15, 2007, through June 30, 2008, at a cost of \$11,840, payment to be made from Fund 268.

Resolution 07-0657 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officials are authorized to allow modification to City Contract No. 20095 to accept an additional \$120,000 from the U.S. department of housing and urban development, providing for enforcement of federal civil rights laws and processing of related complaints by the city human rights office and other related matters, a copy of which is on file with the city clerk as Public Document No. 07-1022-14, grant funds to be deposited in Fund No. 100, Agency 010, Organization 1105, Revenue Source 4209-2.

Resolution 07-0680 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT STOVER:

RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially the same as that on file with the clerk as Public Document No. 07-1022-15, between the city and Fond du Lac Band of Lake Superior Chippewa for operation of a parking concession at the parking ramp adjacent to the Fond du Luth Casino for years 2008, 2009, 2010 for a fee of \$185,000 per year from Parking Fund 505-015-1480-2511-5307.

Resolution 07-0682 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0340 for professional engineering services with MSA Professional Services, Inc., for the evaluation of the water supply and distribution requirements for the Middle, Highland and Woodland pressure zones be amended in the amount of \$14,784 for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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a new total of \$64,713, to be paid from Water Fund 0510, Department 500, Organization 1930-2330, Object 5303, City Project No. 0555WA.

Resolution 07-0673 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Century Fence Company for the installation of security fencing at the Lakewood water treatment plant in accordance with its low specification bid of \$225,793, payable out of Fund 510, Department/Agency 500, Organization 1905, Object 5535.

Resolution 07-0675 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with API Electric for the installation of security cameras and card readers at the Lakewood water treatment plant in accordance with its low specification bid of \$65,520, payable out of Fund 510, Department/Agency 500, Organization 1905, Object 5535.

Resolution 07-0676 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with Boyer Trucks, Inc., for the purchase and delivery of two 2008 diesel construction vans - one with a crane and one without a crane - in accordance with specifications and the vendor's bid of \$194,772 plus \$12,660.18 sales tax for a total combined amount of \$207,432.18, terms net 30, FOB destination, payable as follows:

(a) \$101,605.26 (stormwater van) payable from Stormwater Fund 535, Department/Agency 500, Organization 1905, Object 5580;

(b) \$105,826.92 (sewer van) payable from the Sewer Fund 530, Department/Agency 500, Organization 1905, Object 5580.

Resolution 07-0677 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are hereby authorized to execute the Minnesota snowmobile trails assistance program grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-1022-16, with the Minnesota department of natural

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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resources for the maintenance of the Duluth snowmobile trails for the 2007-2008 season in the amount of \$20,276; said funds to be deposited in the General Fund 100-500-1920-2550-4226.

Resolution 07-0663 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that Resolution 07-0498 is hereby amended and the professional veterinary services agreement with Louise M. Beyea, D.V.M. is amended to state that services for the term of this agreement shall not exceed ten hours per week at \$70 per hour, for an increase of \$26,400 per year, and a new contract total of \$36,400 per year, payable from the General Fund 100, Department/Agency 400, Organization 1814, Object 5310.

Resolution 07-0674 was unanimously adopted.

Approved October 22, 2007

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 07-0685, by Councilor Stewart, authorizing execution of a collective bargaining agreement between the city and Duluth Police Union, Local 807, was introduced for discussion.

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

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Resolution 07-0679, by councilors Stauber and Stewart, regarding a proposed living water garden, referring to Resolution 05-0488, was introduced for discussion.

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

Amy Wicklund stated that much time, energy and money have been spent to design the water garden in a specific spot and has received support from groups for the Bayfront site and now is not the time to ignore it and start over.

Councilor Stewart voiced concern that this organization is misleading the public by soliciting funds for a project that the city has not approved and this resolution would not support construction at Bayfront and would encourage the consideration of other sites. He went on to say that while he supports the project, it should be at a location where it would have a positive effect by cleaning stormwater as opposed to bay water.

Councilor Stauber voiced concern that the slip where the garden would be located is collapsing on all three sides and it would be very expensive to do any improvements. He explained that this is not city property but was purchased by the Duluth economic development authority (DEDA) with tax increment financing (TIF) money and, according to state statute, that money could only be used for economic improvement and a stand-alone water garden does not meet that criteria. Councilor Stauber stated that other councilors are interested in this type of project but not at this site and questioned if other sites are possible.

Chief Administrative Officer Hall replied that the city is interested in a site at 21st Avenue West that has some possibilities and it could be a joint project with other interested parties.

City Attorney Brown reviewed that the only action that the council has taken that involves an agreement is to approve an application for a grant for the planning of the garden and a

resolution with Sweetwater Alliance to do the planning that the grant was for. He also stated that there has been no approval by council action to go forward with construction of this project.

Resolution 07-0679 failed upon the following vote (Public Document No. 07-1022-17):

Yeas: Councilors Krause, Little, Stauber and Stewart -- 4

Nays: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

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

The following entitled ordinance was read for the first time:

BY COUNCILOR REINERT

07-070 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-118 PROVIDING FOR THE IMMEDIATE SUSPENSION OF ZONING APPROVALS AND LICENSE ISSUANCE UPON INTRODUCTION OF AN INTERIM ORDINANCE.

- - -

At this time, 7:50 p.m., the meeting was recessed for a DEDA meeting to be called to order.

- - -

At this, time, 7:53 p.m., the DEDA meeting was adjourned and the regular order of business was resumed.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

07-065 (9867) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN A MAXIMUM AMOUNT OF \$2,200,000 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 Stauber said that he does not support borrowing the money to do improvements and pay interest and administrative fees.

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stewart and President Stover -- 8

Nays: Councilor Stauber -- 1

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BY COUNCILOR STAUBER

07-066 (9868) - AN ORDINANCE ALIENATING THE LINCOLN HOTEL SITE AND AUTHORIZING SALE OF SAME WITHOUT BID TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) PURSUANT TO CONTRACT FOR DEED FOR THE SUM OF \$192,500.

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Little and Stewart -- 2

- - -

BY COUNCILOR STAUBER

07-067 (9869) - AN ORDINANCE PERTAINING TO THE LICENSING OF RENTAL PROPERTIES; AMENDING CITY CODE SECTION 29A-32.

Councilor Stauber stated that he is amending his ordinance to require a placard listing contact information on the outside of the building that has a rental license, which was requested by the police department, as follows:

In Section 29A-32(a), after the phrase "or copy thereof," insert the phrase "or placard at least 3"x5" with the same information noted below in this subparagraph."

Councilor Stewart stated that rentals should not be labeled on the outside as it helps create a two-tiered society of owners versus renters that helps perpetuate the ongoing conflict between the two.

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Little and Stewart -- 2

- - -

BY COUNCILOR NESS

07-068 (9870) - AN ORDINANCE REGULATING ELECTRONIC SIGNS; AMENDING CITY CODE SECTIONS 44-2 AND 44-14.

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

Steve Paszko stated his support of ordinance as it will clear up a lot of concerns that have come up and urged councilors to support the 100 foot distance requirement.

Councilor Krause moved to amend Section 44-14(c)(1) of the ordinance to change the distance between changeable message and electronic signs from 100 feet to 150 feet, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Krause, Stauber and President Stover -- 4

Nays: Councilors Johnson, Little, Ness, Reinert and Stewart -- 5

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

Yeas: Councilors Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Gilbert and Little -- 2

- - -

BY COUNCILOR LITTLE

07-069 (9871) - AN ORDINANCE AMENDING SECTION 2-18.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; PERTAINING TO PRE-CHARGE DEFERRAL.

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

- - -

The meeting was adjourned at 8:05 p.m.

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

- - -

**ORDINANCE NO. 9867**

BY COUNCILOR STEWART:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN A MAXIMUM AMOUNT OF \$2,200,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, sections 115.46 and 444.075, and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment. The improvement program for the municipal sewer utility includes (i) Grand Avenue sewer line improvements, Phase 2; (ii) Morgan Park sewer line improvements, Phase 4; (iii) construction and equipping of Lift Station Nos. 21 and 38; (iv) sanitary sewer relining; (v) Central Entrance, Duluth Heights West and Lakeside Central sewer line improvements.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue general obligation sewer utility revenue bonds in the maximum amount of \$2,200,000 for the purpose of paying costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold the following: general obligation water and sewer refunding bonds dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$75,000; 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 \$255,000; general obligation sewer utility revenue bonds dated December 1, 1999, now outstanding in the amount of \$1,090,000; 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 \$395,000; 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 \$970,000; general obligation improvement note dated August 8, 2002, authorized in the amount of \$364,195; general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,574,000; general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,435,000; 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 \$280,000; general obligation sewer utility revenue note dated December 12, 2003, authorized in the amount of \$1,179,115; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$3,630,000; general obligation sewer utility revenue bonds dated

December 19, 2005, now outstanding in the amount of \$3,355,000; and general obligation sewer utility revenue bonds dated December 19, 2006, now outstanding in the amount of \$945,000. 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 and notes dated May 1, 1998, December 1, 1998, December 1, 1999, December 1, 2000, December 1, 2001, August 8, 2002, September 1, 2002, December 1, 2002, March 1, 2003, December 12, 2003, December 1, 2004, December 19, 2005, and December 19, 2006.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the maximum amount of \$2,200,000 and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, chapter 475, and other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. CERTIFICATION OF PROCEEDINGS.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds, as such facts appear from the official books and records in the officers' custody and are otherwise known to them. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

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 25, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stewart and President Stover -- 8

Nays: Councilor Stauber -- 1

Passed October 22, 2007  
Approved October 22, 2007  
HERB W. BERGSON, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9868**

BY COUNCILOR STAUBER:

AN ORDINANCE ALIENATING THE LINCOLN HOTEL SITE AND AUTHORIZING SALE OF SAME WITHOUT BID TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) PURSUANT TO CONTRACT FOR DEED FOR THE SUM OF \$192,500.

The city of Duluth does ordain:

Section 1. That the city hereby designates the property described in Section 3 below as being surplus to the city's future needs and hereby declares its intention to alienate its interest in same.

Section 2. That the city has determined to sell the property without bid to the Duluth economic development authority for the following reasons:

- (a) The city is being required by HUD to dispose of the property;
- (b) DEDA will retain the site for future land assembly with adjoining properties for the redevelopment of an entire city block in Downtown Duluth; and
- (c) The sale of the property below to DEDA without bid is in the best interest of the city of Duluth and its people and that the transaction furthers the general plan for economic development in the area.

Section 3. That the proper city officials are hereby authorized to convey to DEDA the following described property in St. Louis County, Minnesota, by limited warranty deed pursuant

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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to a contract for deed substantially in the form of that on file in the office of the city clerk as Public Document No. 07-1022-18 for the sum of \$192,500 payable into Fund 262, Agency 020, Revenue Source 4640:

Lots Fifty-three (53), Fifty-five (55) and the east half (E 1/2) of Lot Fifty-seven (57), West Second Street, Duluth Proper First Division.

Section 4. That the city council finds, upon advice from the city assessor, that the sale is for fair market value.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 7, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stauber and President Stover -- 7

Nays: Councilors Little and Stewart -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed October 22, 2007  
Approved October 22, 2007  
HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9869**

BY COUNCILOR STAUBER:

AN ORDINANCE PERTAINING TO THE LICENSING OF RENTAL PROPERTIES; AMENDING CITY CODE SECTION 29A-32.

The city of Duluth does ordain:

Section 1. That Section 29A-32 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29A-32. Licenses--terms and conditions.

(a) Each license or copy thereof or placard at least 3"x5" with the same information noted below in this subparagraph shall be displayed in a conspicuous place so that it can be seen and read by a person outside the building and within the common way or near the main entrance of the dwelling and shall state the name, e-mail address and telephone number of the owner or managing agency, if applicable, which is managing the dwelling. Any permitted license rental will ensure there is a local point of contact (within a 25 mile radius) available on such license. No license shall be transferred to another dwelling or rental unit;

(b) If there is a change in either ownership or management of a dwelling, the person or agency managing such dwelling prior to such change in ownership or management shall give written notice of the name and address of the new owner and/or manager to the building official;

(c) A new license shall be issued to the dwelling for the remainder of the license period with the name of the new manager and/or owner upon payment of the required fee and submission of all required application forms;

(d) Any licensed one-family or two family dwellings in a district zoned R-1-a, R-1-b or R-1-c shall provide a minimum of two off street parking spaces. In addition, for each additional bedroom in excess of three, there shall be provided one

additional off street parking space. Any off-street parking spaces shall comply with the standards for off-street parking set forth in Section 50-26. The number of required off-street parking spaces shall be determined by the building official at the time of licensure;

(e) Except as otherwise provided in this Section, any licensed one-family or two-family dwelling, lawfully existing on September 1, 2007, may continue to be so used even though such use does not conform to the provisions of this Section. If the number of bedrooms is increased in a licensed one-family or two-family dwelling located in a district zoned R-1-a, R-1-b or R-1-c after September 1, 2007, the off-street parking requirements of this section shall apply to the entire licensed property. If the license for such non-conforming use is revoked or lapses for any period of time, any subsequent licensed use must comply with all provision of this Chapter;

(f) Except as otherwise provided, in areas zoned R-1-a, R-1-b or R-1-c, no license shall be issued for any dwelling, structure, rooming house, rental unit or housekeeping unit, within a distance of 300 feet from any other licensed dwelling. The distance restriction shall not apply to a two-family dwelling as defined by Chapter 50-1.20 in which an owner thereof occupies one of the dwelling units; except that no rental occupancy shall be allowed in such owner occupied dwelling unit;

(g) In areas zoned R-2, R-3 or R-4, no license shall be issued for any single-family dwelling within a distance of 300 feet from any other licensed single-family dwelling;

(h) Any licensed dwelling, structure, rooming house, rental unit or housekeeping unit lawfully existing on September 23, 2007, may continue, even though such use does not conform to the provisions of this Chapter. If the license for such non-conforming use is revoked or lapses for any period of time, any subsequent licensed use must comply with all provisions of this Chapter;

(i) In all residentially zoned districts restrictions shall not apply to short-term licenses. Except as otherwise provided, the building official may issue short-term licenses for a period not to exceed 12 consecutive months. A short-term license may not be issued more frequently than once in any three year period. Such short-term licenses shall be applied for in the same manner as other rental licenses and all rental requirements for such dwelling unit shall otherwise meet all rental licensing requirements. A short-term license may be issued for any single-family or two-family dwelling under the following circumstances:

- (1) The owner is the current occupant of the dwelling unit, and
- (2) For professional, educational or military service reasons the owner intends to reside in another community located at least 50 miles from the dwelling unit, and
- (3) The owner provides sufficient evidence of such intention to temporarily relocate to the building official. Such evidence may include, but is not limited to written offers of employment, employment transfer directives, letter of acceptance from an educational institution, or military orders.

A short-term license may be extended for an additional six months period provided that an application for extension is received prior to the expiration of the

short-term license and adequate evidence justifying such an extension is submitted with the application. The building official shall act upon such application for extension within 15 business days of delivery of the application.

The action of the building official is subject to appeal as provided in Section 29A-34.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 7, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Little and Stewart -- 2

Passed October 22, 2007

Approved October 22, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

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### ORDINANCE NO. 9870

BY COUNCILOR NESS:

#### AN ORDINANCE REGULATING ELECTRONIC SIGNS; AMENDING CITY CODE SECTIONS 44-2 AND 44-14.

The city of Duluth does ordain:

Section 1. That Section 44-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 44-2. Definitions.

For the purposes of this ordinance [Chapter] the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) **Animated sign.** An animated sign is one which has any moving, rotating or otherwise physically animated part (as distinguished from lights that give the appearance of animation by flashing, blinking or fluctuating) but does not include changeable message signs which are stationary for a continuous time period of at least four seconds in each eight-second period;

(b) **Awning sign.** Awning sign means any sign affixed to an awning, as such term is defined in Section 4506 of the Uniform Building Code, 1982 Edition;

(c) **Changeable message signs (CMS).** Any off premise advertising sign, display or device which changes the message or copy on the sign by means of electronic rotation or panels or slats. CMS's are considered outdoor advertising signs and must comply with all requirements applicable to outdoor advertising signs. This includes a flashing sign that is off premise;

(d) **Double or triple faced sign.** A double or triple faced sign is any sign having displays on an integral structure which has two or three faces which are either back to back or "V" or triangular shaped with no internal angle of more than 60 degrees;

(e) Electronic signs (ES). An off premise advertising sign, display or device that changes the message copy on the sign by means of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices with the display area;

(f) Ground sign. Ground sign means any sign, other than a pole sign, which is supported vertically by a structure attached to the ground;

(g) Flashing sign. Flashing sign shall mean a sign which has direct illumination which is not kept constant in intensity at all times when in use, or which exhibits sudden or marked changes in lighting effects. Signs with direct illumination which indicate the time, temperature, date or other public service information shall not be considered flashing signs;

(h) Direct illumination. Direct illumination means illumination by light sources which are effectively visible, either directly or through a translucent material, as a part of the sign and illuminate outward therefrom;

(i) Indirect illumination. Indirect illumination means illumination which is derived from light sources which are not visible to intended viewers of the sign but which illuminate the sign by being directed at the sign's reflective face;

(j) Marquee sign. Marquee sign means any sign affixed to a marquee, as such term is defined in Section 414 of the Uniform Building Code, 1982 Edition;

(k) Mobile sign. Mobile sign means any sign so constructed as to permit movement from place to place, whether on wheels or otherwise;

(l) Off premises sign. Off premises sign means a sign which directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where such sign is located;

(m) On premises sign. On premises sign means a sign which directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located;

(n) Pole sign. Pole sign means any free standing, elevated sign erected on a pole or poles connected to the ground and which is less than 60 square feet in area;

(o) Political sign. Political sign means any sign which directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both;

(p) Projecting sign. Projecting sign means a sign which is affixed to the outside of an exterior wall of any building and which extends more than 18 inches from the building wall face;

(q) Property owner opinion sign. Property owner opinion sign means a sign which conveys a noncommercial message;

(r) Pylon. Pylon means a decorative extension above the roof line of a building which is designed as an integral part of such building and which is constructed of masonry or is completely enclosed by the same material as the main exterior walls of such building;

(s) Roof sign. Roof sign means any sign erected, constructed or maintained above and connected to the roof of any building. For purposes of this Section a penthouse, elevator housing or any structure housing mechanical equipment of any kind shall not be deemed a part of the roof of any building;

(t) Sign. Sign means any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is located outdoors, when more than one square foot in area; but shall not be deemed to include temporary parks and recreation signs permitted pursuant to Chapter 35 of this Code, or overhead banners and devices regulated under Article III of Chapter 45 of this Code, or to any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device. The area of a sign includes the space inside a continuous line drawn around and enclosing all letters, designs and background material, except that the area of a double or triple faced sign shall be the area of the largest face, and the area of a spherical sign shall be the area of the outline against the horizon formed by the largest dimension thereof;

(u) Wall sign. Wall sign means a sign which is affixed to the outside of an exterior wall of any building when such sign extends no more than four feet above the top of such exterior wall and is parallel thereto, and when such sign projects no more than 18 inches from the building wall face or from a parapet constructed thereon. Signs painted directly on the surface material of a building shall be considered a wall sign only if limited in content to the name of the principal firm or establishment located in such building or the name of the building's management firm;

(v) Height. The height of a sign shall be the vertical distance from the average finished grade directly below the sign to the uppermost point on the sign or sign structure, whichever is higher.

Section 2. That Section 44-14 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 44-14. Illumination and glare--electronic signs--changeable signs--location.

(a) All sign illumination, whether direct or indirect, shall be so shaded or concealed that it does not create unreasonable and annoying illumination on residential structures constructed prior to the installation of such lighting apparatus. No sign illumination shall shine in any manner that interferes with the vision of motor vehicle operators;

(b) No off premise sign shall be erected which involves rapid rotation of the structure or any part thereof, with the following exceptions: Changeable message signs (CMS) and electronic signs (ES) as defined in Section 44-2 are permitted, subject to regulation by the City Code;

(c) Off premise changeable message signs and electronic signs shall conform to the following additional conditions:

(1) The sign must be separated from other changeable message signs and electronic signs by at least 100 feet;

(2) Orientation. In all districts, the sign must be oriented so that no portion of the sign face is visible from a park that is over one acre in area and contains improvements for recreational use, which park is within 150 feet of the sign.

or no portion of the sign face is visible from a school which is within 150 feet of the sign:

(3) The maximum brightness of a changeable message sign and electronic sign shall not exceed 5,000 nits (candelas per square meter) during daylight hours, or of 500 nits (candelas per square meter) between dusk to dawn. The sign must have an automatic dimmer control which produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;

(4) Duration. Any image or message or portion thereof displayed on the sign shall have a minimum duration of eight seconds and shall be static display. Transition time must be no longer than two seconds;

(5) Default mechanism. CMS and ES shall contain a default design that will freeze the design in one position if a malfunction occurs;

(6) Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: December 7, 2007)

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

Yeas: Councilors Johnson, Krause, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Gilbert and Little -- 2

Passed October 22, 2007

Approved October 22, 2007

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

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### ORDINANCE NO. 9871

BY COUNCILOR LITTLE:

AN ORDINANCE AMENDING SECTION 2-18.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; PERTAINING TO PRE-CHARGE DEFERRAL.

The city of Duluth does ordain:

Section 1. That Section 2-18.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-18.2. Deferral authorized; fees and administrative charges.

Subject to management and supervision, and applicable laws and standards, city officials and agents who enforce laws and regulations are authorized to utilize a procedure of pre-charge deferral and administrative fees and charges for any violation of the City Code, but only in compliance with state and federal civil rights laws and the city's anti-discrimination policy, in instances where the circumstances indicate that justice and compliance can better be attained by deferral than by issuing a criminal charge. The administration is authorized to set standards and procedures for the use of pre-charge deferral and administrative fees and charges.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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In the case of parking violations, the administrative penalty charge can be assessed and, in addition, the vehicle can be detained or removed and the offender is not required to participate in a deferral program. The city is authorized to charge each participant a reasonable administrative fee for participation, the amount of the fee to be set by resolution of the city council. The city's human rights officer shall monitor the program for compliance with civil rights standards.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: December 7, 2007)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed October 22, 2007  
Approved October 22, 2007  
HERB W. BERGSON, Mayor

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**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, November 8, 2007, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Absent: Councilors Krause and Little -- 2

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**MOTIONS AND RESOLUTIONS**

BY COUNCILOR KRAUSE:

WHEREAS, on November 6, 2007, 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. 07-1108-01) at 5:00 p.m., November 8, 2007, and ascertained the number of ballots cast at said election and thereby declared that at said election there were cast 29,701 votes, said votes having been cast in the following manner:

THAT for the office of mayor, Charles M. Bell received 13,994 votes, Don Ness received 15,398 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the offices of councilor at large, Jeff Anderson received 13,646 votes, Tony Cuneo received 16,812 votes, Becky Hall received 12,432 votes, Tim Little received 8,438 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 4,117 votes, Laurie Johnson received 3,368 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, third district, Sharla Gardner received 2,427 votes, Heather Rand received 1,654 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, fifth district, Jay Fosle received 3,384 votes, Russell W. Stover received 2,427 votes and candidates receiving write-in votes as indicated on the canvassing board report;

NOW, THEREFORE, BE IT RESOLVED, that Don Ness, 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 Jeff Anderson and Tony Cuneo, 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 Todd Fedora, 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 Sharla Gardner, 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 Jay Fosle, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Resolution 07-0724 was unanimously adopted.  
Approved November 8, 2007  
HERB W. BERGSON, Mayor

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The meeting was adjourned at 5:05 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Tuesday, November 13, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Absent: Councilors Gilbert and Johnson -- 2

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-1113-01 Aces on First, by Hospitality Associates of Duluth, LL, application for concurrent use permit for use of sidewalk at 113 West First Street. -- Planning commission

07-1113-02 Dean Andress, by CMRA, LLC, et al. (12 signatures), petition to reclassify from R-1 to C-5 the property at 515-503 West Central Entrance and West Myrtle Street. -- Assessor

07-1113-03 Haines Properties, LLP, further petition (two signatures), to reclassify from S to C-5 property described as W1/2 of SE1/4 of SW1/4 of Section 7, Township 50 North, Range 14 West. -- Assessor

07-1113-04 Patricia Lehr and Will Munger, et al. (five signatures), by Michael Talarico, attorney, petitions to:

(a) Reclassify from W-1 to R-1-c, Lots 1 through 3, Block 39, Hunter and Markells Division and Outlots E and F;

(b) Vacate Milford Street from 71st to 70th avenues West and the alleyway between 70th and 71st avenues West from Milford Street to the waterfront, Hunter and Markells Division (near Indian Point). -- Assessor

07-1113-05 Hatha "Ann" Waltjer petition to vacate the triangle of property at corner of Manitou and Sunnyside streets. -- Assessor

07-1113-14 Penny Clark communication regarding establishment of a no parking on both sides of 22nd Avenue East from Third Street to the alley north of Fifth Street (07-0684R). -- Received

07-1113-15 Jill Jacoby communications regarding request for recommendation on a proposed site for a stormwater treatment facility (water garden) (07-0722R). -- Received

07-1113-06 Kozy Bar, by Thomas Cox, communication withdrawing application for concurrent use permit for use of sidewalk in front of 129 East First Street. -- Planning commission

07-1113-17 The following communications regarding repeal of resolutions 05-0269 and 05-0320 related to funding the housing investment fund (07-0653R): (a) Duluth LISC; (b) Center City Housing corporation; (c) Duluth Area Chamber of Commerce. -- Received

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**REPORTS FROM THE ADMINISTRATION**

07-1113-18 Administrative assistant communication regarding AFSCME bargaining agreement negotiations. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-1113-07 Assessor:

(a) Affidavit of mailing of notice of public hearings to be held by the special assessment board on Tuesday, November 13, 2007, at 3:30 p.m. in Room 106A, City Hall, regarding reassessment of canceled assessment for Plat 1000 Parcel 00670, demolition of building (assessable amount: \$675);

(b) For confirmation the amended assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2006, to June 1, 2007, for which the licensed collector has not been reimbursed (07-0706R);

(c) Letter of insufficiency of petition to reclassify from S to C-5 property described as W1/2 of SE1/4 of SW1/4 of Section 7, Township 50 North, Range 14 West;

(d) Letters of sufficiency of petitions to:

(1) Reclassify from:

(A) R-1 to C-5 the property at 515-503 West Central Entrance and West Myrtle Street;

(B) S to C-5 property described as W1/2 of SE1/4 of SW1/4 of Section 7, Township 50 North, Range 14 West;

(C) W-1 to R-1-c, Lots 1 through 3, Block 39, Hunter and Markells Division and Outlot E and F;

(2) Vacate:

(A) Milford Street from 71st to 70th avenues West and the alleyway between 70th and 71st avenues West from Milford Street to the waterfront, Hunter and Markells Division (near Indian Point);

(B) The triangle of property at corner of Manitou and Sunnyside streets. -- Received

07-1113-08 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from:

(a) AGC of Minnesota Foundation on March 13, 2008;

(b) Regents of the University of Minnesota on:

(1) February 10;

(2) April 5, 2008. -- Received

07-1113-09 Parks and recreation department director minutes of Lake Superior zoological society meetings of September 26, 2007, meeting. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

07-1113-10 Animal humane board minutes of September 25, 2007, meeting. -- Received

07-1113-11 Duluth airport authority:

(a) Balance sheet of August 31, 2007;

(b) Minutes of:

(1) September 18;

(2) September 24, 2007, meetings. -- Received

07-1113-16 Duluth public arts commission communication regarding proposed repeal of Article II, Division 4, containing Sections 20-18 and 20-19, of the Duluth City Code, 1959, as amended; municipal arts fund (07-074-O). -- Received

07-1113-12 Duluth transit authority:

- (a) Income statement of July, 2007;
  - (b) Minutes of:
    - (1) August 15;
    - (2) August 29, 2007, meetings. -- Received
- 07-1113-13 Tree commission minutes of September 18, 2007, meeting. -- Received

- - -

### OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented that seeing that the city is financially hurting too badly to continue in its current manner and that alternate sources of funding should be found for art projects, but that the council and the Duluth public arts commission should still choose the public location of the art.

- - -

Councilor Krause arrived at this time.

- - -

Jackie Falk expressed support by means of a communication from Alison Clarke (Public Document No. 07-1113-41) for the original option number four for the Lakewalk on the water side of Beacon Point and the Ledges. She noted that residents of these two developments are trying to diminish the original plan.

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### RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 07-0653, repealing resolutions 05-0269 and 05-0320 related to funding the housing investment fund, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Krause, Little, Stauber and Stewart -- 4

Nays: Councilors Ness, Reinert and President Stover -- 3

Absent: Councilors Gilbert and Johnson -- 2

Councilors Stewart, Krause and Little summarized their reasons for this resolution, noting that: the council has stated their intention on focusing on essential city services; how some of the projects funded with this have had difficulty in marketing the units and that there has been an unfair advantage created over a private seller.

Councilor Ness summarized that his reasons for keeping this fund are to assist in creating a housing stock and noted that it took seven councilors to establish this fund. He moved to table the resolution until all councilors are present to decide this important policy decision, which motion was seconded and failed as follows:

Yeas: Councilors Ness, Reinert and President Stover -- 3

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Absent: Councilors Gilbert and Johnson -- 2

Resolution 07-0653 was adopted upon the following vote:

Yeas: Councilors Krause, Little, Ness, Reinert, Stauber and Stewart -- 6

Nays: President Stover -- 1

Absent: Councilors Gilbert and Johnson -- 2

*[Editor's Note: Resolution 07-0653 was vetoed by Mayor Bergson (Public Document No. 07-1126-14), reconsidered at the November 26 council meeting and failed.]*

- - -

Councilor Stewart moved to remove Resolution 07-0685, authorizing execution of a collective bargaining agreement between the city and Duluth Police Union, Local 807, from the table, which motion was seconded and unanimously carried.

Resolution 07-0685 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and Duluth Police Union, Local 807, covering years 2007, 2008 and 2009, substantially in the form of that on file with the clerk as Public Document No. 07-1113-19, which agreement contains the terms and conditions in the agreement between the parties in effect in 2006 and those changes to the 2004-2006 agreement, which were mutually agreed to or ordered in the binding arbitration award of arbitrator Stephen A. Bard, dated October 8, 2007, which is on file with the city clerk.

Resolution 07-0685 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, 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 Stover moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STEWART:

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. 07-1113-20; payment by the city will be made from the General Fund 0100, Agency 700, Organization 1407, Object 5407.

Resolution 07-0688 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 07-1113-07(b), which is levied to defray in full the expense of solid waste collecting during the period of March 1, 2006, to June 1, 2007, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 07-0706 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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(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) \$2,285,000 general obligation street improvement bonds, Series 2007A (the "Series 2007A bonds"), are hereby authorized and shall be issued for the purpose of financing the 2007 street improvement program, pursuant to Minnesota Statutes, Chapter 475, and the City Charter; and

(2) \$2,120,000 general obligation sewer utility revenue bonds, Series 2007B (the "Series 2007B bonds"), are hereby authorized and shall be issued pursuant to Ordinance No. 9867, adopted October 22, 2007, Minnesota Statutes, Chapter 475, Minnesota Statutes, and Section 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal sewer utility;

(3) \$1,240,000 general obligation capital improvement bonds, Series 2007C (the "Series 2007C bonds"), are hereby authorized and shall be issued pursuant to Minnesota Statutes, Section 475.521 and Chapter 475, and the City Charter, for the purpose providing funds for capital improvements projects pursuant to an approved capital improvement plan;

(4) \$1,985,000 general obligation equipment certificates of indebtedness, Series 2007D (the "certificates"), are hereby authorized and shall be issued pursuant to Minnesota Statutes, Sections 410.32 and 412.301 (the "act"), and Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing funds to purchase capital equipment, as permitted by the act, having an expected useful life at least as long as the term of the certificates;

(5) General obligation DECC improvement refunding bonds, Series 2007E (the "Series 2007E bonds"), in the approximate amount of \$3,850,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the city's general obligation DECC improvement bonds, Series 1999A, dated February 1, 1999; and

(6) General obligation water and sewer utility revenue refunding bonds, Series 2007F (the "Series 2007F bonds"), in the approximate amount of \$2,340,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the CITY'S GENERAL OBLIGATION SEWER UTILITY REVENUE BONDS, Series 1999F, dated December 1, 1999, and the city's general obligation water and sewer utilities revenue bonds, Series 2000B, dated December 1, 2000.

(The Series 2007A bonds, the Series 2007B bonds, the Series 2007C bonds, the Series 2007E bonds and the Series 2007F bonds are collectively referred to as the "bonds");

(b) Issuance and sale of bonds and certificates. The terms and conditions of each series of the bonds and the certificates and the sales thereof are set forth in the official terms of offerings for each series on file with the city clerk as Public Document No. 07-1113-21. Each and all of the terms and provisions set forth in the official terms of offerings are adopted and confirmed as the terms and conditions of the bonds and certificates and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds and certificates;

(c) Competitive sale of bonds and certificates. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for each series of the bonds and the 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 07-0710 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 3, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of GW Peterson Enterprises, Inc., d/b/a Congress Bar & Grill, 1334 Commonwealth Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-1113-22;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on October 3, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-1113-22 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of GW Peterson Enterprises, Inc., d/b/a Congress Bar & Grill, 1334 Commonwealth Avenue, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0693 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 3, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Golden Eagle Liquors, LLC, d/b/a Sportsmen's Liquor, 3904 Grand Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-1113-23;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on October 3, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-1113-23 regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of Golden Eagle Liquors, LLC, d/b/a Sportsmen's Liquor, 3904 Grand Avenue, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0694 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 3, 2007, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of J&J Jauss, Inc., d/b/a Gary Liquors, 1431 Commonwealth Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 07-1113-24;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on October 3, 2007, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 07-1113-24 regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of J & J Jauss, Inc., d/b/a Gary Liquors, 1431 Commonwealth Avenue, are adopted.

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 fine the licensee \$500 for the first offense payable within 60 days of final city action.

Resolution 07-0695 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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.

<b>Licensee</b>	<b>Gambling Site</b>
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Duluth Curling Club

T-Bonz Bar, 2531 West Superior Street

Resolution 07-0713 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that Resolution 07-0531 is hereby amended and the professional services contract with E&W Properties, LLC, for the management of Minnesota Tenant Remedies Act (TRA) properties is modified to allow professional and general liability insurance of \$1,000,000; this change does not impact any other contract provision.

Resolution 07-0715 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointments of Roberta Cich, Claire Jasper and Cynthia Stratioti and the appointment of Violet Woods, replacing Judy Ledoux who resigned, by Mayor Bergson

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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to the commission on disabilities for terms expiring on November 1, 2010, are confirmed.

Resolution 07-0665 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to amend Contract No. 20675, in substantially the form of the amendment on file with the city clerk as Public Document No. 07-1113-26, with St. Louis County to provide food support employment and training (FSET) program services at costs not to exceed \$28,831 for the period October 1, 2007, through September 30, 2008. Said monies under this agreement shall be received from Funding Source 4260 (St. Louis County) and deposited in Fund 268, Agency 031, Organization 6237 (FSET).

Resolution 07-0681 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

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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 October 1, 2007, through December 31, 2007, to increase the payment for elderly waiver meals from \$6.08 to \$6.20. Said agreement is filed as Public Document No. 07-1113-27. Monies collected under said agreement shall be deposited in Federal Program Fund 272, Department 031, Revenue Source 4654-02.

Resolution 07-0687 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR NESS:

WHEREAS, the state of Minnesota, department of administration, currently leases office space within City Hall used by the office of the state auditor.

NOW, THEREFORE, BE IT RESOLVED, that the city shall continue to lease office space in Room 206 City Hall to the state of Minnesota, department of administration, for a four year period from October 1, 2007, through September 30, 2011.

RESOLVED FURTHER, that the present office space lease rate of \$15 per square foot per year be increased as follows:

\$15.35 per square foot per year effective October 1, 2007;

\$15.85 per square foot per year effective October 1, 2008;

\$16.35 per square foot per year effective October 1, 2009;

\$16.85 per square foot per year effective October 1, 2010.

RESOLVED FURTHER, that the proper city officers are authorized and directed to execute Amendment No. 6 to Lease No. 10185, filed as Public Document No. 07-1113-28 between the city of Duluth and the state of Minnesota, department of administration. All funds payable thereunder to the city to be deposited in General Fund 100-015-1515-2500-4622.

Resolution 07-0704 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR JOHNSON:

The city council finds as follows:

- (a) The municipality of Duluth is planning to implement municipal state aid street projects in 2007 which will require state aid funds in excess of those available in its state aid construction account; and
- (b) Said municipality is prepared to proceed with the construction of said projects through the use of an advance from the municipal state aid street fund to supplement the available funds in their state aid construction account; and
- (c) The advance is based on the following determination of estimated expenditures:

Account balance as of 10/30/2007		\$ 8,814.53
Less estimated disbursements:		
	Project #118-203-002	\$351,351.09
	Project #118-200-001	\$ 84,162.92
	Project #118-199-002	\$215,357.64
	Project #118-176-002	\$275,000.00
	Bond Principle (if any)	\$ 0.00
	Project Finals (overruns-if any)	\$ 0.00
	Other various projects	\$100,000.00
Total estimated disbursements		\$1,025,871.65
Advance amount (amount in excess of acct balance)		\$1,017,057.12

- (d) Repayment of the funds so advanced will be made in accordance with the provisions of Minnesota Statutes 162.14, subd. 6, and Minnesota Rules, Chapter 8820.1500, subp. 10b; and
- (e) The municipality acknowledges advance funds are released on a first-come-first-serve basis and this resolution does not guarantee the availability of funds.

NOW, THEREFORE, BE IT RESOLVED, that the commissioner of transportation be and is hereby requested to approve this advance for financing approved municipal state aid projects of the municipality of Duluth in an amount up to \$1,017,057.12. The city of Duluth hereby authorizes payments from subsequent accruals to the municipal state aid construction account of Duluth in accordance with the schedule herein indicated:

Repayment from entire future year allocation until fully repaid; \$1,017,057.12 paid from year 2008.

Resolution 07-0705 was unanimously adopted.  
 Approved November 13, 2007  
 HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0492 be amended and Contract #20211 with Gerard Chimney Company be extended from December 31, 2007, through July 31, 2008, to allow the inspection of the Duluth Steam Plant chimney to begin in the spring of 2008; the contract amount, scope of services and other contract provisions shall remain the same.

Resolution 07-0709 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the board of commissioners of Saint Louis County is hereby requested to classify the following two parcels as nonconservation:

Parcel 1: Lands in the city of Duluth, Section 1, Township 50 North, Range 14 West, that part of south 1/2 of northeast 1/4 described as follows: beginning at the center of said Section 1; thence east along the east-west quarter line the distance of 1,519.61 feet to a point; thence north the distance of 125 feet to a point; thence east on a line parallel with the east-west quarter line the distance of 100 feet to a point; thence north the distance of 475 feet to a point; thence west on a line parallel with the said east-west quarter line the distance of 1,617.78 feet to a point on the north-south quarter line of said Section 1; thence south 0 degrees, 10-1/2 minutes west the distance of 600 feet along said north-south quarter line to point of beginning and there terminating. EXCEPT all that part thereof that lies between the middle line of Amity Creek as shown on the plat which is attached to deed bearing Doc. No. 91805 filed in the office of the registrar of titles and made a part thereof, and a line beginning at the center of said Section 1 and running east therefrom on the quarter line of said Section 1 a distance of 466 feet to a point; and also that part or parcel of said 40 acres which is bounded to-wit: beginning at the point last given which is on the east-west quarter line of said Section 1, 466 feet east of the center thereof, running thence north a distance of 52.72 feet; thence east on a line parallel with the east-west quarter line of said Section 1, a distance of 50 feet to a point; thence easterly at an angle 7 degrees 36 minutes to the left a distance of 387.5 feet to a point; thence in a direct line to the southeast corner of said 40 acres, thence west along the east-west quarter line the distance of 853.61 feet to the point of beginning. (2710-40).

Parcel 2: Lands in the city of Duluth, Section 1, Township 50 North, Range 14 West, that part of southeast 1/4 of northeast 1/4 described as follows: beginning at a point 200 feet east and 125 feet north of the southwest corner of said southeast 1/4 of northeast 1/4; thence south 25 feet to a point; thence east to East Duluth and Lester River Road; thence northeasterly along the westerly right-of-way of said road to a point on the south line of Auditor's Plat No. 12; thence westerly 439.75 feet to point of beginning and there terminating. Approximately 0.99 acres (2710-35).

FURTHER RESOLVED, that the city of Duluth hereby requests that the St. Louis County Board of Commissioners recommend to the commissioner of revenue that said parcels be conveyed to the city of Duluth under the "Free Conveyance" provisions of Minnesota Statutes 282.01 (subd.1) for public purposes; namely the utilization of this property, using established best management practices (BMP) for the city's ongoing separation, disposal and appropriate reuse of native soil excavation materials generated by the city's utility operations division, thereby

reducing the city's overall expenditures for transportation and providing a needed site for the proper handling of these materials.

Resolution 07-0712 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Viele Contracting, Inc., for the construction of a watermain and sanitary sewer in West 12th Street from 90 feet southwesterly of Harbor Highlands Drive to 160 feet southwesterly of Harbor Highlands Drive for the public works and utilities division in accordance with its low specification bid of \$57,174.80, payable out of Special Assessment Fund 410, Department/Agency 038, Object 5530, City Project No. 0669SN/WA.

Resolution 07-0719 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0546 to Ayres Associates, Inc., for furnishing professional engineering services, be amended to increase the amount by \$4,900 for a new total of \$139,832, payable out of Street Improvement Fund 0440, Department/Agency 038, Object 5530, City Project No. 0127TR.

Resolution 07-0720 was unanimously adopted.

Approved November 20, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to pay to Dan and Trish Mertesdorf the sum of \$20,608.79 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer near 1030 North 43rd Avenue East on August 16, 2007; payment to be made from Self-Insurance Fund 610, Agency 036, Organization 1653, Object 5841.

Resolution 07-0721 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to accept an in-car camera grant from the office of justice programs, Minnesota department of public safety, in the amount of \$50,000 and to execute the grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-1113-29, and to expend \$12,500 in matching funds; grant funds to be deposited in Fund 215, Agency 200, Organization 2279, Revenue Source 4220-01; matching funds of \$12,500 to be paid from Fund 250, Agency 015, Organization 2007, Object 5580.

Resolution 07-0689 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to accept a grant from the state of Minnesota, office of traffic safety, in the amount of \$45,000, for the grant period beginning October 1, 2007, and ending September 30, 2008, act as the fiscal agent for the grant and execute the documents necessary to accept the grant including any grant agreement (Public Document No. 07-1113-30); grant funds to be deposited in Fund 215, Agency 200, Organization 2278, Revenue Source 4220-02.

Resolution 07-0697 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into an agreement with ISD 709 to provide up to four law enforcement officers in the public middle schools located in Duluth, said agreement to be substantially in the form of Public Document No. 07-1113-31 on file in the office of the city clerk; annual payments of \$247,200 from the school district to be deposited in Fund 100, Agency 200, Organization 1610, Revenue Source 4261.

Resolution 07-0708 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following parking meter zone is hereby established:

On the north side of Third Street between Lake Avenue and First Avenue East.

Proposed rate will be one quarter from one hour with a two-hour limit.

Metered parking shall be applicable between 8:30 AM and 5:30 PM.

This metered zone will take effect upon installation of the parking meters.

Resolution 07-0714 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to do acts necessary for the city to accept Grant Number 2007-GB-T7-0330 in the amount of \$750,000 from the United States department of homeland security for the funding of the port security program activities in the city and to execute and implement the agreement required, to be deposited in Fund 210-030-3163-4210-02, port security grant.

Resolution 07-0726 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute Amendment No. 1 to Lake Superior Coastal Grant Contract A93374 with the state of Minnesota, commissioner of

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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natural resources, to extend the expiration date to December 31, 2008; said amendment to be substantially in the form of Public Document No. 07-1113-32 on file in the office of the city clerk.

Resolution 07-0690 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute an amendment to the contract between the city of Duluth and Professional Golf Course Management, Inc., substantially the same as that on file with the clerk as Public Document No. 07-1113-33, for services as a concessionaire operating Enger and Lester Park golf courses; payment to be made from Fund 503, Agency 400, organizations ENGR and LSTR.

Resolution 07-0691 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to execute the amended Exhibit A to service agreement with Blue Cross and Blue Shield of Minnesota, substantially in the form of that on file in the office of the city clerk as Public Document No. 07-1113-25, to remove administration of prescription drug coverage effective October 1, 2007, but otherwise continue to provide administrative services, stop loss insurance and care support program to the city's group health insurance plans; payable from the group health fund.

Resolution 07-0711 was adopted upon the following vote:

Yeas: Councilors Little, Ness, Reinert, Stauber, Stewart and President Stover -- 6

Nays: None -- 0

Abstention: Councilor Krause -- 1

Absent: Councilors Gilbert and Johnson -- 2

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0684, by Councilor Little, to establish no parking on both sides of 22nd Avenue East from Third Street to the Alley North of Fifth Street, was introduced for discussion.

Councilor Little moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Scott Sannes, Barb Russ, Linn Eng and Paul Rainaldi opposed the resolution for reasons of: the notification mailing to residents was only sent to one resident, but it effects a couple blocks with several residents on them; this will significantly remove parking for many residents; there are a lot of rentals that need on street parking; with Fourth Street being a snow emergency route it further reduces parking options; without being able to access Second Street and restricted by Oregon Creek it further reduces parking options; that there should be further discussion and options explored; this is a limited safety problem; other parking restriction time frames might work better; at times residents and their guests have to park over a block away; 140 residents have signed a petition opposing this action; consideration should be given to widening this street; there

currently are other streets less than 20 feet wide that allow parking; this street is 21 feet wide; 140 of 167 households, homes or apartments, affected by this, have signed a petition opposing this and parking currently is not easy and it would get more difficult with this.

Marnie Grondahl, fire marshal, stated that while she understands the difficulty with parking, the State Fire Code states that streets require 20 feet of unobstructed width.

The council discussed this being more of a comprehensive policy issue versus an individual case and that there be more discussion as to what other options there could be.

Councilor Reinert moved to remove the resolution from the agenda and refer it back to the administration for a policy proposal to be reviewed at a committee meeting in January 2008, which motion was seconded and unanimously carried.

- - -

Resolution 07-0723, by Councilor Stewart, adopting license, permit and fee charges for 2008, was introduced for discussion.

Councilor Stewart moved to table the resolution for a hearing on alcoholic beverage fees on December 17, which motion was seconded and unanimously carried.

- - -

Resolution 07-0692, by Councilor Stauber, to deny amending Chapter 50 of the Duluth City Code, 1959, as amended, zoning district map nos. 26, 27, 32 and 33 as contained in the Appendix to Chapter 50 to provide for the reclassification from S, Suburban, and IP, Industrial Park, to M-1, Manufacturing, property located in the Second Rearrangement of Airpark Division and Plat of Airpark Division (city of Duluth), was introduced for discussion.

Councilor Stauber moved to table the resolution until the second reading of the accompanying ordinance on November 26, which motion was seconded and unanimously carried.

- - -

Resolutions 07-0699 and 07-0700, by Councilor Stauber, approving and denying, respectively, the vacation of a ten foot public utility easement located at 7607 Grand Avenue (Filiatrault), were introduced for discussion.

Councilor Stauber moved to suspend the rules to hear a speaker on the resolutions, which motion was seconded and unanimously carried.

Phillip Filiatrault requested support of Resolution 07-0699.

Resolution 07-0699, approving the vacation, was adopted as follows:

BY COUNCILOR STAUBER:

The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of a ten foot public utility easement across the easterly five feet of Lot 4, Block 31, and the westerly five feet of Lot 5, Block 31, Norton's Fairmount Park Division, located at 7607 Grand Avenue (FN 07118); and

(b) 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

(c) The planning commission, at its October 16, 2007, regular meeting, recommended [unanimously] vacation of the utility easement as petitioned; and

(d) Because of the following circumstance the easement in question has become useless to the public, for the purpose for which it was intended: the area is fully developed and all utilities for the area are served elsewhere already.

NOW, THEREFORE, BE IT RESOLVED, that:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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(a) The city council of the city of Duluth approves the vacation of the public utility easement on Lots 4 and 5, Block 31, Norton's Fairmont Park Division, in West Duluth, legally described as:

the easterly five feet of Lot 4, Block 31, and the westerly five feet of Lot 5, Block 31, Norton's Fairmont Park Division, Duluth;

(b) That a copy of this resolution shall be filed with the recorder of deeds.

Resolution 07-0699 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0700, denying the vacation, failed unanimously (Public Document No. 07-1113-34).

- - -

Resolution 07-0701, approving the vacation of the southerly 30 feet of a 20 foot wide public utility easement at 4019 Lake Avenue South (Johnson); and resolutions 07-0702 and 07-0703, approving and denying, respectively, the vacation of a 20 foot wide utility easement at 4019 Lake Avenue South (Johnson), by Councilor Stauber, were introduced.

Resolution 07-0701 was adopted as follows:

BY COUNCILOR STAUBER:

The city council finds as follows:

(a) A sufficient petition was filed with the city clerk requesting the vacation of a 20 foot wide public utility easement across the rear of Lots 5 and 19 (ten feet per lot), Block 2, Oatka Beach Addition, at 4019 Lake Avenue South on Park Point (FN 07116); and

(b) 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

(c) The planning commission, at its October 16, 2007, regular meeting, recommended [unanimously] to vacate the southerly 30 feet of the public utility easement and to retain the northerly ten feet of easement; and

(d) While the southerly 30 feet of the easement recommended to be vacated has become useless to the public for the purpose for which it was intended, and no future need for this easement for public utility purposes is foreseen, the northerly ten feet of this public utility easement is still needed for public utility purposes.

NOW, THEREFORE, BE IT RESOLVED, that:

(a) The city council of the city of Duluth approves the vacation of the southerly 30 feet of a public utility easement, legally described as:

the southerly 30 feet of the public utility easement along the rear of Lots 5 and 19, Block 2, Oatka Beach Addition, Duluth;

(b) That a copy of this resolution shall be filed with the recorder of deeds.

Resolution 07-0701 was adopted upon the following vote:

Yeas: Councilors Little, Ness, Reinert, Stauber, Stewart and President Stover -- 6

Nays: Councilor Krause -- 1

Absent: Councilors Gilbert and Johnson -- 2

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Resolution 07-0702, approving the vacation, failed unanimously (Public Document No. 07-1113-35).

- - -

Resolution 07-0703, denying the vacation, failed upon the following vote (Public Document No. 07-1113-36):

Yeas: Councilor Krause -- 1

Nays: Councilors Little, Ness, Reinert, Stauber, Stewart and President Stover -- 6

Absent: Councilors Gilbert and Johnson -- 2

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the city council objects to the reclassification to nonconservation and sale of the following tax forfeited parcels by the board of county commissioners of Saint Louis County (FN 07117):

Parcel ID and legal description	Location	Reason
010-1270-02320 Duluth Proper Third Division Block 38, Lot 166 Tract #5	lower side of West Fourth Street between Tenth and 11th avenues West (Central Hillside)	city stormwater pipe and Buckingham Creek cross the parcel
010-3360-00770 Motor Line Division of Duluth Block 5, Lots 11, 12 and 13 Tract #11	northeast corner of Norton Street and Waverly Avenue (Chester Park/UMD)	stormwater pipe discharge and Tischer Creek crosses the property; floodplain
010-4130-01390 Stewarts Addition to West Duluth Block 9, Lots 1 thru 24 Tract #12	west of Haines Road and north of West Eighth Street (Cody)	Skyline Parkway viewshed and future trail area

Resolution 07-0716 was adopted upon the following vote:

Yeas: Councilors Krause, Little, Ness, Reinert, Stauber and President Stover -- 6

Nays: Councilor Stewart -- 1

Absent: Councilors Gilbert and Johnson -- 2

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

Resolutions 07-0718 and 07-0725, approving and denying, respectively, the vacation of 13th Avenue East between East Seventh Street and East Eighth Street Alley reserving an easement over the westerly 55 feet for pedestrian, utility and drainage purposes (Sirota), by Councilor Stauber, were introduced.

Resolution 07-0718, approving the vacation, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of 13th Avenue East between East Seventh Street and East Eighth Street Alley; and

(b) 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 (FN 07128); and, the city planning commission found that the petitioned street is useless for the purpose of a roadway, based on the finding that the street is not likely to be needed for roadway purposes because of the steep terrain and the existence of better alternatives for north-south vehicle travel in the area; and

(c) The city planning commission also found that the westerly 55 feet of the street petitioned for vacation is needed for pedestrian, utility and drainage purposes as evidenced by the presence of a sidewalk, electric power line, water line and drainageway all located in the westerly 55 feet of the street; and

(d) The planning commission, at its October 16, 2007, regular meeting, did approve, unanimously, vacating the petitioned street while reserving an easement over the westerly 55 feet for pedestrian, utility and drainage purposes; and

(e) That the city council of the city of Duluth approves the vacation of 13th Avenue East between East Seventh Street and East Eighth Street Alley while reserving an easement over the westerly 55 feet of the vacated street for pedestrian, utility, and drainage purposes, and as more particularly described on Public Document No. 07-1113-37; and

(f) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint 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 07-0718 was adopted upon the following vote:

Yeas: Councilors Little, Ness, Reinert, Stauber, Stewart and President Stover -- 6

Nays: Councilor Krause -- 1

Absent: Councilors Gilbert and Johnson -- 2

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0725, denying the vacation, failed upon the following vote (Public Document No. 07-1113-38):

Yeas: Councilor Krause -- 1

Nays: Councilors Little, Ness, Reinert, Stauber, Stewart and President Stover -- 6

Absent: Councilors Gilbert and Johnson -- 2

- - -

BY COUNCILORS STAUBER AND STEWART:

The city council finds:

(a) The city has publicly discussed the features and location of a proposed stormwater natural process treatment facility (living water garden) as referred to in Resolution No. 05-0488;

(b) Other government units have recently considered environmental and commercial aspects of the area at the mouth of Miller Creek and Coffee Creek near 21st Avenue West;

(c) City officials have been informed of considerable interest in the special features of this site that could make it especially appropriate for a living water garden;

(d) The site is currently under-utilized as a public area.

NOW, THEREFORE, BE IT RESOLVED, that the city council requests the mayor to assemble a special advisory committee made up of no more than 11 interested parties including city staff, water garden advocate, citizens, government agency members, WLSSD staff, Corps of Engineers staff and environmental advocate, to investigate the site at the mouth of Miller Creek and Coffee Creek and determine its potential as an educational, harbor improvement multi-use area containing a living water garden, and report its findings and recommendations to the administration and the council by January 3, 2008.

Resolution 07-0722 was unanimously adopted.

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0698, by Councilor Ness, authorizing proper city officials to enter into an agreement with St. Louis County to provide supported work services to MFIP participants for the period August 24, 2007, through June 30, 2008, in an amount expected to be \$67,047 and not to exceed \$211,144, was introduced for discussion.

Councilor Stewart opposed the resolution because the grants do not fully fund the retiree healthcare liability that is incurred by those employees.

Resolution 07-0698 was adopted as follows:

BY COUNCILOR NESS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that draft contract on file in the office of the city clerk as Public Document No. 07-1113-39, with St. Louis County to provide supported work services to Minnesota family investment program (MFIP) participants for the period August 24, 2007, through June 30, 2008, in an amount expected to be \$67,047 and not to exceed \$211,144. Said monies under this agreement shall be received from Funding Source 4260 and deposited in Fund 268, Agency 031, Organization 6235 (MFIP).

Resolution 07-0698 was adopted upon the following vote:

Yeas: Councilors Krause, Ness, Reinert, Stauber and President Stover -- 5

Nays: Councilors Little and Stewart -- 2

Absent: Councilors Gilbert and Johnson -- 2

Approved November 13, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0717, by Councilor Reinert, authorizing agreement with the St. Louis and Lake counties regional railroad authority, Hennepin County regional railroad authority, Isanti County, Pine County, Mille Lacs Band of Ojibwa and St. Louis County for a feasibility study in the amount of \$40,000, was introduced for discussion.

Councilors Stauber, Little and President Stover expressed concerns against this resolution for the reasons of: recent train services have never been proven to be economically feasible; this is not a good use of \$40,000 at this time and this is nothing more than a nostalgic idea.

Councilors Reinert and Ness supported the resolution for reasons of: the current price of gasoline; the increased traffic congestion and parking in the Twin Cities; the productive use of Wi-

Fi all the way down to the Twin Cities; there will only be two stops between here and the Twin Cities; the investment today could lead to additional state and federal funding and have a huge economic effect and, other than stops, travel time is one hour, 50 minutes.

Resolution 07-0717 failed upon the following vote (Public Document No. 07-1113-40):

Yeas: Councilors Krause, Ness and Reinert -- 3

Nays: Councilors Little, Stauber, Stewart and President Stover -- 4

Absent: Councilors Gilbert and Johnson -- 2

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

The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

07-074 - AN ORDINANCE REPEALING ARTICLE II, DIVISION 4, CONTAINING SECTIONS 20-18 AND 20-19, OF THE DULUTH CITY CODE, 1959, AS AMENDED; MUNICIPAL ARTS FUND.

Councilor Stewart moved to suspend the rules to hear from a speaker on the ordinance, which motion was seconded and unanimously carried.

Dennis Lamkin, president of the Duluth public arts commission, requested the council's continued support of the commission by not passing this ordinance. He noted that the quality of life is reflected in the display of public art, which is part of a city's cultural activities that attracts new businesses.

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BY COUNCILOR STEWART

07-075 - AN ORDINANCE ELIMINATING PEDESTRIAN TRANSIT ZONES IN THE CITY OF DULUTH; REPEALING SECTION 45-4.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STEWART

07-076 - AN ORDINANCE REPEALING ARTICLES XII, XIV, XVI AND XXII OF CHAPTER 2 OF THE CITY CODE RELATING TO THE YOUTH COUNCIL, COMMISSION ON AGING, COMMISSION ON PUBLIC SAFETY AND WOMEN'S COMMISSION.

- - -

BY COUNCILOR STAUBER

07-072 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26, 27, 32 AND 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, AND I-P, INDUSTRIAL PARK, TO M-1, MANUFACTURING, FOR PROPERTY LOCATED WEST OF RICE LAKE ROAD BETWEEN AIRPORT ROAD AND KRUGER ROAD (CITY OF DULUTH).

- - -

BY COUNCILOR STAUBER

07-073 - AN ORDINANCE AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO TAXICAB VEHICLE NOTICE OF RATES.

- - -

BY COUNCILOR STAUBER

07-077 - AN ORDINANCE GRANTING TO MAURICES, INC., A CONCURRENT USE PERMIT TO INSTALL ELECTRIC CONDUITS IN THE RIGHT-OF-WAY OF WEST FIRST STREET ALLEY.

- - -

BY COUNCILORS REINERT AND STAUBER  
07-071 - AN ORDINANCE AMENDING SECTION 33-97.2 OF THE DULUTH CITY CODE, 1959,  
AS AMENDED; GOVERNING DESIGNATION OF SNOW EMERGENCY ROUTES.

- - -

The following ordinance was read for the second time:

BY COUNCILOR REINERT  
07-070 (9872) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE,  
1959, AS AMENDED; ADDING A NEW SECTION 50-118 PROVIDING FOR THE IMMEDIATE  
SUSPENSION OF ZONING APPROVALS AND LICENSE ISSUANCE UPON INTRODUCTION  
OF AN INTERIM ORDINANCE.

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

- - -

The meeting was adjourned at 8:52 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9872**

BY COUNCILOR REINERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY  
CODE, 1959, AS AMENDED; ADDING A NEW SECTION 50-118  
PROVIDING FOR THE IMMEDIATE SUSPENSION OF ZONING  
APPROVALS AND LICENSE ISSUANCE UPON INTRODUCTION OF  
AN INTERIM ORDINANCE.

The city of Duluth does ordain:

Section 1. That Chapter 50 of the Duluth City Code, 1959, as amended, be amended  
to add a new Section 50-118 to read as follows:

Sec. 50-118. Interim ordinances.

Upon introduction of an interim ordinance to the city council, or from the date  
the planning commission recommends the introduction of an interim ordinance to  
the city council, no use, development, project or subdivision for which an application  
has not been previously filed shall be established or expanded, nor shall any  
application for a license, building permit, administrative waiver, review or approval  
of any application, including an application for any zoning approval, which concerns  
the geographical area or subject matter of the interim ordinance filed after the  
introduction of or recommendation for the interim ordinance, be granted or further  
processed, pending a final decision on the adoption of the interim ordinance. If the  
interim ordinance is adopted, no permits, license or other approvals of any kind  
which concern the geographical area or subject matter of the interim ordinance shall  
be processed or issued nor shall any use be established or expanded except in  
accordance with its terms. If the interim ordinance is not adopted, requests for  
permits and other necessary approvals shall be processed promptly in accordance  
with the procedures governing the request.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: December 30, 2007)

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

Yeas: Councilors Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: None -- 0

Absent: Councilors Gilbert and Johnson -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed November 13, 2007  
Approved November 13, 2007  
HERB W. BERGSON, Mayor

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, November 26, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-1126-01 Al Terwey concurrent use permit application to construct a smoking canopy at the rear entrance of 5622 Grand Avenue facing Ramsey Street. -- Planning commission

07-1126-02 Minnesota state auditor Duluth/North Shore Sanitary District audit report for the year ended December 31, 2006. -- Received

07-1126-15 Janet Draper communication regarding repeal of resolutions 05-0269 and 05-0320 related to funding the housing investment fund (07-0653R). -- Received

07-1126-03 The following communications regarding the proposed collective bargaining agreement with AFSCME Local 66 for 2007-2009 (07-0732R): (a) Mary Alvar; (b) Anna Bailey; (c) Steven Blomster; (d) Tiffany Bourassa; (e) Doug Breiland; (f) Dean Casperson; (g) Christie Printing; (h) Paul Collins; (i) Jeff Cook; (j) Amy Eliason; (k) Joe Fetter; (l) Phil Fournier; (m) Jim Gustafson; (n) Mike Hanson; (o) Rick Heimbach; (p) Dave Holappa; (q) Claudia Johnson; (r) Al Kivisto; (s) Ellen Kreidler; (t) Mark LaLiberte; (u) Daral Lange; (v) Jeff Lemire; (w) Kris Manko; (x) Marge Martin; (y) Scott Miller; (z) Linda Rau; (aa) Richard Shaffer; (bb) Ralph Talarico; (cc) Jo Thompson; (dd) Pam Toland; (ee) Christine Townsend; (ff) Scott Turner; (gg) Kelly Weber; (hh) Erin Wenneson; (ii) David Wiesen; (jj) Renee Zurn. -- Received

07-1126-04 The following communications regarding the proposed funding of a passenger rail service feasibility study (07-0736R): (a) Canal Park Business Association; (b) Greater Downtown Council; (c) Thomas Holden; (d) Rodney Lubiani. -- Received

07-1126-05 The following communications regarding the proposed repeal of the municipal arts fund (07-074-O): (a) Julia Durst; (b) Karin Kraemer; (c) Penny Perry; (d) Tim Sheriff. -- Received

- - -

**REPORTS FROM THE ADMINISTRATION**

07-1126-14 Mayor Bergson veto of Resolution 07-0653, repealing resolutions 05-0269 and 05-0320 related to funding the housing investment fund. -- Received

- - -

Chief Administrative Officer Hall read a statement from the state mediator regarding the tentative agreement with AFSCME Council No. 5.

- - -

**REPORTS FROM OTHER OFFICERS**

07-1126-06 Assessor for confirmation assessment roll levied for reassessment of canceled razing assessments for contract Nos. 4904 (assessable amount: \$675) and 5325 (assessable amount: \$4,157.75). -- Received

07-1126-07 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from:

- (a) Greater Downtown Council on January 16, 2008;
- (b) Rotary Club of Duluth on March 6, 2008. -- Received

- - -

### REPORTS OF BOARDS AND COMMISSIONS

07-1126-08 Animal humane board minutes of October 23, 2007, meeting. -- Received

07-1126-09 Commission on disabilities minutes of October 3, 2007, meeting. -- Received

07-1126-10 Duluth human rights commission minutes of October 10, 2007, meeting. -- Received

07-1126-11 Duluth/North Shore Sanitary District minutes of October 10, 2007, meeting. -- Received

07-1126-12 Planning commission minutes of October 16, 2007, meeting. -- Received

07-1126-13 Seaway Port authority of Duluth minutes of: (a) July 26; (b) September 26, 2007, meetings. -- Received

07-1126-25 Spirit Mountain recreation area authority minutes of: (a) September 20; (b) October 16, 2007, meetings. -- Received

- - -

### OPPORTUNITY FOR CITIZENS TO BE HEARD

Dale Hollingsworth, a facilities management employee for the city of Duluth's parking ramps, spoke of his concerns relative to aspects of the parking ramps, to the city leasing to the Fond du Lac Tribe the management of the casino ramp. He noted that the ramp makes more than twice the amount of money that the city will be receiving for it and that nonunion labor would now be used. Mr. Hollingsworth added that relative to the tech village and medical center ramps, there is no more customer service, because machines are being used, which frequently do not work properly.

- - -

Lee Church spoke of his concerns relative to the rental housing ordinance with the 300 foot rental restriction. He felt that the ordinance: is not a solution to anything and that it pushes the problem further away from the campus; that it puts students in an eviction position at winter time; it promotes illegal renting practice and it makes it more difficult for homeowners to sell their houses.

- - -

KL Lewis commented on various public safety issues and that rental housing enforcement should be delayed until after the school session ends.

- - -

Ryan Mears commented on an issue that was previously distributed to councilors and that it was agreeably resolved.

- - -

Jerome Renner, facilities management employee, commented on the problems at the city's parking ramps, where citizens were not able to get out of the medical ramp and the tech village ramp because the ticket machine unit did not honor the ticket from a business in the tech village.

- - -

**RESOLUTION RECONSIDERED**

Councilor Krause moved to reconsider vetoed Resolution 07-0653, repealing resolutions 05-0269 and 05-0320 related to funding the housing investment fund, which motion was seconded and carried.

Councilors Krause, Stewart and Little commented on why they felt the need for this resolution to pass, noting: a majority of six councilors passed this resolution originally; the mayor is supposed to be working with the council; the housing market has changed since this fund was originally set up; these dollars could better be used to finance the needed improvements to city streets; spending public funds is not needed to get investors to create private housing; there is a great need to get back to providing core services and the funds in the community investment trust fund are dwindling and likely will not be there when the contract with the tribe expires.

Councilors Johnson and Gilbert and President Stover felt that: this expenditure is important, in that it takes individuals off the street; the community investment trust fund was not set up exclusively for the repair of streets; there needs to be a better way to fund the street improvement program; one of the purposes of government is to help those who cannot help themselves.

Resolution 07-0653 failed upon the following vote (Public Document No. 07-1126-16):

Yeas: Councilors Krause, Little, Reinert, Stauber and Stewart -- 5

Nays: Councilors Gilbert, Johnson, Ness and President Stover -- 4

*[Editor's Note: Vetoed resolutions need a 6/9ths vote to be overridden.]*

- - -

**RESOLUTION TABLED**

Councilor Stauber moved to remove Resolution 07-0692, to deny amending Chapter 50 of the Duluth City Code, 1959, as amended, zoning district maps nos. 26, 27, 32 and 33 as contained in the Appendix to Chapter 50 to provide for the reclassification from S, Suburban, and IP, Industrial Park, to M-1, Manufacturing, property located in the Second Rearrangement of Airpark Division and Plat of Airpark Division (city of Duluth), from the table, which motion was seconded and unanimously carried.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-072 (9873) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26, 27, 32 AND 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, AND I-P, INDUSTRIAL PARK, TO M-1, MANUFACTURING, FOR PROPERTY LOCATED WEST OF RICE LAKE ROAD BETWEEN AIRPORT ROAD AND KRUGER ROAD (CITY OF DULUTH).

Councilor Stauber moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

- - -

Resolution 07-0692 failed unanimously (Public Document No. 07-1126-17).

- - -

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

BY COUNCILOR STEWART:

WHEREAS, the Duluth City Council has confirmed assessments for the properties and amounts and dates listed on Public Document No. 07-1126-06; 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) Demolition of a building, Contract No. 4904, assessable amount - \$675.00;

(b) Demolition of a building, Contract No. 5325, assessable amount - \$4,157.75,

and that this reassessment role is hereby confirmed.

Resolution 07-0751 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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 Money Xchange.

Resolution 07-0730 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to renew the agreement with Minnesota Mutual Life to provide group term life insurance coverage for city employees and retirees in accordance with the Group Policy No. 28410-G, and amendments, on file with the city clerk's office, during the years 2008 and 2009 at the amounts specified in various bargaining unit

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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contracts, under which agreement the city will purchase such insurance at a rate of \$.26 per thousand per month, at an estimated cost of \$160,739 each year, which shall be payable from various funds and agencies.

Resolution 07-0748 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Delta Dental, substantially in the form of that agreement on file with the city clerk as Public Document No. 07-1126-18, to provide administrative services in connection with the city's self-funded employee dental plan, at an administrative fee of \$2.27/month for employee, \$4.52/month for employee plus one, and \$6.80/month for family, for an estimated total cost of \$43,307.21, which shall be payable from Fund 633.

Resolution 07-0749 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that Delta Dental is awarded the contract for administration of employee dental care benefits and the proper city officials are hereby authorized to execute an agreement with Delta Dental, substantially in the form of that agreement on file with the city clerk as Public Document No. 07-1126-19, to provide administrative services in connection with the city's self-funded employee dental plan, at an administrative fee of \$2.27/month for employee, \$4.52/month for employee plus one, and \$6.80/month for family, for an estimated total cost of \$43,930.44, which shall be payable from Fund 633.

Resolution 07-0750 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of William Flannagan (commission on disabilities representative) to the parks and recreation commission for a term expiring on February 13, 2011, replacing Jennifer Murphy who resigned, is confirmed.

Resolution 07-0727 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Neale Roth to the Spirit Mountain recreation area authority for a term expiring on June 30, 2009, replacing Pauline Olsen who resigned, is confirmed.

Resolution 07-0729 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

BY COUNCILOR NESS:

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. 07-1126-20, with Duluth-Superior Public Access Community Television, Inc., (PACT) for providing cablecasting, training, production and administrative services in 2008 relating to public access television, in the amount of \$169,000 to be paid from General fund 0100, Agency 700, Organization 1414, Object 5441.

Resolution 07-0737 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0732, by Councilor Stewart, approving a collective bargaining agreement between city of Duluth and Local 66 of AFSCME for years 2007-2009, was introduced.

Councilor Stewart moved to remove the resolution from the agenda and return it to the administration, due to the request from the administration, which motion was seconded and unanimously carried.

- - -

Resolution 07-0734, establishing the customer charge and user charges for the city's wastewater facilities effective with meter readings after January 1, 2008; rescinding all prior inconsistent or conflicting resolutions with respect to such rates; and Resolution 07-0735, establishing a stormwater utility user charge effective January 1, 2008; rescinding all prior inconsistent or conflicting resolutions with respect to such user charge, by Councilor Johnson, were introduced for discussion.

Councilors Krause and Stauber voiced their objections to the resolutions because they are an 11 percent and a 17 percent increase respectively.

Resolutions 07-0734 and 07-0735 were adopted as follows:

BY COUNCILOR JOHNSON:

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 effective with the meter readings after January 1, 2008, customer charge and user charges, based upon the volume of wastewater discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

	<b>effective January 1, 2008</b>	<b>effective November 1, 2006</b>
Customer charge	\$ 5.89 per month	<del>\$ 5.89 per month</del>
User charge - Class I	\$ 4.67/ccf	<del>\$ 4.21/ccf</del>
User charge - Class II	\$ 6.49/ccf	<del>\$ 5.86/ccf</del>
User charge - Class III	\$ 8.00/ccf	<del>\$ 7.22/ccf</del>
Tate and Lyle	\$12.79/ccf	<del>\$11.54/ccf</del>

BE IT FURTHER RESOLVED, that any prior rate regulations inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 07-0734 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that pursuant to Section 43-66 of the Duluth City Code, 1959, as amended, for the purpose of increasing the revenue of the stormwater utility, there is established a user charge as provided in said ordinance effective January 1, 2008. The user charge rate shall be \$6.08 per equivalent residential unit (ERU = 1,708 impervious square feet) per month.

RESOLVED FURTHER, that any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 07-0735 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0736, by Councilor Reinert, authorizing agreement with the St. Louis and Lake counties regional railroad authority, Hennepin County regional railroad authority, Isanti County, Pine County, Mille Lacs Band of Ojibwa and St. Louis County for a feasibility study in the amount of \$40,000, was introduced for discussion.

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

Tony Boen, president of the Canal Park Business Association and board member of the Greater Downtown Council, Tom Majewski, Jerome Renner, Don Dass and Ken Buehler expressed support for the resolution for reasons of: travelers will be arriving without cars, will create more businesses and jobs; the tax revenues will increase; many veterans need to go the veterans assistance office in the Twin Cities; many individuals can not afford to drive to Duluth; the congressional committee assignments of Minnesota Congressman Oberstar as the chair of the house transportation committee and Wisconsin Congressman David Obey as the chair of the house allocations committee will never likely happen again; the recently completed light rail in the Twin Cities, completed in just two years, the ridership that was expected to take 20 years to achieve; a person needs to be far sighted as to seeing the potential of this project and the economic development of this train stop in Duluth is expected to be 100 million dollars a year.

Brady Putzke and John Rathe opposed the resolution because the budgets are tight, various taxes are being raised; highways that need to be repaired are crumbling and the buck needs to stop.

Councilors Reinert, Ness and Gilbert noted that: this funding comes from the tourism tax and cannot be spent on areas that are not tourist related; this is one of the most important votes for the future of Duluth's economic core; if Duluth does not have this means, with Rochester and St. Cloud pursuing it, that Duluth will be at an economic disadvantage and automobile travel to the Twin Cities is not an efficient mode of transportation anymore.

Councilors Little, Stauber and Stewart felt that this means of transportation will not be

significantly less time than driving there; for a family of five this will be more expensive; this is similar to the information that was supplied as to how successful the aquarium would be and this is, at its core, a huge federal "pork" project.

Resolution 07-0736 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to enter into an agreement with the St. Louis and Lake counties regional railroad authority, Hennepin County regional railroad authority, Isanti County, Pine County, Mille Lacs Band of Ojibwa and St. Louis County to fund a comprehensive feasibility study and business plan to evaluate restoring passenger rail service between Duluth and the Twin Cities, Minnesota, at a cost to the city of Duluth of not to exceed \$40,000, said sum to be payable from the reserve for capital improvement fund balance in the tourism tax fund (258).

Resolution 07-0736 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness and Reinert -- 5

Nays: Councilors Little, Stauber, Stewart and President Stover -- 4

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0745, by Councilor Stauber, denying amending Chapter 50 of the Duluth City Code 1959, as amended, Zoning District Map No. 27 as contained in the Appendix to Chapter 50, to provide for the reclassification from S, Suburban, to C-5, Planned Commercial District, property located on the north side of Arrowhead Road approximately 1,360 feet east of the intersection of Haines Road and Arrowhead Road (Frank Holappa), was introduced.

Councilor Stauber moved to table this resolution until Ordinance 07-078 has its second reading, which motion was seconded and unanimously carried.

- - -

Resolutions 07-0746 and 07-0747, by Councilor Stauber, granting and denying, respectively, a special use permit for a helicopter landing pad to the Duluth Seaway port authority for property located within Second Rearrangement of Part of Airpark Division, were introduced for discussion.

Councilor Krause opposed Resolution 07-0746 because of its close proximity to the residents on Krueger Road.

Resolution 07-0746 was adopted as follows:

BY COUNCILOR STAUBER:

The city council finds the following:

(a) The Duluth Seaway Port authority has submitted to the city council a special use permit request as per Section 50-35(a) of the Zoning Code for a helicopter landing pad on property legally described as follows:

Outlot A, Lot 1, and Lot 2 of Block 1, Second Rearrangement of Part of Airpark Division;

(b) Said special use permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on Wednesday, November 14, 2007, and the commission has subsequently reported its unanimous recommendation of conditional approval to the city council; and

(c) The applicant's compliance with conditions set out in this permitting resolution will

remedy any shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents and that compliance with the conditions contained herein will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32 (Reference Planning Commission File No. 07125).

BE IT RESOLVED, that a special use permit is hereby granted to Duluth Seaway Port authority for a helicopter landing pad located south of Airport Road, west of Endeavor Drive, north of Airpark Boulevard, and east of the National Guard Armory, with the following terms and conditions:

- (a) Helicopter landing pad is not to be located in the northeast corner of the site, but as far away as reasonable from the Animal Allies shelter;
- (b) The Duluth Seaway Port authority is to submit a final development plan to the planning director for approval;
- (c) Subsequent changes can be approved with submission of appropriate documentation to the planning director for approval; and
- (d) No approvals are given to wetland alterations.

Resolution 07-0746 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Krause and Ness -- 2

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0747 failed upon the following vote (Public Document No. 07-1126-21):

Yeas: Councilors Krause and Ness -- 2

Nays: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 7

- - -

Resolutions 07-0752 and 07-0753, by Councilor Stauber, granting and denying, respectively, the vacation of two utility easements on Lot 1 and the westerly 20 feet of Lot 2, Auditors Plat #26, in Morgan Park (Milosevich), were introduced.

Resolution 07-0752 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that:

- (a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of two utility easements in Lot 1 and the westerly 20 feet of Lot 2, Auditors Plat #26, except those parts within 15 feet of Hilton Street; and
- (b) 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 (FN 07130); and the city planning commission found that the petitioned portions of the utility easements are useless, based on the finding that the area is fully developed and served by all utilities through Hilton Street and no additional utilities are needed to serve the area; and
- (c) The planning commission, at its November 14, 2007, regular meeting, did approve, unanimously, vacating the portions of the petitioned utility easements; and
- (d) That the city council of the city of Duluth approves the vacation of two utility

easements in Lot 1 and the westerly 20 feet of Lot 2, Auditors Plat #26, except those parts within 15 feet of Hilton Street, and as more particularly described on Public Document No. 07-1126-22; and

(e) That the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the easements to be vacated.

Resolution 07-0752 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0753 failed unanimously (Public Document No. 0-1126-23).

- - -

BY COUNCILOR STAUBER:

RESOLVED, that:

(a) The city planning commission, at its November 14, 2007, regular meeting, approved the reclassification of the tax forfeited parcels listed in Exhibit A (Public Document No. 07-1126-24) for inclusion in the Eastridge Plat (FN 07156); and

(b) The board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale to DEDA the tax forfeited parcels listed in Exhibit A now withheld from sale in conservation.

Resolution 07-0754 was unanimously adopted.

Approved November 26, 2007

HERB W. BERGSON, Mayor

- - -

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

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

07-083 - AN ORDINANCE AMENDING SECTION 44-14 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING ILLUMINATION OF SIGNS.

- - -

BY COUNCILOR STAUBER

07-078 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO C-5, PLANNED COMMERCIAL DISTRICT, PROPERTY LOCATED ON THE NORTH SIDE OF ARROWHEAD ROAD APPROXIMATELY 1,360 FEET EAST OF THE INTERSECTION OF HAINES ROAD AND ARROWHEAD ROAD (FRANK HOLAPPA).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

07-074 - AN ORDINANCE REPEALING ARTICLE II, DIVISION 4, CONTAINING SECTIONS 20-18 AND 20-19, OF THE DULUTH CITY CODE, 1959, AS AMENDED; MUNICIPAL ARTS FUND.

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

- - -

BY COUNCILOR STEWART

07-075 (9874) - AN ORDINANCE ELIMINATING PEDESTRIAN TRANSIT ZONES IN THE CITY OF DULUTH; REPEALING SECTION 45-4.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR STEWART

07-076 (9875) - AN ORDINANCE REPEALING ARTICLES XII, XIV, XVI AND XXII OF CHAPTER 2 OF THE CITY CODE RELATING TO THE YOUTH COUNCIL, COMMISSION ON AGING, COMMISSION ON PUBLIC SAFETY AND WOMEN'S COMMISSION.

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

- - -

BY COUNCILOR STAUBER

07-073 (9876) - AN ORDINANCE AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO TAXICAB VEHICLE NOTICE OF RATES.

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

- - -

BY COUNCILOR STAUBER

07-077 (9877) - AN ORDINANCE GRANTING TO MAURICES, INC., A CONCURRENT USE PERMIT TO INSTALL ELECTRIC CONDUITS IN THE RIGHT-OF-WAY OF WEST FIRST STREET ALLEY.

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

- - -

BY COUNCILORS REINERT AND STAUBER

07-071 (9878) - AN ORDINANCE AMENDING SECTION 33-97.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; GOVERNING DESIGNATION OF SNOW EMERGENCY ROUTES.

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

- - -

The meeting was adjourned at 8:29 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9873**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 26, 27, 32 AND 33 AS CONTAINED IN THE APPENDIX TO CHAPTER 50,

TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, AND I-P, INDUSTRIAL PARK, TO M-1, MANUFACTURING, FOR PROPERTY LOCATED WEST OF RICE LAKE ROAD BETWEEN AIRPORT ROAD AND KRUGER ROAD (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That Plate Nos. 26, 27, 32 and 33 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, are amended to read as follows:

[MAPS]  
(Planning and Development File 07124)  
*[see maps at end of meeting]*

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: January 25, 2008)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed November 26, 2007  
Approved November 26, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9874**

BY COUNCILOR STEWART:

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 city of Duluth does ordain:

Section 1. That Section 45-4.5 of the Duluth City Code, 1959, as amended, is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: January 6, 2008)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed November 26, 2007  
Approved November 26, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9875**

BY COUNCILOR STEWART:

AN ORDINANCE REPEALING ARTICLES XII, XIV, XVI AND XXII OF CHAPTER 2 OF THE CITY CODE RELATING TO THE YOUTH COUNCIL, COMMISSION ON AGING, COMMISSION ON PUBLIC SAFETY AND WOMEN'S COMMISSION.

The city of Duluth does ordain:

Section 1. That Article XII of Chapter 2 of the Duluth City Code, 1959, as amended, relating to the youth council is hereby repealed in its entirety.

Section 2. That Article XIV of Chapter 2 of the Duluth City Code, 1959, as amended, relating to the commission on aging is hereby repealed in its entirety.

Section 3. That Article XVI of Chapter 2 of the Duluth City Code, 1959, as amended, relating to the commission on public safety is hereby repealed in its entirety.

Section 4. That Article XXII of Chapter 2 of the Duluth City Code, 1959, as amended, relating to the women's commission is hereby repealed in its entirety.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 6, 2008)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

Passed November 26, 2007  
Approved November 26, 2007  
HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9876**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING SECTION 47-33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO TAXICAB VEHICLE NOTICE OF RATES.

The city of Duluth does ordain:

Section 1. That Section 47-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-33. Rates--notice of rates change.

There shall be prominently displayed in all taxicabs a rate statement card no smaller than 8.5"x11" setting out in large size print the maximum rates charged to passengers for all the various services offered. Unless otherwise specifically stated on the rate statement card, the rates charged shall not apply individually to each person riding in the taxicab, but instead shall apply to the ride, whether one or more individuals are in the taxicab at a time. This card shall also contain a sentence informing passengers that the driver has printed copies of the entire text of the rate

statement card which will be supplied to them upon request. All the information on the rate statement card shall be prominently displayed on each side of the outside of the vehicle in text all of which shall be at least 1.5 inches high. It is a violation of this Code to charge a rate higher than that stated on the rate statement card.

In order to change the maximum rates, the licensee shall do the following:

(a) Register the new maximum rates with the city clerk at least seven days before they are implemented. The clerk shall post the changed rates on the city website for an appropriate period of time;

(b) Pay to the clerk a rate change registration fee in an amount determined as set out in Section 2-16;

(c) Change the rate statement card required by this Article.

The driver of any taxicab shall upon demand give any passenger a receipt for the fare charged, which receipt shall include the name of the driver, the identification of the vehicle, the amount charged and the date of the transaction.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: January 6, 2008)

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

Passed November 26, 2007  
Approved November 26, 2007  
HERB W. BERGSON, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9877**

BY COUNCILOR STAUBER:

AN ORDINANCE GRANTING TO MAURICES, INC., A CONCURRENT USE PERMIT TO INSTALL ELECTRIC CONDUITS IN THE RIGHT-OF-WAY OF WEST FIRST STREET ALLEY.

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 (FN 07121), permission is hereby granted to Maurices, Inc., its successors and interests, referred to herein as the permittee, to occupy, construct and maintain electric conduit in that part of the West First Street Alley right-of-way within 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: that part of West First Street Alley right-of-way in the Plat of Duluth Proper First Division of Duluth, that is between two lines parallel to the westerly right-of-way line of First Avenue West, one line 80 feet westerly of the westerly right-of-way line of First Avenue West and one line 82 feet westerly of the westerly right-of-way line of First Avenue West.

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 resolution; a certificate of insurance approved as to form by the

city attorney evidencing that the permittee has in force insurance meeting the following requirements:

Comprehensive general liability insurance policy shall be maintained in force by permittee at all times in an amount not less than the municipal liability limits set forth in Minnesota Statutes Section 466.04 and effective January 1, 2009, or its successor as either may be amended from time to time. Such coverage shall include all permittee activities occurring on the permitted premise whether said activities are performed by employees or agents under contract to permittee. Such policy of insurance shall be approved by the city attorney and shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth. The city of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be a pre-2004 edition.

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 three 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 electric conduits and all fixtures and pertinences of every kind whatsoever attached thereto from the tract of land described above within said three months, all at the expense and cost of the permittee, and without right on the part of the permittee to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby agrees to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittee, its agents and assigns, and agrees that such electric conduits shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits, or other public utilities now or to be hereinafter located in any part of said West First Street Alley right-of-way and agrees that the city of Duluth shall not be liable for damage caused to such electric conduits while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agrees 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 electric conduits in said West First Street Alley 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 permittee when required by the city of Duluth 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 acting in a governmental or proprietary capacity.

Section 7. The permittee shall further observe the following conditions:

- (a) The permittee or its contractor(s) must obtain a permit from the city engineer before commencing construction; and
- (b) The permittee or its contractor(s) must obtain all other applicable permits before

commencing construction; and

(c) Within 30 days of installation of the conduits, the permittee must file with the city engineer and city planning director "as-built drawings" and a legal description of the precise location of the electric conduits.

Section 8. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 6, 2008)

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

Passed November 26, 2007  
Approved November 26, 2007  
HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 9878**

BY COUNCILORS REINERT AND STAUBER:

AN ORDINANCE AMENDING SECTION 33-97.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; GOVERNING DESIGNATION OF SNOW EMERGENCY ROUTES.

The city of Duluth does ordain:

Section 1. That Section 33-97.2 of the Duluth City Code 1959, as amended, is hereby amended to read as follows:

Sec. 33-97.2. Same--Designated.

The following streets or portions of streets within the city, except those portions of such streets as are presently designated or may hereafter be designated as parking meter zones, are hereby designated as snow emergency routes:

Michigan Street from Carlton Avenue to Lower Michigan Street.

Lower Michigan Street from Michigan Street to Superior Street.

Superior Street from Carlton Street to 60th Avenue East.

London Road from Tenth Avenue East to the Lester River Road.

24th Avenue West from Michigan Street to Piedmont Avenue.

Piedmont Avenue from Superior Street to First Street.

Piedmont Avenue from Trinity Road to Haines Road.

Mesaba Avenue.

Second Street from Mesaba Avenue to 12th Avenue East.

Fourth Street from Mesaba Avenue to Woodland Avenue.

Sixth Avenue East from Second Street to Skyline Parkway.

Skyline Parkway from Mesaba Avenue to Kenwood Avenue.

Kenwood Avenue from Skyline Parkway to Arrowhead Road.

Arrowhead Road from Arlington Avenue to Woodland Avenue.

Lake Avenue from Superior Street to Railroad Street.

Railroad Street from Lake Avenue to South Lake Avenue.

South Lake Avenue from Railroad Street to Minnesota Avenue.

Woodland Avenue from Fourth Street to Martin Road.  
Ninth Street from Sixth Avenue East to and including Chester Creek Bridge.  
Eighth Street from Chester Creek Bridge to Kent Road.  
Kent Road from Ninth Street to 24th Avenue East.  
24th Avenue East from Kent Road to Superior Street.  
Snively Road from Woodland Avenue to Glenwood Street.  
Glenwood Street from Snively Road to Crosley Street.  
Crosley Street from Glenwood Street to Oakley Street.  
Oakley Street from Crosley Street to 60th Avenue East.  
60th Avenue East from Crosley Street to London Road.  
45th Avenue East from London Road to Glenwood Street.  
Carlton Street from Michigan Street to Grand Avenue.  
Grand Avenue from Carlton Street to Commonwealth Avenue.  
Arbor Street from Grand Avenue to 88th Avenue West.  
88th Avenue West from Arbor Street to Idaho Street.  
Idaho Street from 88th Avenue West to Grand Avenue.  
Commonwealth Avenue from Grand Avenue to Evergreen Memorial Highway.  
40th Avenue West from I-35 ramp to Eighth Street.  
Eighth Street from 40th Avenue West to 59th Avenue West.  
59th Avenue West from Grand Avenue to Highland Street.  
Highland Street from 59th Avenue West to Stebner Road.  
Vinland Street from Stebner Road to Boundary Avenue.  
Swan Lake Road from Arrowhead Road to Basswood Avenue.  
Basswood Avenue from Swan Lake Road to Central Entrance.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.  
(Effective date: January 6, 2008)

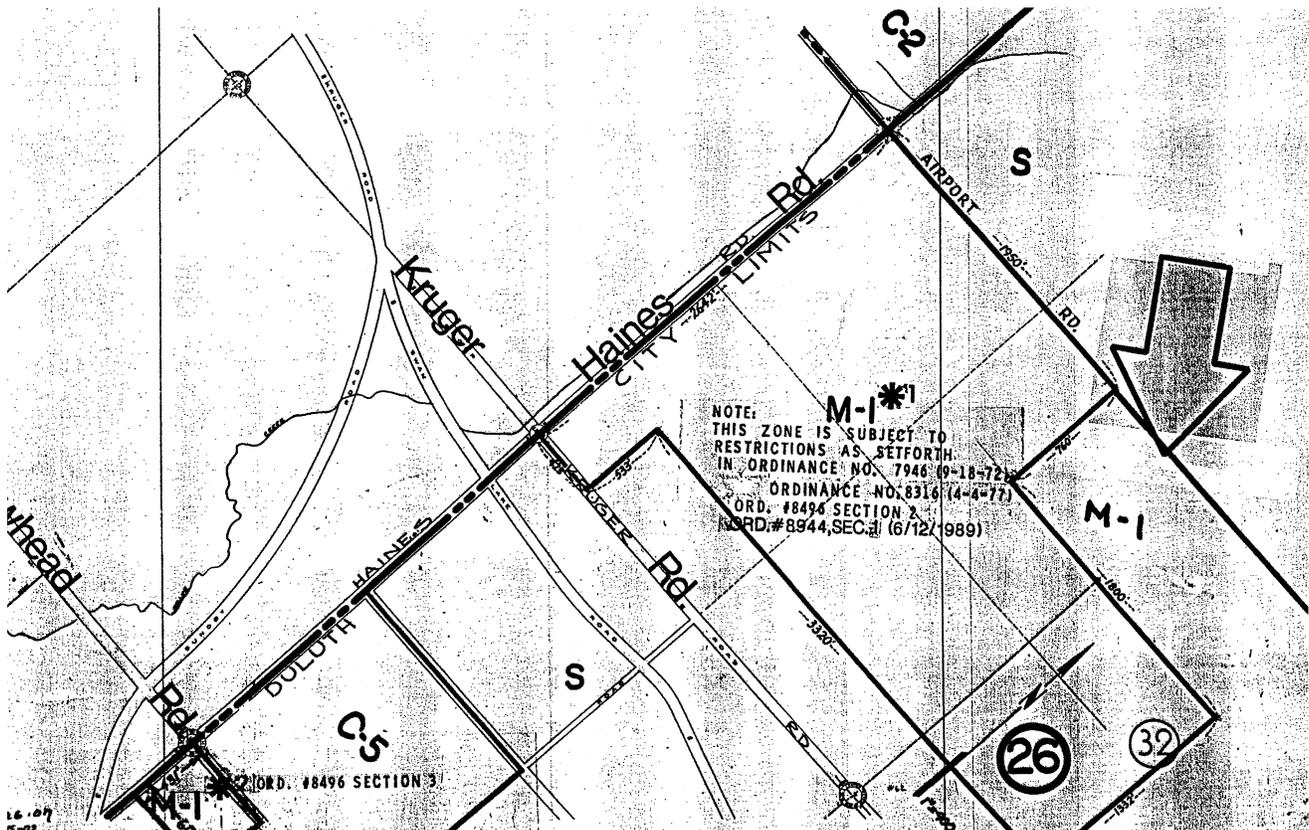
Councilor Reinert moved passage of the ordinance and the same was adopted upon the following vote:

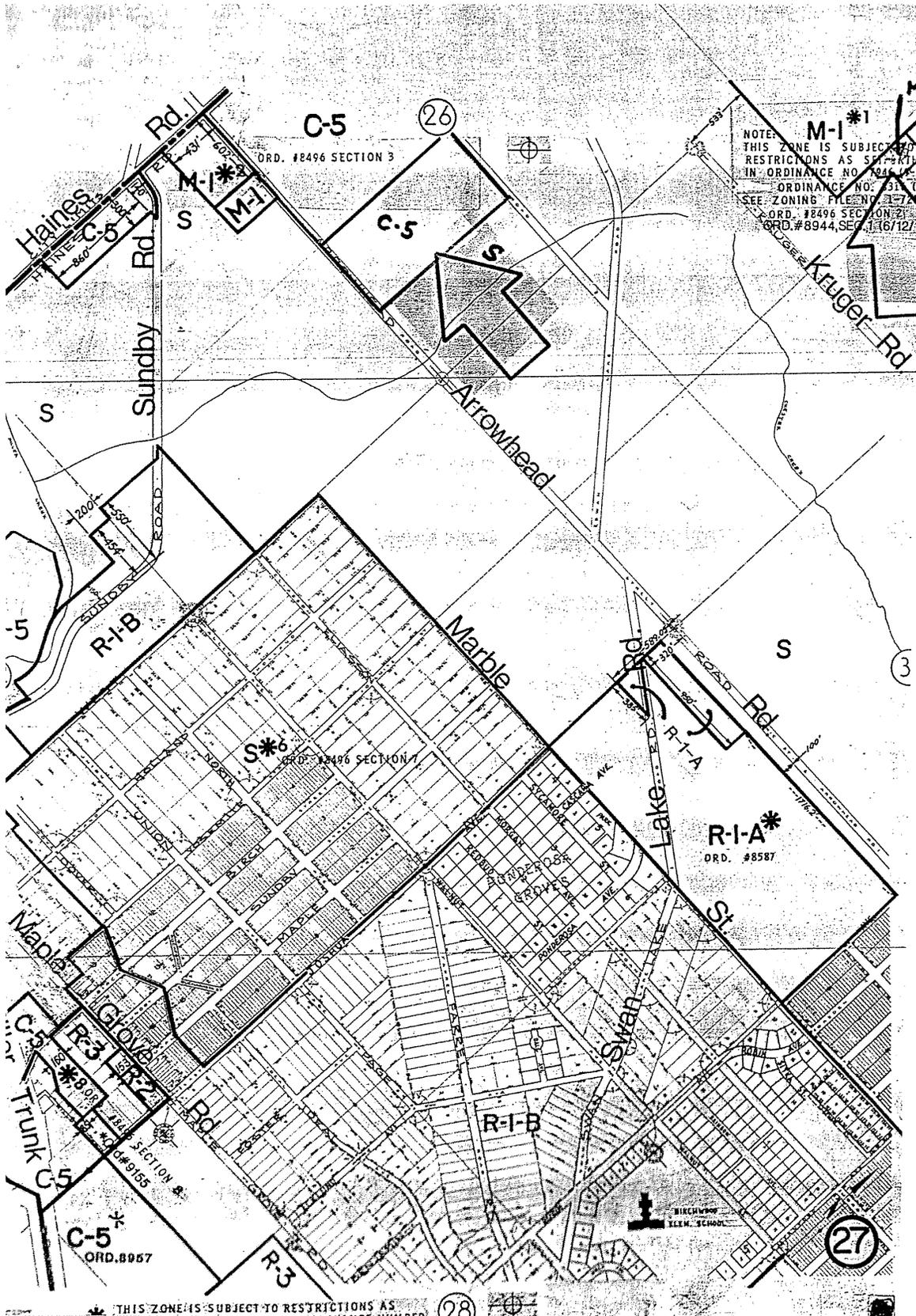
Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

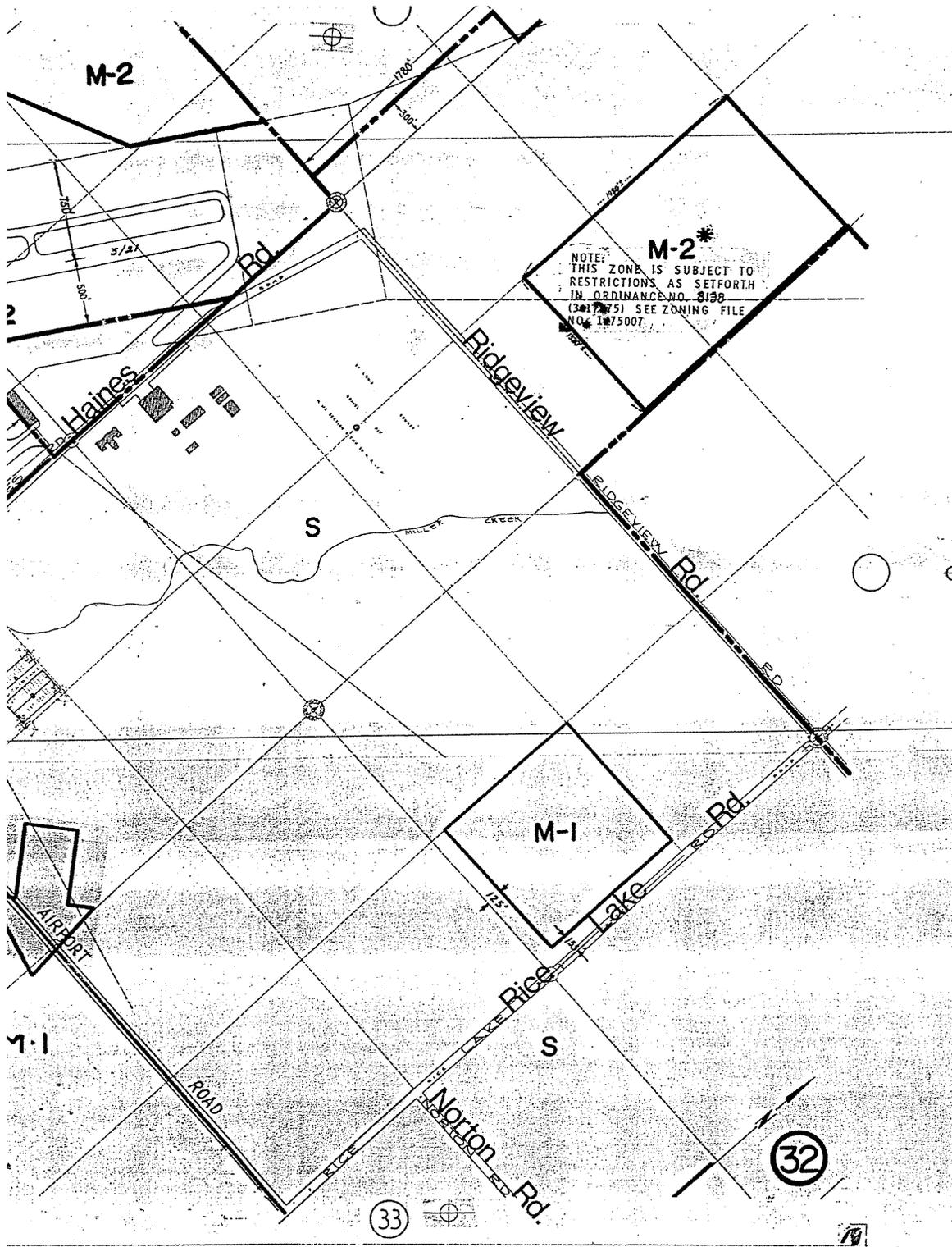
Nays: None -- 0

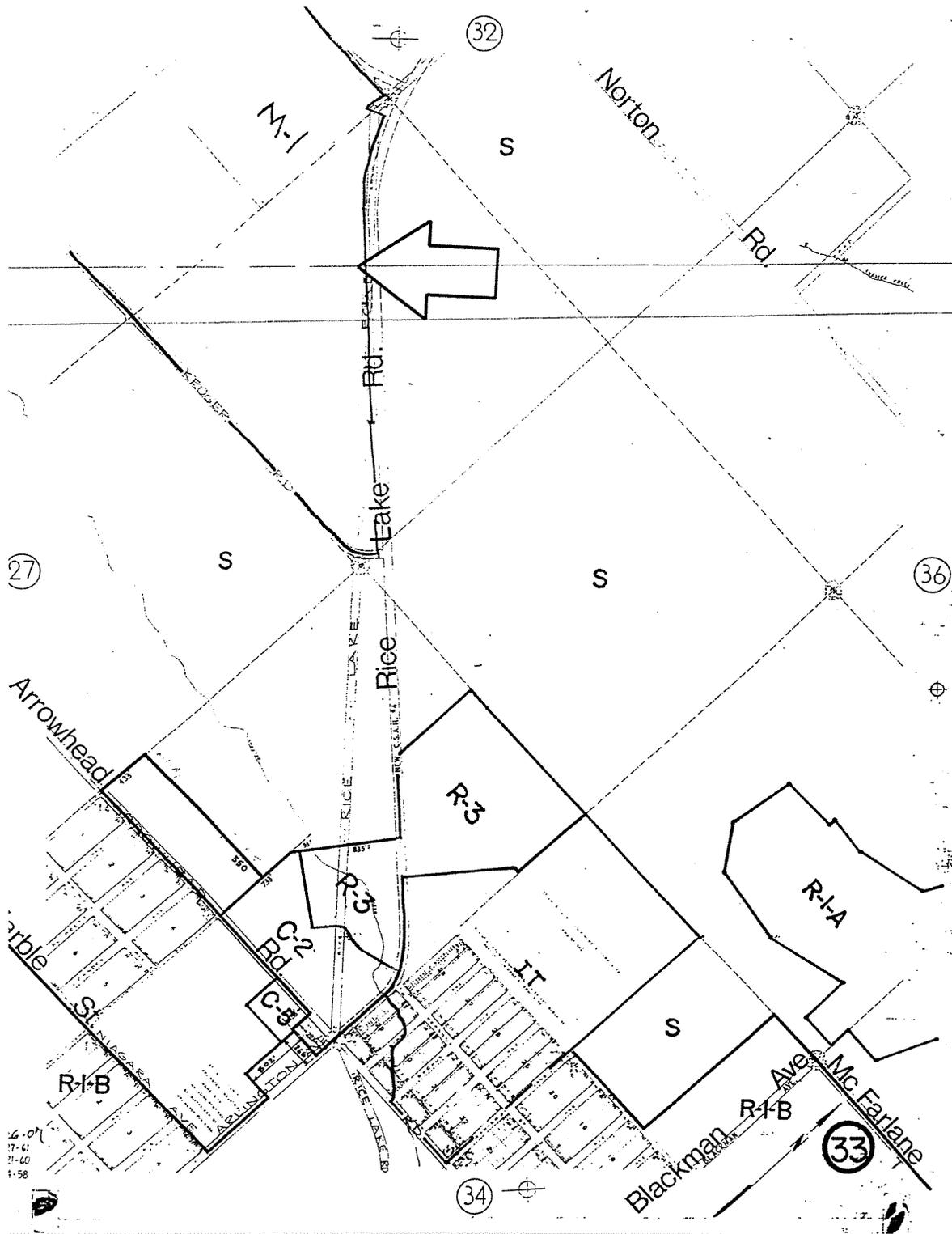
ATTEST:  
JEFFREY J. COX, City Clerk

Passed November 26, 2007  
Approved November 26, 2007  
HERB W. BERGSON, Mayor









**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Friday, November 30, 2007, 8:15 a.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Stover -- 7

Absent: Councilors Krause and Ness -- 2

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-1130-01 The PFM Group: (a) Presale analysis; (b) Bid results; (c) Official statement; in connection with the proposed issuance of bonds (07-0739R, 07-0740R, 07-0741R, 07-0742R, 07-0743R, 07-0744R). -- Received

- - -

**MOTIONS AND RESOLUTIONS**

BY COUNCILOR STEWART:

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

Section 1. Bond Purpose and Authorization.

1.01 A. Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of Minnesota Statutes and the home rule charter of the City, the City is authorized to issue its general obligation street improvement bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

B. The city council has, by the resolution adopted on the following date, ordered street improvements to certain streets, avenues and parkways set forth below (the "2007 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
06-0249R	4/10/06	\$ 724,616	Duluth Heights West
		1,465,945	Lakeside West Central

C. The city council hereby determines to finance \$2,285,000, through the issuance of general obligation street improvement bonds, for payment of costs of the 2007 Street Improvement Program.

1.02 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,285,000 General Obligation Street Improvement Bonds, Series 2007A, to be dated as of the date of delivery as the date of original issue (the "Bonds") for financing the 2007 Street Improvement Program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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 RBC Dain Rauscher, Inc., doing business under the name RBC Capital Markets, of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,278,169.40, 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 the date of delivery, 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
2009	\$105,000	3.75%
2010	120,000	3.75%
2011	125,000	3.75%
2012	130,000	3.75%
2013	135,000	3.75%
2014	140,000	3.75%
2015	145,000	3.75%
2016	150,000	3.75%
2017	155,000	3.80%
2018	160,000	3.90%
2019	170,000	4.00%
2020	175,000	4.10%

Year	Amount	Interest Rate
2021	185,000	4.15%
2022	190,000	4.20%
2023	200,000	4.25%

2.02 A. The Bonds maturing in the years 2009 through 2016 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2017 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2016, 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, 2008. 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 15<sup>th</sup> 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, 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. 04-0219-02. 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 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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 2007A

R-\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2007	

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 the Date of Original Issue, 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, 2008. 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, 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 15<sup>th</sup> 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 \$2,285,000, 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 November 29, 2007 (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, 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 2009 through 2016 are not subject to redemption before maturity, but those maturing in the year 2017 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2016, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial

ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

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

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the mayor and the city clerk.

Attest:

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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, 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, 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
___/___/07	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13- 2555119	_____

**BOND COUNSEL OPINION**

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

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

**ASSIGNMENT**

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

from the sale of the Bonds in the amount of \$2,260,600 into the 2007 street improvement account (the "2007 Street Account") within the street improvement program fund (Fund 440). The proper City officers are authorized and directed to pay out of the 2007 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 2007 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 2007 Street Improvement Program in an amount which, together with the proceeds of federal grants to the City for such improvement projects, is not less than 20% of the costs of such projects financed by the proceeds of the Bonds. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.03 A separate account within the special assessment debt service fund maintained by the City is hereby created and is designated the "2007 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 2007 Improvement Bond Account shall be paid from the proceeds of the Bonds the rounding amount in the amount of \$17,569.40, plus the amount of accrued interest on the Bonds, if any, 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:

<b>Levy Year</b>	<b>Collection Year</b>	<b>Gross Tax Levy</b>	<b>Estimated Special Assessment Revenue</b>	<b>Net Tax Levy</b>
2007	2008	\$216,919	\$129,301	* \$ 70,049
2008	2009	215,985	42,505	173,480
2009	2010	216,510	41,567	174,943
2010	2011	216,839	40,630	176,209
2011	2012	216,970	39,693	177,277
2012	2013	216,904	43,755	173,149
2013	2014	216,642	42,630	174,012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Levy Year	Collection Year	Gross Tax Levy	Estimated Special Assessment Revenue	Net Tax Levy
2014	2015	216,182	41,505	174,677
2015	2016	215,526	40,380	175,146
2016	2017	214,592	44,240	170,352
2017	2018	218,540	42,875	175,665
2018	2019	216,650	41,475	175,175
2019	2020	219,616	45,040	174,576
2020	2021	216,804	43,380	173,424
2021	2022	218,925	41,700	177,225
*\$17,569.40 of rounding amount deposited in debt service account				

Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council 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 2007 Improvement Bond Account within the special assessment debt service fund. If the balance in the 2007 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 2007 Improvement Bond Account when the balance therein is sufficient.

3.05 Proceeds of the Bonds on deposit in the 2007 Street Account and 2007 Improvement Bond Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

4.01 The city council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

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

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

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

4.04 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Sewer Utility Revenue Bonds, Series 2007B (the "Series 2007B Bonds"), General Obligation Capital Improvement Bonds, Series 2007C (the "Series 2007C Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2007D (the "Certificates"), General Obligation DECC Improvement Refunding Bonds, Series 2007E (the "Series 2007E Bonds"), and General Obligation Water and Sewer Utility Revenue Refunding Bonds, Series 2007F (the "Series 2007F Bonds"). The Bonds will not be paid out of substantially the same source as the Series 2007B Bonds, the Series 2007C Bonds, the Certificates, the Series 2007E Bonds or the Series 2007F Bonds; consequently the Bonds are a separate issue under Treasury Regulations Section 1.150-1(c).

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 as Public Document No. 04-0219-02.

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 07-0739 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stewart and President Stover -- 6

Nays: Councilor Stauber -- 1

Absent: Councilors Krause and Ness -- 2

Approved November 30, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal sewer utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the sewer utility and are payable primarily from net revenues to be derived from the operation of the municipal sewer utility

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and pledged for their payment.

1.02 The city council has, by Ordinance No. 9867 adopted October 22, 2007, ordered the issuance, sale and delivery of general obligation sewer utility revenue bonds in the maximum amount of \$2,200,000 of the City, for the payment of the costs of improvements to the municipal sewer utility and for payment of part of the interest cost of the bonds.

1.03 The city council hereby authorizes and directs the issuance of its \$2,120,000 General Obligation Sewer Utility Revenue Bonds, Series 2007B (the "Bonds"), pursuant to Ordinance No. 9867.

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission 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 RBC Dain Rauscher, Inc., doing business under the name RBC Capital Markets, of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,113,440.20, 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 as of the date of delivery, 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-I 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
2009	\$100,000	3.75%	2017	\$145,000	3.80%
2010	110,000	3.75%	2018	150,000	3.90%
2011	115,000	3.75%	2019	155,000	4.00%
2012	120,000	3.75%	2020	165,000	4.10%
2013	125,000	3.75%	2021	170,000	4.15%
2014	130,000	3.75%	2022	175,000	4.20%
2015	135,000	3.75%	2023	185,000	4.25%
2016	140,000	3.75%			

2.02 (a) The Bonds maturing in the years 2009 through 2016 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2017 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2016, 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, 2008. 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 15<sup>th</sup> 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, 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. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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the disbursement of principal and interest.

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

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

CITY OF DULUTH  
GENERAL OBLIGATION SEWER UTILITY REVENUE BOND, SERIES 2007B

R-\_\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2007	

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 the Date of Original Issue, 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, 2008. 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, 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 15<sup>th</sup> 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 \$2,120,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted on November 29, 2007, by the governing body of the City (the "Resolution"). The Bonds are issued for improvements to the municipal sewer utility pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Sections 115.46 and 444.075 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9867 adopted October 22, 2007, for the purpose of providing funds for improvements to such municipal sewer utility and for payment of part of the interest cost of such bond issue. The Bonds are payable from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds.

The Bonds of this series maturing in the years 2009 through 2016 are not subject to redemption before maturity, but those maturing in the year 2017 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2016, 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 days 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 the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, Minnesota, by its city council, has caused this Bond to be executed in its name by the facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

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

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK, 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, 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, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/07	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 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

Section 3. Revenues, Accounts and Covenants.

3.01 (a) The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required

to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Utility Sewer Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

(b) The City has created a separate construction account within the Public Utility Sewer Fund to which there shall be credited \$2,120,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the sewer utility and costs of the issuance of the Bonds.

(c) Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "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 Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. The treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$2,120,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Bonds. The treasurer shall transfer from the Sewer Utility Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

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

3.02 If the 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. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for

reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

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

4.04 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Street Improvement Bonds, Series 2007A (the "Series 2007A Bonds"), General Obligation Capital Improvement Bonds, Series 2007C (the "Series 2007C Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2007D (the "Certificates"), General Obligation DECC Improvement Refunding Bonds, Series 2007E (the "Series 2007E Bonds"), and General Obligation Water and Sewer Utility Revenue Refunding Bonds, Series 2007F (the "Series 2007F Bonds"). The Bonds will not be paid out of substantially the same source of funds as the Series 2007A Bonds, the Series 2007C Bonds, the Certificates and the Series 2007E Bonds; consequently, the Bonds will not be combined with them for a single issue. However, the Bonds and the Series 2007F Bonds are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

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 as Public Document No. 04-0219-02.

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 07-0740 was adopted upon the following vote:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stewart and President Stover -- 6

Nays: Councilor Stauber -- 1

Absent: Councilors Krause and Ness -- 2

Approved November 30, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 Under and pursuant to the provisions of Minnesota Statutes, Section 475.521 (the "Act") and Chapter 475, the City is authorized to issue its general obligation bonds to fund capital improvements pursuant to an approved capital improvement plan.

1.02 A. Pursuant to the Act, the City Council has authorized preparation of a capital improvement plan for the years 2007 through 2011 (the "Plan").

B. The City Council held a public hearing on the proposed Plan and approved the Plan on December 18, 2006.

1.03 A. On January 29, 2007, the City Council held a public hearing on the issuance of bonds in an amount not to exceed \$1,240,000 to provide funds for the restoration of the retaining wall and stairs outside of City Hall; remodeling of city offices in City Hall; carpet replacement, energy modifications and ventilation upgrades at the main library; fire department facilities repairs and maintenance including driveways, and the remodeling or relocation of the Park Point fire hall; replacing all emergency warning sirens located throughout the City; all in accordance with the Plan (collectively, the "Project"). Each element of the Project is a capital improvement within the meaning of the Act.

B. Pursuant to resolution of the City Council adopted on January 29, 2007, the City Council has determined that it is necessary and expedient to issue general obligation capital improvement bonds in an amount not to exceed \$1,240,000 of the City to provide funds to finance the Project and for payment of the costs of issuing such bonds.

C. A notice of intent to issue such bonds was published in accordance with the Act on February 5, 2007.

D. No petition calling for a vote on the proposed issuance of such bonds, as permitted by the Act, has been filed with the city clerk.

E. The City Council has determined that it is necessary and expedient to issue \$1,240,000 General Obligation Capital Improvement Bonds, Series 2007C, of the City (the "Bonds") pursuant to the above-described authority, to provide funds to finance the Project and for payment of the costs of issuing the Bonds.

F. The maximum amount of principal and interest to become due in any year on the Bonds and all the outstanding bonds issued by the City pursuant to Section 475.521, subd. 4 of the Act will not exceed \$8,297,833, which is an amount equal to 0.16 percent of taxable market value of property in the City for taxes payable in 2007.

G. 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 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$1,265,010.55, 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 the date of delivery, 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
2009	\$115,000	4.00%
2010	125,000	4.00%
2011	130,000	4.00%
2012	130,000	4.00%
2013	135,000	4.00%
2014	140,000	4.00%
2015	150,000	4.00%
2016	155,000	4.00%
2017	160,000	4.00%

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

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2008. 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 15<sup>th</sup> 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, 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. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 A. In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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 CAPITAL IMPROVEMENT BOND, SERIES 2007C

R-\_\_ \$\_\_\_\_\_

Rate	Maturity	Date of Original Issue	CUSIP
%	February 1, ____	December __, 2007	

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 the Date of Original Issue, 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, 2008. 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, 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 15<sup>th</sup> 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 \$1,240,000, all of like date and tenor, except as to number, amount, maturity date, redemption privilege and interest rate, pursuant to the authority contained in Minnesota Statutes, Section 475.521 and Chapter 475, the City's approved Capital Improvement Plan for the years 2007 through 2010 (the "Plan") and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 29, 2007 (the "Resolution"). This Bond is issued for the purpose of providing funds for capital improvement projects designated by the City Council and pursuant to the Plan and the costs of issuing the Bonds, as more fully set forth in the Plan and the Resolution and for the payment of part of the interest cost of the Bonds. 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 optional 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Minneapolis, Minnesota

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, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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
_/_/07	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

Signature Guaranteed:

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

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.

(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 Capital Improvement Bonds, Series 2007C, of the City of Duluth which includes the within Bond, dated as of the original date of delivery of and payment for the Bonds.

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City Clerk

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate account designated the 2007 Capital Improvement Bonds Construction Account (the “Construction Account”) within its Capital Improvement Project Fund 450, Agency 030, to which there shall be credited \$1,227,000 of the proceeds of the Bonds, together with any additional funds, 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 Bonds.

3.02 A separate debt service account is hereby created and designated as the “2007 Capital Improvement Bonds Debt Service Account” (the “Debt Service Fund”) within the City’s Debt Service Fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited (i) the rounding amount of \$38,010.55 and (ii) the accrued interest, if any, paid by the Purchaser upon closing and delivery of the Bonds 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	Tax Levy
2007	2008	*\$183,010
2008	2009	175,264
2009	2010	178,500
2010	2011	173,040
2011	2012	172,830
2012	2013	172,410
2013	2014	177,030
2014	2015	175,980
2015	2016	174,720

\*anticipatory levy plus rounding amount of \$30,010.55

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

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that prior to approval of its budget each year (approximately December 1) 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 the Debt Service Fund 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. 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 Construction Account and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; 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 the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

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

4.04 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Street Improvement Bonds, Series 2007A (the "Series 2007A Bonds"), General Obligation Sewer Utility Revenue Bonds, Series 2007B (the "Series 2007B Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2007D (the "Certificates"), General Obligation DECC Improvement Refunding Bonds, Series 2007E (the "Series 2007E Bonds"), and General Obligation Water and Sewer Utility Revenue Refunding Bonds, Series 2007F (the "Series 2007F Bonds"). The Bonds will not be paid out of substantially the same source of funds as the Series 2007A Bonds, the Series 2007B Bonds, the Series 2007E Bonds and the Series 2007F Bonds; consequently, the Bonds will not be combined with them for a single issue. However, the Bonds and the Certificates are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

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 as Public Document No. 04-0219-02.

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 07-0741 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stewart and President Stover -- 6

Nays: Councilor Stauber -- 1

Absent: Councilors Krause and Ness -- 2

Approved November 30, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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. 06-0814 on December 4, 2006, declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$2,000,000 to finance the purchase of capital equipment authorized by the Act and to pay for costs of issuance of such certificates of indebtedness. It is hereby certified that the amount of the certificates of indebtedness to be issued by the City pursuant to this resolution is less than 0.25 percent of the market value of the taxable property of the City.

1.03 The city council hereby determines that it is necessary and expedient to issue

\$1,985,000 General Obligation Equipment Certificates of Indebtedness, Series 2007D, of the City (the "Certificates") to provide funds to purchase capital equipment authorized by the Act, to pay certain expenses incurred in the issuance of the Certificates and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Certificates will have a useful life of more than five years.

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission 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 Harris, N.A. of Chicago, Illinois (the "Purchaser"), to purchase the Certificates at a cash price of \$2,051,297.00, 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 the date of delivery, 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 February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2009	\$360,000	4.25%
2010	385,000	4.25%
2011	400,000	4.50%
2012	410,000	4.50%
2013	430,000	5.00%

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

2.03 The interest shall be payable semiannually on February 1 and August 1 and in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2008. 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, 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. 04-0219-02. No Certificate shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Certificate, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Certificates need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Certificate shall be conclusive evidence that it has been authenticated and delivered under this resolution.

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

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

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

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

Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Certificates of the like aggregate principal amount, as requested by the transferor.

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

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

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

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

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

CITY OF DULUTH

GENERAL OBLIGATION EQUIPMENT CERTIFICATE  
OF INDEBTEDNESS, SERIES 2007D

R-\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2007	

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 the Date of Original Issue, 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, 2008. 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, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Certificate on the Interest Payment Date directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business 15 days preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Certificate, the presentation or surrender of this Certificate, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Certificate to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Certificate is one of a series issued by the City in the aggregate amount of \$1,985,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 29, 2007 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Certificates, as such principal and interest respectively come due. The Certificates are not subject to redemption and prepayment before maturity.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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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, NATIONAL ASSOCIATION  
Bond Registrar

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, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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/___/07	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

Signature Guaranteed:

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

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.

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

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 \$1,969,500 from the proceeds for the Certificates, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for “capital equipment,” as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least five years, and costs of issuance of the Certificates, as such payments become due.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Certificates as such principal and interest respectively become due as follows:

Levy Year	Collection Year	Tax Levy
2007	2008	*\$474,897
2008	2009	487,931
2009	2010	480,848
2010	2011	472,448
2011	2012	474,075

\*anticipatory tax levy and \$81,797.00 of premium

(b) A separate debt service account is hereby created and designated as the "2007 G.O. Equipment Certificates Debt Service Account" (the "Debt Service Fund") within the City's debt service fund to which there shall be credited \$81,797.00 from the proceeds of the Certificates. 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 the amount of accrued interest, if any, 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 equipment purchases and/or payment of the principal and interest on the Certificates when due.

#### Section 4. Tax Covenants.

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

4.02 (a) No portion of the proceeds of the Certificates shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Certificates were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Certificates or \$100,000. To this effect, any proceeds of the Certificates and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Certificates) in excess of amounts which under the

applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Certificates, the following schedule will be met: (i) at least 15% of the gross proceeds of the Certificates will be allocated to expenditures for the governmental purpose of the Certificates within six months of the date of issue of the Certificates; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Certificates, and that 100% of the available proceeds of the Certificates will be allocated within 30 months from the date of issue of the Certificates.

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

Section 5. Continuing Disclosure. The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Certificates. To provide for the public availability of certain information relating to the Certificates and the security therefor and to permit underwriters of the Certificates to comply with the Rule, which will enhance the marketability of the Certificates, the mayor and the clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate on file in the office of the city clerk as Public Document No. 04-0219-02.

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.

6.05 In addition to the Certificates, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Street Improvement Bonds, Series 2007A (the "Series 2007A Bonds"), General Obligation Sewer Utility Revenue Bonds, Series 2007B (the "Series 2007B Bonds"), General Obligation Capital Improvement Bonds, Series 2007C (the "Series 2007C Bonds"), General Obligation DECC Improvement Refunding Bonds, Series 2007E (the "Series 2007E Bonds"), and General Obligation Water and Sewer Utility Revenue Refunding Bonds, Series 2007F (the "Series 2007F Bonds"). The Certificates will not be paid out of substantially the same source of funds as the Series 2007A Bonds, the Series 2007B Bonds, the Series 2007E Bonds and the Series 2007F Bonds; consequently, the Certificates will not be combined with them for a single issue. However, the Certificates and the Series 2007C Bonds are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

Resolution 07-0742 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stewart and President Stover -- 6

Nays: Councilor Stauber -- 1

Absent: Councilors Krause and Ness -- 2

Approved November 30, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$8,000,000 General Obligation DECC Improvement Bonds, Series 1999A, dated February 1, 1999 (the "1999 Bonds"). The 1999 Bonds were authorized and issued pursuant to Minnesota Laws 1974, Chapter 130, the City Charter and Minnesota Statutes, Chapter 475 and the proceeds were used to finance an expansion of the Duluth Entertainment Convention Center (the "DECC").

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 12 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon six months or less before the due date or the redemption date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

\$3,760,000 General Obligation DECC Improvement Refunding Bonds, Series 2007E (the "Bonds"), to refund the outstanding 1999 Bonds maturing on and after February 1, 2008 (the "Refunded Bonds"), of which \$4,345,000 in principal amount is outstanding. The 1999 Bonds maturing on and after February 1, 2009, are subject to prepayment and redemption on February 1, 2008 (February 1, 2008 is herein referred to as the "Redemption Date").

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission 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.

1.05 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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$3,833,218.71, 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 as of the date of delivery, 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
2009	\$545,000	4.00%
2010	590,000	4.00%
2011	615,000	4.00%
2012	640,000	4.00%
2013	670,000	4.00%
2014	700,000	4.00%

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2008. 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 15<sup>th</sup> day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

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

(b) The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual or facsimile signature of the city clerk in substantially the form set forth in Section 2.11, 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, 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. 04-0219-02. 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

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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 DECC IMPROVEMENT REFUNDING BOND, SERIES  
2007E

R-\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2007	

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 the Date of Original Issue, 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, 2008. 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, 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 15<sup>th</sup> day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,760,000, 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, Section 476.67, Subdivisions 1 through 12, and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 29, 2007 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$8,000,000 General Obligation DECC Improvement Bonds, Series 1999A, dated February 1, 1999. The principal hereof and interest hereon are payable primarily from sales tax revenues as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds are not subject to redemption prior to maturity.

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

maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

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

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

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

WELLS FARGO BANK, 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, National Association, of

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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, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/07	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 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

#### Section 3. Escrow Agreement; Escrow Agent.

3.01 Wells Fargo Bank, 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 outstanding 1999 Bonds.

3.02 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. 07-1130-02. 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 4. Covenants, Accounts and Representations.

4.01 (a) The City imposes certain sales taxes pursuant to Minnesota Laws 1980, Chapter 511, Section 1, Subdivision 2 and Sections 2 and 3, as amended, and Sections 42A-2(b) and 42A-49 of the Duluth City Code (the “Sales Tax”) on certain sales of food and beverages and

lodging within the City. The Sales Tax on certain sales of food and beverages is 1½% on gross receipts described in such sections and the Sales Tax on certain lodging is 2½% on gross receipts described in such sections. (Revenues received from ½% of the tax authorized by Sections 42A-2(b) and 42A-49 are herein referred to as the "½% Sales Tax.") Pursuant to Sections 42A-2(b) and 42A-49, the sales tax revenues from the ½% Sales Tax shall be used to pay debt services on bonds to finance the expansion of the DECC and for other eligible projects.

(b) The City has created a subaccount (the "½% Sales Tax Account") within Fund 258, which is the City's fund to account for revenues generated by the Sales Tax. The City shall place all sales tax receipts from the ½% Sales Tax, when collected, into the ½% Sales Tax Account. Sums from time to time in this ½% Sales Tax Account are hereby pledged and appropriated to pay the principal of and interest on the Bonds when due and to pay the principal of and interest on other eligible obligations of the City when due.

4.02 (a) A separate debt service account is hereby created and designated as the "G.O. DECC Improvement Refunding Bonds Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. 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 1999 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 1999 Bonds (Resolution No. 99-0121)(the "Prior Resolution") after payment of principal and interest on the Refunded Bonds on the Redemption Date. There shall be transferred (i) first from the ½% Sales Tax Account to the Debt Service Account amounts of the ½% Sales Tax and (ii) the balance needed, if any, from additional revenues of the Sales Tax, in amounts sufficient for the payment of all interest and principal then due on the Bonds and all charges due to the Bond Registrar; such transfers shall be made at the times and in the amounts determined by the City Treasurer, in accordance with policies established by the City Council. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the Treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the Sales Tax revenues. Into the Debt Service Fund shall be credited the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

(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 (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 on the Redemption Date and the principal of the Refunded Bonds called for prepayment and redemption on 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(a) of the Act.

(iii) From the Escrow Account there shall be paid: (a) all principal of and

interest to be paid on the Refunded Bonds to and including the Redemption Date; and (b) the principal of the Refunded Bonds due by reason of prepayment and redemption on the Redemption Date.

(iv) The Escrow Account for the Refunded Bonds is irrevocably appropriated to the payment of the principal of and interest on the Refunded Bonds to and including the Redemption Date and to the prepayment and redemption of the Refunded Bonds due by reason of redemption on the Redemption Date. The monies to be deposited 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 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 1999 Bonds have previously been terminated and all bond proceeds therein have been expended.

4.03 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the 1999 Bonds that an irrevocable appropriation to the Escrow Account shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by the Prior Resolution for collection year 2009 and thereafter.

4.04 It is estimated that the Sales Tax revenues herein pledged and appropriated to said Debt Service Account will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount. The City reserves the right to issue additional bonds and pledge Sales Tax revenues on a parity with the pledge herein made.

4.05 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, in accordance with the terms set forth in this Resolution.

#### Section 5. Refunding, Findings, Prepayment of Refunded Bonds.

5.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolution and is necessary and desirable for the reduction of debt service cost to the City.

5.02 It is hereby found and determined that the Proceeds and other available funds appropriated to the Escrow Account will be sufficient to pay all of the principal of and interest on the Refunded Bonds due on February 1, 2008, and the principal of the Refunded Bonds called for prepayment and redemption on the Redemption Date.

5.03 The Refunded Bonds shall be paid, 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 his designee is hereby authorized and directed

to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent and to the bond insurance company of the Refunded Bonds.

5.04 When the principal of the 1999 Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by the Prior Resolution to the holders of the 1999 Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the 1999 Bonds shall remain in full force and effect.

Section 6. 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. 04-0219-02.

Section 7. Tax Covenants.

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

7.02 (a) The proceeds of the 1999 Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 90 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

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

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

(d) The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

7.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Street Improvement Bonds,

Series 2007A (the "Series 2007A Bonds"), General Obligation Sewer Utility Revenue Bonds, Series 2007B (the "Series 2007B Bonds"), General Obligation Capital Improvement Bonds, Series 2007C (the "Series 2007C Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2007D (the "Certificates"), and General Obligation Water and Sewer Utility Revenue Refunding Bonds, Series 2007F (the "Series 2007F Bonds"). The Bonds will not be paid out of substantially the same source as the Series 2007A Bonds, the Series 2007B Bonds, the Series 2007C Bonds, the Certificates or the Series 2007F Bonds; consequently the Bonds are a separate issue under Treasury Regulations Section 1.150-1(c).

Resolution 07-0743 was unanimously adopted.

Approved November 30, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$1,745,000 General Obligation Sewer Utility Revenue Bonds, Series 1999F, dated December 1, 1999 (the "1999 Bonds"), and the City's \$2,100,000 General Obligation Water and Sewer Utilities Revenue Bonds, Series 2000B, dated December 1, 2000 (the "2000 Bonds"). The 1999 Bonds and the 2000 Bonds were authorized and issued pursuant to the City Charter, Minnesota Statutes, Chapter 475 and other pertinent provisions of Minnesota Statutes.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 12 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon six months or less before the due date or the redemption date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$2,275,000 General Obligation Water and Sewer Utility Revenue Refunding Bonds, Series 2007F (the "Bonds"), to refund the outstanding 1999 Bonds and the outstanding 2000 Bonds maturing on and after February 1, 2008 (the "Refunded Bonds"), of which \$2,540,000 in principal amount is outstanding. The 1999 Bonds and the 2000 Bonds maturing on or after February 1, 2009, are subject to prepayment and redemption on February 1, 2008 (February 1, 2008 is herein referred to as the "Redemption Date").

1.04 (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 \$295,000; 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 \$1,055,000; general obligation utilities revenue bonds dated September 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,330,000; general obligation utilities revenue bonds dated December 1, 2002, the water utility portion of such bonds now outstanding in the amount of \$1,085,000; 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 \$280,000; general obligation utilities revenue note dated August 25, 2003, authorized in the amount of \$970,000; general obligation water utility revenue note dated July 23, 2004, authorized in the amount of \$2,485,231,

and general obligation utilities revenue bonds dated December 19, 2006, the water utility portion of such bonds now outstanding in the amount of \$1,120,000. Under the provisions of the ordinances and resolutions authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds payable from the net revenues of the municipal water utility on a parity with the bonds and notes dated September 1, 1997, December 1, 2000, September 1, 2002, December 1, 2002, March 1, 2003, August 25, 2003, July 23, 2004, and December 19, 2006.

(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.

1.05 (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 \$75,000; 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 \$255,000; general obligation sewer utility revenue bonds dated December 1, 1999, now outstanding in the amount of \$1,090,000; 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 \$395,000; 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 \$970,000; general obligation improvement note dated August 8, 2002, authorized in the amount of \$364,195; general obligation utilities revenue bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,574,000; general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,435,000; 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 \$565,000; general obligation sewer utility revenue note dated December 12, 2003, authorized in the amount of \$1,179,115; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$3,630,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the amount of \$3,355,000; and general obligation utilities revenue bonds dated December 19, 2006, now outstanding in the amount of \$945,000. Under the provisions of the ordinances and resolutions authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from the net revenues of the municipal sewer utility on a parity with the bonds and notes dated May 1, 1998, December 1, 1998, December 1, 1999, December 1, 2000, December 1, 2001, August 8, 2002, September 1, 2002, December 1, 2002, March 1, 2003, December 12, 2003, December 1, 2004, December 19, 2005, and December 19, 2006.

(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.

1.06 Public Financial Management, Inc., financial consultant to the City, has given

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notification by mail, facsimile or electronic data transmission 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.

1.07 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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$2,321,366.02, 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 as of the date of delivery, 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:

<b>Year</b>	<b>Water Utility Portion</b>	<b>Sewer Utility Portion</b>	<b>Total Amount</b>	<b>Interest Rate</b>
2009	\$103,921.57	\$161,078.43	\$265,000	4.00%
2010	106,944.44	168,055.56	275,000	4.00%
2011	110,000.00	170,000.00	280,000	4.00%
2012	115,000.00	185,000.00	300,000	4.00%
2013	118,064.52	186,935.48	305,000	4.00%
2014	126,119.40	198,880.60	325,000	4.00%
2015	131,086.96	203,913.04	335,000	4.00%
2016	137,750.00	52,250.00	190,000	4.00%

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2008. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond

Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

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

(b) The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual or facsimile signature of the city clerk in substantially the form set forth in Section 2.11, 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, 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. 04-0219-02. 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

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Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

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

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

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

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

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

CITY OF DULUTH  
GENERAL OBLIGATION WATER AND SEWER UTILITY REVENUE  
REFUNDING BOND, SERIES 2007F

R-\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2007	

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 the Date of Original Issue, 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, 2008. 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, 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 15<sup>th</sup> 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 \$2,275,000, 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, Section 475.67, Subdivisions 1 through 12, and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 29, 2007 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$1,745,000 General Obligation Sewer Utility Revenue Bonds, Series 1999F, dated December 1, 1999, and the \$2,100,000 General Obligation Water and Sewer Utilities Revenue Bonds, Series 2000B, dated December 1, 2000. That portion of the Bonds issued to refund the municipal water utility portion of the City's General Obligation Water and Sewer Utilities Revenue Bonds, Series 2000B, dated December 1, 2000 (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. That portion of the Bonds issued to refund the City's General Obligation Sewer Utility Revenue Bonds, Series 1999F, dated December 1, 1999, and the municipal sewer utility portion of the City's General Obligation Water and Sewer Utilities Revenue Bonds, Series 2000B, dated December 1, 2000 (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. 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 such

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. 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. The principal hereof and interest hereon are payable primarily from net revenues to be derived from the operation of the municipal water and sewer utilities 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 prior to maturity.

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

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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, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

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

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK, 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, 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, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
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12/\_\_\_/07    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 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.

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Clerk

Section 3. Escrow Agreement; Escrow Agent.

3.01 Wells Fargo Bank, 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 outstanding 1999 Bonds and the 2000 Bonds.

3.02 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. 07-1130-03. 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 4. Revenues, Accounts and Covenants.

4.01 Water Portion of the Bonds.

(a) The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Water Portion of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal water utility in a separate Water Utility Operating Account within the Public Utility Water Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established

by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all water utility bonds when due.

(b) Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Water Debt Service Fund") in the Public Utility Water Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Water Portion of the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the municipal 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 Water Portion of the Bonds, and a pro rata portion of all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

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

#### 4.02 Sewer Portion of the Bonds.

(a) The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Sewer Portion of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Utility Sewer Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

(b) Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Sewer Debt Service Fund") in the Public Utility Sewer Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Sewer Portion of the

Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the utility. The treasurer shall transfer from the Sewer Utility Operating Account to the Sewer Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Sewer Portion of the Bonds, and a pro rata portion of all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(c) Surplus utility revenues from time to time received in the Sewer Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Sewer Utility Operating Account and in the Sewer Debt Service Fund, may be used for necessary capital expenditures for the improvement of the 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.

4.03 Escrow account.

(a) The City hereby creates an Escrow Account for payment of the Refunded Bonds. 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 Funds or are not to be used for payment of costs of issuance of the Bonds; (b) Accrued Interest, if any; (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 on the Redemption Date and the principal of the Refunded Bonds called for prepayment and redemption on the Redemption Date.

(b) 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(a) of the Act.

(c) From the Escrow Account there shall be paid: (a) all principal of and interest to be paid on the Refunded Bonds to and including the Redemption Date; and (b) the principal of the Refunded Bonds due by reason of prepayment and redemption on the Redemption Date.

(d) The Escrow Account for the Refunded Bonds is irrevocably appropriated to the payment of the principal of and interest on the Refunded Bonds to and including the Redemption Date and to the prepayment and redemption of the Refunded Bonds due by reason of redemption on the Redemption Date. The monies to be deposited 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 Funds.

(e) 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.

(f) The construction funds created for the 1999 Bonds and the 2000 Bonds have previously been terminated and all bond proceeds therein have been expended.

4.04 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the Escrow

Account shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by the Council Resolutions authorizing the 1999 Bonds and the 2000 Bonds for collection year 2009 and thereafter.

4.05 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 such Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Funds will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 5. Refunding, Findings, Prepayment of Refunded Bonds.

5.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Council's Resolutions authorizing the 1999 Bonds and the 2000 Bonds (the "Prior Resolutions") and is necessary and desirable for the reduction of debt service cost to the City.

5.02 It is hereby found and determined that the Proceeds and other available funds appropriated to the Escrow Account will be sufficient to pay all of the principal of and interest on the 1999 Bonds and 2000 Bonds due on February 1, 2008, and the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date.

5.03 The Refunded Bonds shall be paid, redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the forms of notice of call for redemption attached to the Escrow Agreement, which terms and conditions are hereby approved and incorporated herein by reference. The Escrow Agent is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent and to the bond insurance company, if any, of the Refunded Bonds.

5.04 When the principal of the 1999 Bonds and the 2000 Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by the Prior Resolutions to the holders of the 1999 Bonds and the 2000 Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the 1999 Bonds and the 2000 Bonds shall remain in full force and effect.

Section 6. 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. 04-0219-02.

Section 7. Tax Covenants.

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

7.02 (a) The proceeds of the 1999 Bonds and the 2000 Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 90 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

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

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

(d) The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

7.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Street Improvement Bonds, Series 2007A (the "Series 2007A Bonds"), General Obligation Sewer Utility Revenue Bonds, Series 2007B (the "Series 2007B Bonds"), General Obligation Capital Improvement Bonds, Series 2007C (the "Series 2007C Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2007D (the "Certificates"), and General Obligation DECC Improvement Refunding Bonds, Series 2007E (the "Series 2007E Bonds"). The Bonds will not be paid out of substantially the same source of funds as the Series 2007A Bonds, the Series 2007C Bonds, the Certificates and the Series 2007E Bonds; consequently, the Bonds will not be combined with them for a single issue. However, the Bonds and the Series 2007B Bonds are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

Resolution 07-0744 was unanimously adopted.

Approved November 30, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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College of St. Scholastica, 1200 Kenwood Avenue, for December 1, 2007, with Axumawit Woldegebriel, manager.

Resolution 07-0768 was unanimously adopted.

Approved November 30, 2007

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 8:22 a.m.

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

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, December 3, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-1203-01 Dean Andress, by CMRA, LLC, et al. (12 signatures), revised petition to reclassify from R-1 to C-5 in the 500 block of West Central Entrance. -- Assessor

07-1203-02 Duluth Transit Authority concurrent use permit application for a bus shelter on Garfield Avenue across from Goodwill. -- Planning commission

07-1203-03 Mitch's, Inc., acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9865 on October 9, 2007. -- Received

07-1203-04 V. Ouellette communication regarding the proposed 2008 tax levy and budget (07-081-O and 07-082-O). -- Received

07-1203-07 The following communications regarding the proposed ordinance relating to rental licensing (07-084-O): (a) Colleen and James Allen; (b) Campus Neighbors Advisory Group; (c) Penny Clark; (d) Cheryl Dannenbring; (e) Janet Draper; (f) John Foucault; (g) Jim Gears; (h) Debra Hennessy; (i) Jeane Kurshoff; (j) Tim LeGarde; (k) Peter and Patricia Lilliberg; (l) Todd Loose; (m) Cindy Martins; (n) Marie-Laure McKee; (o) Cheryl Petersen; (p) John Powers; (q) Sandy Robinson; (r) Trent Wickman; (s) David Zanko. -- Received

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**REPORTS FROM OTHER OFFICERS**

07-1203-05 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Animal Allies Humane Society on March 14, 2008; (b) St. James School on June 3, 2008. -- Received

07-1203-06 Parks and recreation department interim director rental agreement with Jacob Burke for residential dwelling unit located within Irving Community Recreation Center, pursuant to Section 2-35, Duluth City Code. -- Mayor for execution

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

The president of the tree commission presented awards to citizens who were nominated for thoughtful, creative and responsible use of trees in landscaping.

- - -

At this time, 7:05 p.m., the public hearing on the 2008 budget and tax levy was called to order.

Councilor Stewart reviewed the tax levy proposed for the 2008 budget.

No one else appeared who wished to be heard and the public hearing was declared closed at 7:10 p.m.

- - -

At this time, 7:10 p.m., the public hearing on the 2008-2012 capital improvement plan was called to order.

Councilor Stewart reviewed the proposed capital improvement plan for 2008-2012.

No one else appeared who wished to be heard and the public hearing was declared closed at 7:12 p.m.

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### RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 07-0745, denying amending Chapter 50 of the Duluth City Code 1959, as amended, Zoning District Map No. 27 as contained in the Appendix to Chapter 50, to provide for the reclassification from S, Suburban, to C-5, Planned Commercial District, property located on the north side of Arrowhead Road approximately 1,360 feet east of the intersection of Haines Road and Arrowhead Road (Frank Holappa), from the table, which motion was seconded and unanimously carried.

Resolution 07-0745 failed upon the following vote (Public Document No. 07-1203-08):

Yeas: Councilor Krause -- 1

Nays: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

07-078 (9879) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO C-5, PLANNED COMMERCIAL DISTRICT, PROPERTY LOCATED ON THE NORTH SIDE OF ARROWHEAD ROAD APPROXIMATELY 1,360 FEET EAST OF THE INTERSECTION OF HAINES ROAD AND ARROWHEAD ROAD (FRANK HOLAPPA).

Councilor Stauber moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

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

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

- - -

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

BY COUNCILOR STEWART:

RESOLVED, that the operation budget for the fiscal year January 1, 2008, to December 31,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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2008, for Duluth Steam District No. 2 in the amount of \$9,088,066 is hereby approved.

Resolution 07-0758 was unanimously adopted.

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the operation budget for the fiscal year January 1, 2008, to December 31, 2008, in the amount of \$3,452,600 for the Duluth airport authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 07-0759 was unanimously adopted.

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Teresa O'Toole, replacing Glen Porter who resigned, to the housing and redevelopment authority for a term expiring on January 7, 2013, is confirmed.

Resolution 07-0738 was unanimously adopted.

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 07-0448 to Northland Constructors, LLC, for bituminous paving and fencing of the Birch Avenue storage facility lot be amended to increase the amount by \$45,143.61 for a new total of \$150,961.31, payable as follows: \$13,543.08 from Water Fund 0510, Department/Agency 500, Organization 1905, Object 5333; \$4,514.37 from Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5533; \$13,543.08 from Sanitary Fund 0530, Department/Agency 500, Organization 1905, Object 5533, and \$13,543.08 from Stormwater Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5533.

Resolution 07-0756 was unanimously adopted.

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the amount of the contract between the city and Short Elliott Hendrickson, Inc., which was authorized by Resolution 05-0872, is increased by \$11,000 to a new maximum of \$65,000 and the scope of work is amended to include new work required by the Minnesota pollution control agency; payment from Self Insurance Fund 610-036-1651-5319.

Resolution 07-0765 was unanimously adopted.

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-1203-09, with the Northwoods League, Inc., for use of Wade Stadium by said league for professional baseball through 2012, the payments provided for being deposited in the Special Leagues Fund 210-030-3190-4625-04.

Resolution 07-0757 was unanimously adopted.

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0760, by Councilor Stewart, approving the fiscal year January 1, 2008, to December 31, 2008, operation budget of the Duluth transit authority, was introduced for discussion.

Councilor Stauber explained that the Duluth transit authority (DTA) runs a great operation, but reviewed in the 2008 STRIDE budget shows that the expenses are exceedingly more than the revenue that it takes in. He explained that when the DTA implemented this service it put several other providers out of business and questioned if this service should be shifted out of the DTA's operation.

Resolution 07-0760 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the operation budget for the fiscal year January 1, 2008, to December 31, 2008, in the amount of \$12,096,733 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 07-0760 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert, Stewart and President Stover -- 7

Nays: Councilors Little and Stauber -- 2

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0762, by Councilor Stewart, of the city of Duluth, Minnesota, stating the intent to issue general obligation equipment certificates of indebtedness, Series 2008, and approving the capital equipment list associated with the bonds in the approximate amount of \$2,539,000, was introduced for discussion.

Councilor Stauber voiced objection to borrowing money when 38 percent of the levy is going to pay past debt, which practice needs to stop.

Resolution 07-0762 was adopted as follows:

BY COUNCILOR STEWART:

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

Section 1. Under and pursuant to the provisions of Minnesota Statutes, sections 410.32 and 412.301, and Minnesota Statutes, Chapter 475, 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.

Section 2. The city council declares the intent of the city to issue certificates of indebtedness in 2008 in the amount of approximately \$2,539,000 to finance the purchase of capital equipment authorized by the act, together with an additional amount to pay costs of issuance of the certificates of indebtedness and discount in an amount estimated to be not more than \$61,000.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 07-1203-11), which list of equipment is hereby approved for purchase in 2008.

Section 4. The terms and conditions of the certificates of indebtedness and the sale thereof shall be established by further resolution of the council.

Section 5. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to reimburse expenditures incurred with respect to such capital equipment purchase program.

Resolution 07-0762 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stewart and President Stover -- 8

Nays: Councilor Stauber -- 1

Approved December 3, 2007

HERB W. BERGSON, Mayor

- - -

Resolution 07-0763, by Councilor Stewart, approving capital improvement plan and calling for public hearing on intention to issue improvement bonds under Minnesota Statutes, Section 475.521, was introduced for discussion.

Councilor Stauber moved to amend the capital improvement plan to include money for a skate park by removing "city building roofing package for \$100,000", removing "facility needs assessment for \$175,000" and adding "skate park for \$265,000," which motion was seconded for discussion.

Terry Groshong, interim city architect, explained that the city cannot bond for repairs to parks and recreation facilities due to a state moratorium, so the \$100,000 from the general fund is being stretched as far as it can go for maintenance and repair of city buildings. He explained that the facility needs assessment will be a tool that can be used to prepare the city for the future.

Councilor Reinert explained that the city has made a commitment to the youth of Duluth for a skate park and that there is a renewed sense of energy around this project by a group that has been organized during the past year. He continued by saying that he urges the administration to put the roofing package and facility needs assessment into the budget for next year and requested the councilors to consider this amendment to get the skate park project moving.

Councilor Stauber stated that skate park does not show up in the capital budget for the next five years and voiced his concern that if this council does not pass it this year, it just will not happen. He also stated that the facility needs assessment is one more study that will end up on the shelf because the city will not have the money to do all the things that the study will show needs to be done.

Councilor Stauber's amendment failed upon the following vote:

Yeas: Councilors Reinert and Stauber -- 2

Nays: Councilors Gilbert, Johnson, Krause, Little, Ness, Stewart and President Stover -- 7

Resolution 07-0763 was adopted as follows:

BY COUNCILOR STEWART:

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 475.521 (the act), the city council has authorized preparation of a capital improvement plan for the years 2008 through 2012 which has been presented to the city council in the section entitled "Capital Improvement Bond" in the document entitled "Capital Improvement Budget and Five Year Plan 2008-2012" dated November 2007 (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) Operating 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 1.01(c) 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 and reallocation of bond proceeds.

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 \$1,600,000 (the bonds), for the purpose of providing funds for the acquisition and betterment of the following projects: replacement of the roof on City Hall; fire department facilities repairs and maintenance including driveways, overhead doors, ventilation systems, masonry and window repair, including the remodeling or relocation of the Park Point firehall, remodeling the Gary New Duluth firehall, and replacing the roof on the Woodland firehall; constructing, repairing or improving public works maintenance facilities, including constructing a salt and sand storage facility, security fencing, and site development work; 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 \$1,600,000, 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 28, 2008. 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. 07-1203-12, 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 07-0763 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stewart and President Stover -- 8

Nays: Councilor Stauber -- 1

Approved December 3, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0764, by Councilor Stauber, authorizing Neighborhood Housing Services of Duluth, Minnesota and the Housing and Redevelopment Authority of Duluth, Minnesota, to forgive partial amounts of two rehabilitation loans made under property rehabilitation programs, was introduced for discussion.

Councilor Krause stated that each agency has its own responsibilities with its financial investments and that they should be held responsible for any loans that can not be repaid.

Resolution 07-0764 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that in 1997 the city of Duluth entered into City Contract #18400 with Neighborhood Housing Services of Duluth, Minnesota, (NHS) pursuant to which NHS agreed to administer and operate a housing rehabilitation program; and

In 1998 and 2000 the city of Duluth entered into city contract #'s 18220 and 18681 with the Housing and Redevelopment Authority of Duluth, Minnesota, (HRA) pursuant to which HRA agreed to administer and operate a housing rehabilitation program; and

Pursuant to the rehabilitation program guidelines, NHS entered into an agreement dated March 8, 1999, (the NHS agreement) with Marie Baust (owner) pursuant to which NHS advanced a community development block grant (CDBG) rehabilitation loan in the amount of \$6,010; and

Pursuant to the rehabilitation program guidelines, HRA entered into agreements in 1998 and 2000, (the HRA agreements) with owner, pursuant to which HRA advanced three rehabilitation loans totaling \$10,466; and

Pursuant to the NHS agreement and the HRA agreements, the owner agreed to repay NHS and HRA the full amount of the loans in the event owner sold, transferred or otherwise conveyed the rehabilitated property; and

The owner lived in the rehabilitated property for seven years.

NOW, THEREFORE, the city council of the city of Duluth hereby authorizes a partial forgiveness by NHS of the repayment of the NHS CDBG loan in the amount of \$3,850, which is equal to 59 percent of the total NHS loan amount of \$6,010 and authorizes a partial forgiveness by HRA of the repayment of the HRA HOME, CDBG and MHFA Loan payments in the amount of

\$8,408.51, which is equal to 80 percent of the total amount of \$10,466 owed the HRA.

Resolution 07-0764 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert, Stauber, Stewart and President Stover -- 7

Nays: Councilors Krause and Little -- 2

Approved December 3, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-1203-10, with A&L SMDC East, LLC, for the development of a new medical clinic facility with parking and public easements at 46th Avenue East and McCulloch Street.

Resolution 07-0766 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Reinert -- 1

Approved December 3, 2007

HERB W. BERGSON, Mayor

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Resolution 07-0772, by councilors Johnson, Stewart and Krause, requesting that the legislature of the state of Minnesota repeal the restriction on the issuance of intoxicating liquor licenses in that portion of the territory of the city of Duluth formerly incorporated as the city of Lakeside and annexed by the city of Duluth, was introduced for discussion.

Councilors Stauber and Ness urged councilors to table this resolution for public input and recommendation if this law should be changed.

Councilor Stewart moved to table the resolution for public input, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Stauber, Stewart and President Stover -- 7

Nays: Councilors Little and Reinert -- 2

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## INTRODUCTION AND CONSIDERATION OF ORDINANCES

### ORDINANCE TABLED

BY COUNCILOR STEWART

07-074 - AN ORDINANCE REPEALING ARTICLE II, DIVISION 4, CONTAINING SECTIONS 20-18 AND 20-19, OF THE DULUTH CITY CODE, 1959, AS AMENDED; MUNICIPAL ARTS FUND.

Councilor Stewart 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 speakers on the ordinance.

Penny Clark, Tom Majewzki, Penny Perry and Jerry Kimball urged councilors to support the public arts one percent funding to the public arts projects for the following reasons: there are many unique factors in the city that makes it great; the budget for the Duluth public arts

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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commission is very small and is used for the upkeep of the current projects; this fund helps to bring businesses to Duluth by enhancing the beauty of the city and public art has been essential for Duluth in the past.

Councilor Stewart stated that while art helps bring businesses to town, what businesses are looking for is an environment with a large work force, easy regulations and low taxes—which is opposite of what this city has.

Councilor Krause stated the citizens of Duluth are ready for change and the council needs to be more responsible for how the city spends the tax dollars.

Councilor Little questioned why all of the citizens should pay for art that is localized in one area of town, adding that maybe it should be funded by the Downtown and Canal Park merchants.

Councilor Stewart moved passage of the ordinance and the motion failed upon the following vote (Public Document No. 07-1203-13):

Yeas: Councilors Krause, Little, Stewart and President Stover -- 4

Nays: Councilors Gilbert, Johnson, Ness, Reinert and Stauber -- 5

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At this time, Councilor Reinert left his seat.

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The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

07-079 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2008.

- - -

BY COUNCILOR STEWART

07-080 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH SEAWAY PORT AUTHORITY, FOR THE YEAR 2008.

- - -

BY COUNCILOR STEWART

07-081 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2008.

- - -

BY COUNCILOR STEWART

07-082 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2008 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY COUNCILORS STAUBER AND STEWART

07-085 - AN ORDINANCE AUTHORIZING LICENSING OF UNLEASHED DOGS TO USE DESIGNATED AREAS AND TRAILS AMENDING SECTION 6-36 OF THE DULUTH CITY CODE, 1959, AS AMENDED AND ADDING NEW SECTIONS 6-36.1, 6-36.2 AND 6-36.3 TO ARTICLE IV OF CHAPTER 6 THEREOF.

- - -

BY COUNCILOR LITTLE

07-084 - AN ORDINANCE AMENDING SECTION 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

City Attorney Brown explained that changes to Chapter 50 of the City Code have to go to the planning commission first before the city council can pass an ordinance.

Councilor Ness moved to refer the ordinance to the planning commission for review, which motion was seconded and unanimously carried.

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The following entitled ordinance was read for the second time:

BY COUNCILOR KRAUSE

07-083 - AN ORDINANCE AMENDING SECTION 44-14 OF THE DULUTH CITY CODE, 1959, AS AMENDED; REGULATING ILLUMINATION OF SIGNS.

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

Todd Johnson expressed frustration on how the process has been followed in the changes to this ordinance.

Councilor Johnson moved to refer the ordinance to the planning commission for review, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 8:50 p.m.

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

- - -

**ORDINANCE NO. 9879**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO C-5, PLANNED COMMERCIAL DISTRICT, PROPERTY LOCATED ON THE NORTH SIDE OF ARROWHEAD ROAD APPROXIMATELY 1,360 FEET EAST OF THE INTERSECTION OF HAINES ROAD AND ARROWHEAD ROAD (FRANK HOLAPPA).

The city of Duluth does ordain:

Section 1. That Plate No. 27 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

*[see map at end of meeting]*

(Reference File No. 07144)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 25, 2008)

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

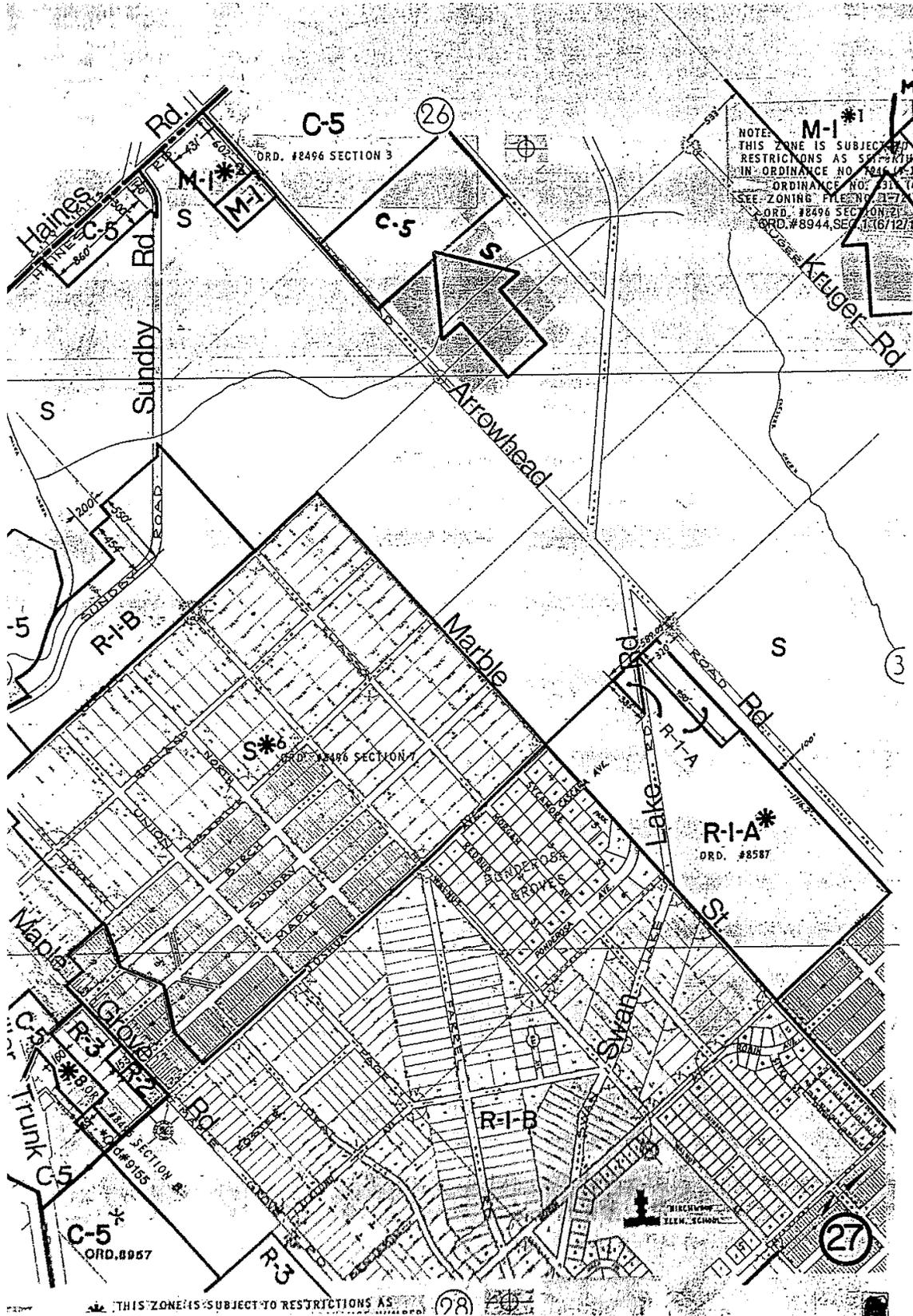
Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 3, 3007  
Approved December 3, 2007  
HERB W. BERGSON, Mayor

- - -



**OFFICIAL PROCEEDINGS**

Special meeting of the Duluth City Council held on Thursday, December 13, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Johnson, Krause, Little, Stauber, Stewart and President Stover -- 6

Absent: Councilors Gilbert, Ness and Reinert -- 3

- - -

**MOTIONS AND RESOLUTIONS**

BY COUNCILOR STEWART:

RESOLVED, that the city approves and the proper city officials are authorized to execute and implement a collective bargaining agreement with Local 66 of AFSCME, containing the same terms and conditions, and being in the same form (except for typographic or insubstantial corrections) as the contract on file with the city clerk as Public Document No. 07-1213-01, covering the years 2007-2009.

Resolution 07-0732 was unanimously adopted.

Approved December 13, 2007

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 7:05 p.m.

JEFFREY J. COX, City Clerk

**OFFICIAL PROCEEDINGS**

Duluth City Council meeting held on Monday, December 17, 2007, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on September 10, 13 and 24, 2007, were approved upon a unanimous vote.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

07-1217-01 Minnesota state auditor audit report for Spirit Mountain recreation area authority for the years ended April 30, 2007 and 2006. -- Received

07-1217-08 Miller Creek Investment, Inc., by Michael Orman, communication regarding the proposed resolution to designate a portion of the Miller Trunk Highway frontage road from Joshua Avenue to 130 feet westerly as a one way (07-0767R). -- Received

07-1217-10 Jeff Urbaniak communication regarding the proposed ordinance regarding the licensing of unleashed dogs to use designated areas and trails (07-085-O). -- Received

07-1217-02 The following communications regarding the proposed resolution requesting the state legislature to repeal the restriction on intoxicating liquor licenses in the Lakeside area (07-0772R): (a) Tim Allen; (b) Robert Alsop; (c) Evelyn Anderson; (d) Julie Balmer; (e) Len and Beth Bauman; (f) Rick and Mollie Biggs; (g) Mary Lou Bond; (h) Darik Carlson; (i) Raymond Cayemberg; (j) Terry and Donna Churchill; (k) Aura and Antonino Coppola; (l)(1) Judy Dahl; (l)(2) Brenda Eberhart; (m) Gary Eckenberg; (n) Sarah Engebretson; (o) Julie Engen; (p) Mary Jane Evans; (q) Fayth and Gary Glass; (r) Shirley Graham; (s) Betty Holmen Greene; (t) Sarah Grosshuesch; (u) Karen Pagel Guerdnt; (v) Richard and Diane Hadrach; (w) Dave and Marge Hamilton; (x) Mary Herbertz; (y) Wlady Hoder; (z) Tim Iverson; (aa) Patricia Lynn Jaekel; (bb) Roger, Connie and Mary Joppa; (cc) Marie Jordahl; (dd) Barbara Juntune; (ee) Rachael Juntune; (ff) Andy Kircher; (gg) Tom and Stephanie Koehler; (hh) Joe Koranda; (ii) Kenneth Laurion; (jj) Gerard Lawson; (kk) Kathy Loke; (ll) Elizabeth Lundgren; (mm) Casey Marshall; (nn) Darlene Marshall; (oo) Paige Mellinger; (pp) Don and Jeanne Mendoza; (qq) Delores and Toivo Minkkinen; (rr) Dennis P. and Rosemarie Mitchell; (ss) Laurel Murray; (tt) Chris Nilsen; (uu) Harold and Patricia Nordin; (vv) Diane O'Donnell; (ww) Renee Peterson; (xx) Jo Ann Rouse; (yy) Judith Rudman; (zz) Joan and Laurel Saker; (aaa) Ann Sanford; (bbb) Eileen and Ronald Sangster; (ccc) Monica Scheflo; (ddd) George Steinman; (eee) Judy Vee; (fff) Peggy White; (ggg) Shirley Wuchter; . -- Received

07-1217-09 The following communications regarding the proposed contract for the installation of an automated meter reading system (AMRS) for water and gas meters: (a) Jerome Carlson; (b) Brian Kreager. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

07-1217-03 Assessor letter of sufficiency of petition to reclassify from R-1 to C-5 in the 500 block of West Central Entrance. -- Received

07-1217-04 Parks and recreation department director minutes of Lake Superior zoological society October 24, 2007, meeting. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

07-1217-05 Commission on disabilities minutes of November 7, 2007, meeting. -- Received

07-1217-06 Housing and redevelopment authority of Duluth minutes of August 28, 2007, meeting. -- Received

07-1217-07 Library board minutes of: (a) September 25; (b) October 23, 2007, meetings. -- Received

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Dennis Hoelscher expressed concerns for the need for at least minimal fire and emergency staff on Park Point. He stated there is the requirement that there be at least two firefighters on the scene before entering a burning building. He further noted the "four minute golden rule" to start CPR, to prevent brain damage. In conclusion, he emphasized that Park Point is unique in that, when the bridge is up, Park Point is an island, without any other means of getting assistance.

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KL Lewis spoke on the progress associated with housing, jobs and other areas that have been made in the city over the recent years and thanked the outgoing councilors.

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Jon Donahue commented on the need for council leadership, retiree's healthcare costs and the rights of citizens to speak on issues.

- - -

Jerry Schulafer, a 30 year electrical contractor, felt that whatever problems there are with the building safety office, it is not with the staff. He felt that the staff was knowledgeable, courteous and professional, even when dealing with unreasonable and uninformed individuals. Mr. Schulafer stated that Duluth should be proud that this office is doing their job to insure safe buildings.

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Pat Thomas, Connie Sylvester and John Thomas expressed their concerns about the upcoming special use permits for Diamond Willow residential care facility and St. Luke's Clinic proposed to be located in the Lester Park area. They felt that: the city-owned green space adjacent to the golf course should not be sold, because it helps with stormwater retention; this is incompatible with the council's sustainability resolution; the city of Duluth land use principles need to be followed; it is a habitat for various forms of wildlife; there is other space in this commercial corridor; this does not conform to the comprehensive plan; the Rockridge School area would a great area, especially seeing that the school is going to be closed and this land should be put into a land trust.

- - -

At this time, 7:25 p.m., the public hearing on the 2008 alcoholic beverage license fees began.

Mark Rutka commented that: last year's increase was over 30 percent and he questioned why this is going to be an annual event; liquor licenses are not the commodity that they used to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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be, with the availability of unlimited restaurant liquor licenses and, with additional liquor licenses being issued, there should already be enough revenue being generated.

At time, 7:28 p.m., the public hearing was declared closed and the regular order of business was resumed.

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**RESOLUTIONS TABLED**

Councilor Stewart moved to remove Resolution 07-0723, adopting license, permit and fee charges for 2008, from the table, which motion was seconded and unanimously carried.

Councilor Stewart felt that some of these areas should not even be licensed because there are no inspections done.

Resolution 07-0723 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that pursuant to sections 2-15, 2-16, 2-17, 6-3, 6-12, 6-14, 6-39, 6-77, 6-82, 8-40, 18-4, 21-6, 24-22, 29A-30, 31-6(a), 33-126, 35-9.1, 35-11, 35-15, 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 2008 shall be adopted.

<b>Assessor</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Abatement processing fee		
	Homestead	\$25.00
	Valuation	\$50.00
CD data		\$155.00
Certificate of real estate value (CRV) duplicate		\$.25
Map		
	8.5 x 11; 8.5 x 14; 11 x 17	\$.25
	11 x 17 copy of milar	\$2.00
	28 x 41	\$6.00
	Fax a map copy	\$.25
Member access to internet website		\$240.00
Ownership search		
	Notification	\$25.00
	Rezoning	\$25.00
Property record - full page (free to property owner)		\$.25

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Attorney</b>	
<b>License, Permit, Fee Name</b>	<b>2008 Fee</b>
**Research - after first 1/4 hour (per hour)	\$52.00
**Change in license, permit or fee	

<b>Building Safety</b>	
<b>License, Permit, Fee Name</b>	<b>2008 Fee</b>
Backflow prevention testing and registration - annual (per each device)	\$28.00
Board of zoning appeals filing fee	\$120.00
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 occupancy	\$5.00
Demolition/razing/wrecking permit	
For every 100 cubic feet of volume	\$ .25
Minimum fee	\$15.00
Housing Code books	\$9.99
Mobile home permit	
Inspection fee	\$25.00
Installation fee	\$50.00
Rental housing (three year licenses)	
Correction orders, additional copy	\$10.00
Each bed in rooming unit	\$20.00
Each building - for a new license for an existing structure or renewal of an existing license (includes initial inspection and one reinspection)	\$200.00
Each dwelling or housekeeping unit	\$20.00
Each failure to appear for reinspection	\$75.00
Inspections made in response to citizen complaints	-0-
Per unit investigation fee for each occupied rental unit being operated as rental housing that is not licensed	\$200.00
Reinspection after license suspended/revoked	\$150.00
Reinstating an expired, revoked or suspended license	\$500.00
Reissuance of existing license with new owner and/or manager name and address for the remainder of license period	\$10.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Building Safety</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Rental license, additional copy		\$10.00
Second or more reinspection and/or initial inspections requested by owner or authorized agent of a structure		\$150.00
Services rendered pursuant to a contract		as per contract
Voluntary inspection requested by the owner or his or her agent		\$200.00
<b>Subpoena fee</b>		
<b>**Building official</b>		
Additional hourly rate		\$48.00
Initial fee		\$194.00
<b>**Code plan review</b>		
Additional hourly rate		\$26.00
Initial fee		\$105.00
<b>**Inspector (27)</b>		
Additional hourly rate		\$26.00
Initial fee		\$105.00
<b>**Inspector (29)</b>		
Additional hourly rate		\$27.00
Initial fee		\$108.00
<b>**Inspector (31)</b>		
Additional hourly rate		\$31.00
Initial fee		\$123.00
<b>**Zoning (30)</b>		
Additional hourly rate		\$29.00
Initial fee		\$119.00
<b>**Clerical/administrative (129)</b>		
Additional hourly rate		\$24.00
Initial fee		\$98.00
<b>**Clerical/information (126)</b>		
Additional hourly rate		\$21.00
Initial fee		\$87.00
<b>Vacant building registration</b>		
Administrative fee		\$75.00
Annual fee		\$400.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Building Safety</b>	
<b>License, Permit, Fee Name</b>	<b>2008 Fee</b>
**Water resource management district	
Special use permit	\$156.00
Use permit	\$52.00
Variance	\$156.00
**Change in license, permit or fee	

<b>Citywide</b>	
<b>License, Permit, Fee Name</b>	<b>2008 Fee</b>
**Audio tape/CD-ROM copies (per tape/CD-ROM)	\$7.50
Microfilm copies - 18"x24" (per page)	\$3.00
Microfilm copies - 8"x12" (per page)	\$2.00
**NSF checks	\$30.00
Photocopies (per page)	\$ .25
**Research - per hour (first 1/4 hour free) [excluding attorney and library]	\$16.00
**Special assessment incidental fee (per parcel)	\$128.00
**Zoning booklets	\$11.00
**Change in license, permit or fee	

<b>Clerk</b>	
<b>License, permit, fee name</b>	<b>2008 Fee</b>
**Adult bookstore - annual	\$31.00
Alcoholic beverage	
**3.2 percent malt liquor	
Late penalty fee	
Off sale	\$26.00
On sale	\$52.00
Off sale - annual	\$136.00
On sale	
Annual	\$417.00
Dancing	
Annual	\$860.00
One day/evening - per day	\$104.00
Seasonal	\$313.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Clerk</b>	
License, permit, fee name	2008 Fee
Temporary - on sale	
First day/evening	\$104.00
Each additional day/evening	\$21.00
Transfer	\$104.00
Intoxicating liquor	
Bottle club - annual	\$300.00
Brewery malt liquor off sale - annual	\$200.00
Club - annual	
Less than 200 members	\$300.00
201-500 members	\$500.00
501-1,000 members	\$650.00
1,001-2,000 members	\$800.00
2,001-4,000 members	\$1,000.00
4,001-6,000 members	\$2,000.00
6,001 or more members	\$3,000.00
**Late penalty fee	
Off sale	\$104.00
On Sale	\$261.00
Wine	\$78.00
Off sale	
**Annual	\$1,500.00
* Conditional	\$1,400.00
**On sale	
Additional bar	\$521.00
Annual	\$3,650.00
Dancing	
Annual	\$990.00
One day/evening - per day	\$104.00
Seasonal	\$339.00
Special Sunday license - annual	\$156.00
**Temporary - on sale	
Each additional day/evening	\$130.00
First day/evening	\$261.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Clerk		
License, permit, fee name		2008 Fee
	**Transfer	\$313.00
	**Wine - on sale	
	Annual	\$782.00
	Bed and breakfast - annual	\$391.00
	Dancing	
	Annual	\$860.00
	One day/evening - per day	\$104.00
	Seasonal	\$313.00
	Investigations	
	In state	\$500.00
	Outside of state	\$10,000.00
	**Late hours entertainment - annual	\$235.00
	**Permanent expansion	\$104.00
	**Special meeting request fee - per applicant	\$104.00
	**Temporary expansion	
	Each additional day/evening	\$156.00
	First day/evening	\$313.00
	**Banner license	
	Non-skywalk	\$78.00
	Skywalk	\$52.00
	**Bowling alley - annual	
	First lane	\$63.00
	Each additional lane	\$21.00
	**C-3 shopping center district revision	\$167.00
	Certified copies	\$10.00
	**Cigarette license - annual	\$125.00
	Coin operated device - annual	
	Card	\$15.00
	Location	\$15.00
	Prorated monthly fee	\$1.50
	Supplier license	\$10.00
	**Concurrent use permit	\$209.00
	Council minutes - per meeting	\$5.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Clerk</b>		
<b>License, permit, fee name</b>		<b>2008 Fee</b>
**Council proceedings - annual		\$63.00
<b>**Dance hall</b>		
	Annual	\$209.00
	One dance event	\$52.00
<b>Emergency wrecker service</b>		
	**Annual	\$391.00
	Vehicle replacement fee	\$5.00
**Garbage collector license - annual		\$261.00
<b>**Gasoline filling station</b>		
	First hose - annual	\$63.00
	Each additional hose - annual	\$16.00
	Initial service inspection fee	\$104.00
	New construction during license year	\$73.00
**Grooming shop - annual		\$73.00
<b>Horse and carriage livery service</b>		
	**Annual	\$136.00
	**Per carriage/per year	\$21.00
	Per horse/per year	\$10.00
<b>Hotel/motel/motor court - annual</b>		
	**First 25 rooms	\$73.00
	Each additional room	\$2.00
<b>**Kennel - annual</b>		
<b>Boarding</b>		
	3-11 animals	\$73.00
	12 or more animals	\$115.00
<b>Breeding</b>		
	2-5 animals	\$73.00
	6-11 animals	\$115.00
	12 or more animals	\$261.00
<b>**Legislative Code</b>		
	CD-ROM	\$130.00
	Hard copy	\$261.00
Supplement (changes only)		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Clerk</b>		
<b>License, permit, fee name</b>		<b>2008 Fee</b>
	CD-ROM	\$63.00
	Hard copy	\$130.00
**Massage establishment - annual		\$104.00
**Massage therapist - annual		\$21.00
**Motor vehicle dealer - annual		
	Main lot	\$339.00
	Each additional lot	\$104.00
**Motor vehicle rental - annual		\$235.00
**Nuisance wildlife removal business - annual		\$73.00
**Parade, race, community/special event		\$78.00
**Pawnbroker - annual		\$339.00
**Peddler		\$31.00
Pet license - annual		
	Altered	\$8.00
	**Animal shelter license	\$3.00
	Duplicate tag	\$3.00
	Maximum exception	\$8.00
	Unaltered	\$8.00
**Pet shop - annual		\$73.00
**Pool, billiard snooker & bumper pool - annual		
	First table	\$63.00
	Each additional table	\$21.00
**Precinct finder		\$11.00
Precinct map		\$8.00
**Precious metal dealer - annual		\$339.00
**Recreation/sightseeing rides		
	Annual	\$125.00
	Per vehicle/per year	\$42.00
	Vehicle(s) added during current license year inspection fee (per vehicle)	\$31.00
Resident permit parking - annual		
	Resident	\$5.00
	Visitor	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Clerk</b>		
<b>License, permit, fee name</b>		<b>2008 Fee</b>
	Regular	\$2.00
	Special	\$1.00
**Rezoning petition		\$417.00
**Shooting range		
	Annual	\$104.00
	Initial or new construction fees	\$287.00
**Special use permit		
	Filing fee	\$261.00
Low density planned developments and community unit plans		
	Initial fee	\$521.00
	Plan alteration review	\$209.00
	Plan unit development	\$521.00
Taxicab		
	**Annual	\$136.00
	License transfer	\$5.00
	Rate change registration fee	\$5.00
	**Vehicle permit (per vehicle/per year)	\$16.00
	Vehicle permit transfer	\$5.00
**Vacation petition filing fee		
	Easement	\$417.00
Vacation - street		
	Less than or equal to 200 feet	\$417.00
	Greater than 200 feet	\$730.00
**Veterinary hospital - annual		\$73.00
* New license, permit or fee		
**Change in license, permit or fee		

<b>Duluth Public Arts Commission</b>		
<b>License, permit, fee name</b>		<b>2008 Fee</b>
Duluth logo souvenirs		
	**Baseball cap	\$13.50
	**Can cooler	\$6.25
	**Ceramic mug	\$6.25

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Duluth Public Arts Commission</b>		
<b>License, permit, fee name</b>		<b>2008 Fee</b>
	**Ceramic mug with coffee package	\$9.50
	**Clear footed glass	\$7.25
	**Denim shirt	\$26.00
	**Fleece	\$36.50
	**Golf balls (pkg of 3)	\$7.25
	**Golf shirt	\$24.00
	**Grey sweatshirt	\$36.50
	Key tag	\$3.00
	**Knit cap	\$10.50
	**T-shirt	\$12.50
	**Watch	\$26.00
	**White sweatshirt	\$23.00
**Change in license, permit or fee		

<b>Fire</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Blasting permit		
	Late fee	\$300.00
	Regular	\$200.00
Bon fire permit		\$125.00
Burning permit		\$50.00
Commercial use/occupancy permits (three year)		
Occupancy base fees (the minimum amount shown, or, if the inspection is performed by the city under a contract with the state or any other governmental agency, any amount that does not exceed the fee for the same service charged by the party with which the city has contracted, whichever is greater)		
	Assembly occupancy	\$100.00
	Combustible storage occupancy	\$100.00
	Factory occupancy	\$100.00
	Fire sprinklers or alarms systems (not otherwise requiring a permit)	\$100.00
	Hazardous occupancy	\$100.00
	Residential occupancy	
	R-1 (same as state fee)	\$100.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Fire</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
	Additional per unit (37-99 units)	\$7.00
	Additional per unit (100 or more units)	\$8.00
R-3		\$100.00
	Additional per unit	\$20.00
R-4		\$100.00
	Additional per unit	\$20.00
Other fees		
	Inspections made in response to citizen's complaint	-0-
	Issuing new permit in conjunction with issuing a certificate of occupancy	\$25.00
	Reinspection upon request of any owner/occupant whose permit has been suspended or revoked	\$100.00
	Reinstating a suspended or revoked permit	\$100.00
	Reissuing an existing permit with the name and address of a new owner for the remainder of permit period for an occupancy with a valid permit	\$25.00
	Second and subsequent reinspection and/or any initial inspection requested by the owner/occupant of a structure or his/her authorized agent	\$100.00
Fireworks permit, sale of - annual		\$100.00
Fireworks/pyrotechnics display		\$200.00
Fuel tank inspection permit (per tank)		\$50.00

<b>Library</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Barcode/security label destruction service charge		\$3.00
Billing service charge		\$2.00
Card replacement		\$2.00
Computer lab rental		\$110.00
**Conference room rental		
	Commercial (per day)	\$150.00
	Noncommercial	
	Four hours	\$55.00
	Per day	\$70.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Library</b>	
License, Permit, Fee Name	2008 Fee
Deposit card fee	\$50.00
Extended use fines (per day)	
Adult items	\$ .25
Civil service books, DVDs, videos	\$1.00
Juvenile items	\$ .10
Toys	\$ .50
Story kits, Book Club in a Bag	\$2.00
Gold room rental	
Commercial (per day)	\$150.00
Noncommercial	
Four hours or less	\$55.00
Per day	\$70.00
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	\$46.50
Each additional family member - annual	\$10.00
Photocopies/printing (coin-operated machines) - per page	\$ .10
Research	
**After first 1/2 hour (per hour)	\$25.00
Fax service (per page)	\$1.00
* Mailed obituaries (per obituary)	\$2.00
Mailed photocopies (per page)	\$1.00
Revenue recapture notice	\$10.00
Used adult books, sale of - minimum	\$ .50
Used children's books, sale of - minimum	\$ .50
Used magazines, sale of - minimum	\$ .50

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Library</b>	
License, Permit, Fee Name	2008 Fee
Space/room rental equipment fee	\$10.00
* New license, permit or fee	
**Change in license, permit or fee	

<b>MIS</b>	
License, Permit, Fee Name	2008 Fee
Aerial photo data GIS mapping products	
**Custom mapping - minimum charge per hour (minimum one hour)	\$52.00
Standard map products - (scale 1:1200 or 1:2400)	
Up to 11"x17"	\$10.00
17"x22"	\$15.00
22"x34"	\$15.00
34"x44"	\$20.00
35"x90" city map	\$30.00
* Additional copies	
Up to 11"x17"	\$2.00
Greater than 11"x17" and up to 34"x44"	\$5.00
Greater than 34"x44"	\$10.00
* With 10' contours - up to 34"x44" additional fee	\$10.00
**Digital rectified aerial photo, predefined 1/2 Sec. (1/2 mile x 1 mile)	
Black and white or color, PLUS elevation model	\$380.00
Black and white	\$330.00
Color	\$330.00
**Elevation model - all derived products, predefined 1/2 Sec. (1/2 mile x 1 mile)	\$230.00
* GIS digital data - per layer	\$315.00
Labels - selecting/printing	
Quantity of 500	\$170.00
Quantity of 2,000 or more (plus cost of labels)	\$250.00
**Raw imagery - without rectification, PLSS Sec. (1 mile x 1 mile)	\$115.00
Specialized computer information	
Custom query	
**Minimum	\$210.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>MIS</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
	CD-ROM media (minimum fee plus \$10)	\$220.00
	**Label request fee (minimum fee plus \$20)	\$230.00
	Repeat query	\$25.00
	**Standard query	\$52.00
	Web-based Query	
	Annual maintenance and subscription	\$240.00
	Set up and handling	\$25.00
* New license, permit or fee		
**Change in license, permit or fee		

<b>Parks and Recreation</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Adult special league - annual		
	Sport	
	**Adult softball (per team)	\$550.00
	Basketball (per team)	\$565.00
	Bocce (per team)	\$35.00
	Broomball (per team)	\$940.00
	**Classic softball (per team)	\$1,100.00
	Flag football (per person)	
	With jersey	\$55.00
	Without jersey	\$45.00
	No check hockey (per team)	\$1,300.00
	Touch football (per team)	\$575.00
	Volleyball (per team)	\$395.00
	Team forfeit fee	\$20.00
	Team roster late fee (per day)	\$5.00
Athletic field rental		
	Lights (per hour/per field)	\$50.00
	Per field/per day	\$50.00
Bayfront Festival Park		
	Playfront parking lot - per vehicle during special events	\$5.00
	Use of entire park	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Parks and Recreation</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
	Bayfront Blues Festival - facilities charge per ticket	\$3.00
	**Damage/cleanup deposit (refundable if park left in acceptable condition and all fees are paid; advance payment required)	\$2,000.00
	Per paid admission on each ticket sold in excess of total daily rental payment (Payment due seven days after event)	\$ .50
	* Perimeter fencing rental (per event)	\$350.00
	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)	\$20.00
Use of Lois M. Paulucci Music Pavilion		
	Alcohol consumption permit	\$50.00
	Damage deposit (refundable)	\$100.00
	Per hour rental	
	40-199 persons	\$50.00
	200-499 persons	\$90.00
Building rental		
	Alcohol permit	\$90.00
	**Community recreation center conference room (per hour for meetings)	\$15.00
	Damage/cleanup deposit (refundable if building left in acceptable condition)	
	With alcohol	\$200.00
	Without alcohol	\$100.00
	Evenings/weekends/weekdays	
	First hour	\$60.00
	Per hour, after first	\$25.00
	Late Fee	\$25.00
	Use of licensed kitchen	\$60.00
	**Buskering permit	\$20.00
	* Electrical panel - damage deposit (refundable if panel returned in acceptable condition)	\$100.00
General recreation		
	3 on 3 basketball (per player) - annual	\$25.00
	Chester Bowl	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Parks and Recreation</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
	Daily pass	\$5.00
	**Family season pass (can buy down cost of pass by volunteering with ski operations, concessions, etc.)	\$75.00-\$155.63
	**Single season pass (can buy down cost of pass by volunteering with ski operations, concessions, etc.)	\$45.00-\$98.38
	Ski rental	\$40.00
	Cooking class (per person/per day)	\$2.00
	Pizza parties (per person/per day)	\$3.00
	Youth dances (per person/per day)	\$5.00
<b>Golf courses - Lester Park and Enger Park</b>		
	Daily golf ticket - tax included	
	18 hole	\$28.00
	18 hole junior	\$15.00
	* 18 hole senior	\$24.00
	9 hole	\$16.00
	9 hole junior	\$10.00
	9 hole senior	\$13.00
	Fall special	\$16.00
	Twilight	\$13.00
	Golf cart rental - tax included	
	18 hole	\$28.00
	9 hole	\$16.00
	Daily private	\$13.00
	**Season private	\$210.00
	Season restricted 5-day	\$540.00
	Season unlimited	\$730.00
	Season pass - tax included	
	**Family	\$978.25
	Junior family upgrade to limited	\$193.50
	**Restricted	
	5 day	\$419.25
	Collegiate	\$354.75
	Junior	\$204.25

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Parks and Recreation</b>	
License, Permit, Fee Name	2008 Fee
**Unlimited	\$628.88
Junior	\$354.75
* Keys for buildings and park gates, deposit for use of (refundable if keys returned in acceptable condition)	\$20.00
Lake Superior Zoological Gardens admission	
Community celebrations	
Berlin's Birthday Bash	
0-12 years old	-0-
**13 years and older	\$9.00
Easter Egg Hunt	
0-12 years old	-0-
**13 years and older	\$9.00
**Zoo Year's Eve - all ages	\$4.00
Group rates - groups of ten or more who have made prior arrangements and where one payment is made for the entire group	
0-2 years old	-0-
**3-12 years old	\$3.00
**13 years or older	\$7.50
**School sponsored tours - per person	
Chaperone	\$7.50
Grades K-8	\$3.00
Grades 9-12	\$7.50
**Groups with bona fide special needs or disabilities	
Chaperone	\$7.50
Per person	\$3.00
Minnesota Zoo member	
**Adult	\$4.50
**Child	\$2.00
Regular rates	
0-2 years old	-0-
**3-12 years old	\$4.00
**13 years or older	\$9.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Parks and Recreation		
License, Permit, Fee Name		2008 Fee
<i>Special rates for zoo staff training and education and service projects provided to the zoo may be granted by the director of the zoo after approval by the zoo management team.</i>		
Picnic		
Permit		
	1 to 150 persons (five hour time slot)	\$50.00
	151 to 300 persons (five hour time slot)	\$90.00
	301+ persons (five hour time slot)	\$105.00
	Rose Garden (per hour)	\$30.00
Picnic/wedding - alcohol consumption		\$45.00
Recreation centers/team events		
	Dodge ball (per person)	\$25.00
	Floor hockey (per person)	\$25.00
	Indoor soccer (per person)	\$25.00
	Youth basketball (per person)	\$25.00
Senior programs (per person)		
	**Billiards tournament	\$7.00
	Citywide picnic	\$10.00
	Educational seminars	\$7.00
	Holiday banquet	\$14.00
	**Special parties	\$3.00
* Special use permit (five hour time slot)		
	1 to 150 persons	\$75.00
	151 to 300 persons	\$115.00
	301+ persons	\$130.00
Van rides - one way		\$1.25
Vendor space - parks (per day)		\$20.00
Washington Center		
	* Adult open gym (per person/per day)	\$1.00
Gym rental		
	* As is (per hour)	\$15.00
	Floors covered and use of tables and chairs (per hour)	\$30.00
	Lap swim (per person/per month)	\$25.00
	* Open swim (per person/per day)	\$2.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Parks and Recreation</b>	
<b>License, Permit, Fee Name</b>	<b>2008 Fee</b>
Pool rental (per hour/per group)	
**Lifeguard provided	\$30.00
* No lifeguard provided	\$20.00
Swimming lessons (per person)	\$20.00
<b>Wedding</b>	
* Permit (five hour time slot)	
1 to 150 persons	\$60.00
151 to 300 persons	\$100.00
301+ persons	\$115.00
Rose Garden wedding permit (per hour)	\$30.00
* New license, permit or fee	
**Change in license, permit or fee	

<b>Planning and Development</b>	
<b>License, Permit, Fee Name</b>	<b>2008 Fee</b>
**C-3 and C-5 plan review	\$261.00
<b>Comprehensive plan</b>	
**Booklet	\$42.00
Disk format	\$1.00
**EAW's (city as RGU)	\$521.00
<b>**Grant intermediary fee</b>	
DTED/contamination clean-up	\$261.00
DTED/MIF - city	\$156.00
**JOBZ application and monitoring fee (refundable if denied by council)	\$521.00
<b>**Platting</b>	
Final review	
Five or less lots	\$104.00
Six to 70 lots	\$182.00
Over 70 lots (per lot)	\$3.00
Preliminary review	\$521.00
**Tax forfeit reclassification	\$156.00
**Zoning text change	\$261.00
**Change in license, permit or fee	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Police</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Animal shelter		
	Animals sold to institutions	\$200.00
	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
**Closed investigative product/data		
	Per CD-ROM	\$5.00
	Per image	\$.25
	Per page	\$.25
Crime scene unit audio and video recordings		
	**Per tape or CD	\$10.00
	Staff time (per hour)	\$50.00
**Criminal history		\$30.00
**Deer hunting qualification certificate		\$25.00
Fingerprinting		
	First card	\$10.00
	Each additional card	\$5.00
**Intrusion detection device permit		\$30.00
**No parking signs - for construction sites (per sign)		\$3.00
**Pawnbroker transaction surcharge (per transaction)		\$4.00
**Change in license, permit or fee		

<b>Public Works and Utilities</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Aerial photo		
	2002	\$5.00
	Pre-2002	\$3.00
**Certificate of unpaid bills [ <i>Comfort Systems</i> ]		\$15.50
Excavation permit		
	Base Fee	\$20.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Public Works and Utilities</b>	
<b>License, Permit, Fee Name</b>	<b>2008 Fee</b>
Inspection Fee	\$50.00
Fire service application	varies from \$642-\$1,533
<b>**Gas furnace comfort policy fee - annual</b>	
Electronic ignition	\$128.00
Standing pilot	\$119.00
<b>**Gas furnace/appliance service</b>	
Midnight - 8:00 a.m.	
First hour OR no show fee	\$94.00
Each additional 15 minutes	\$23.50
Week days	
First 1/2 hour OR no show fee	\$31.00
Each additional 15 minutes	\$15.50
Week nights	
First 1/2 hour OR no show fee	\$46.50
Each additional 15 minutes	\$23.25
Inflow and infiltration noninspection/noncompliance surcharge (per month)	\$50.00
<b>Land disturbance permit</b>	
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
<b>Single family dwelling construction</b>	
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 of building footprint	\$75.00
Each additional 1,000 square feet of building footprint	\$25.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Public Works and Utilities</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
On parcels equal to or greater than 10,000 square feet		
	First 3,000 square feet of building footprint	\$75.00
	Each additional 1,000 square feet of building footprint	\$25.00
<b>Miscellaneous Permits</b>		
Driveway crossing or sidewalk repair or replacement (private construction)		
	Base fee	\$20.00
	Inspection fee	\$50.00
Occupy or obstruct street or sidewalk		
	Base fee	\$30.00
Meter revenue loss charge - per meter		
	Per day	
	Per \$0.25/hour meter	\$1.25
	Per \$0.25/15 minutes meter	\$5.00
	Per \$0.50/hour meter	\$2.50
	Per month	
	Per \$0.25/hour meter	\$25.00
	Per \$0.25/15 minutes meter	\$100.00
	Per \$0.50/hour meter	\$50.00
	Per week	
	Per \$0.25/hour meter	\$6.25
	Per \$0.25/15 minutes meter	\$25.00
	Per \$0.50/hour meter	\$12.50
	Per month, per square feet of area	\$0.07
	Minimum fee	\$10.00
	Yearly	\$200.00
	Utility work (franchise holders) - minimum fee	\$40.00
Sewer connection - property not previously assessed (per foot of frontage; varies depending on lot size)		\$90.00
Transportation permit		
	Regular	\$10.00
	Seasonal contractor	\$50.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>Public Works and Utilities</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
**Violations/noncompliance service charge		
	Dispatch of service vehicle	\$46.50
	Restoration of service	
	Between 12:00 a.m.-8:00 a.m.	\$73.00
	Between 4:30 p.m.-12:00 a.m.	\$57.00
	Between 8:00 a.m.-4:30 p.m.	\$46.50
Water connection - property not previously assessed (per foot of frontage; varies depending on lot size)		\$90.00
**Water hydrant, use of		\$94.00
Water service tapping fee (one inch or less)		\$380.00
Watercourse obstruction		\$50.00
**Change in license, permit or fee		

<b>Treasurer</b>		
<b>License, Permit, Fee Name</b>		<b>2008 Fee</b>
Assessment search/certificate		\$12.50
Delinquent garbage accounts collection fee		\$30.00
Vehicle excise tax (per state authorization)		\$20.00

RESOLVED FURTHER, that the following fees are hereby eliminated:

<b>Eliminated Fees</b>		
<b>Dept./Div.</b>	<b>License, Permit, Fee Name</b>	<b>Current Fee</b>
Clerk	Pedestrian transit zone	
	Initial fee	\$100.00
	Annual renewal fee	\$25.00
MIS	Aerial photo data GIS mapping products	
	Up to 11"x17" map products	
	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	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Eliminated Fees		
Dept./Div.	License, Permit, Fee Name	Current Fee
	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
	Standard map products and additional copies: available maps (scale 1:1200 or 1:2400)	
	14"x22" utility map (scale: 1:3600 only)	\$4.00
	Reproducible Mylar - Predefined 1/2 Sec. (1/2 mile x 1 mile)	\$315.00
Parks and Recreation	Banner Permit	\$10.00 to \$50.00
	General recreation - adventure recreation day camp (per person/one week)	\$150.00
	Recreational fire	\$15.00
	Sound amplification	\$20.00
	Stage rental	\$350.00
Police	Background investigation fee	\$8.00
Treasurer	Assessment search/certificate	
	Each additional description	\$12.50

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, 2008.

Resolution 07-0723 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

Councilor Johnson moved to remove Resolution 07-0772, requesting that the legislature of the state of Minnesota repeal the restriction on the issuance of intoxicating liquor licenses in that portion of the territory of the city of Duluth formerly incorporated as the city of Lakeside and annexed by the city of Duluth, by councilors Johnson, Stewart, Krause and Little, from the table, which motion was seconded and unanimously carried.

Councilor Johnson moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Kenneth Laurion, Danny Jaekel, John McAllister, Jean Crassweller, Peggy White, Evelyn Anderson, Jack Armstrong and Patricia Jaekel opposed the resolution for the reasons of: this will not help the business that thinks that they need this help; it will turn this area of town into a virgin

area for liquor businesses; just because the law is so old, does not mean that it is not valuable today; this law is simple to understand; there are good reasons why the sale and consumption of alcohol are regulated; this law makes Duluth more attractive; this annexed agreement should be honored; bars promote alcoholism, underage drinking, drunken driving and health risks for women; this issue is not peculiar to this area, because there are no bars in Morgan Park and Park Point; this is a peaceful and quite neighborhood that would be altered by changing this law; 60 percent of the residents of this area opposed this change four years ago when a similar attempt was made; the reasoning that inconvenience or lack of access to liquor establishments is absurd; there could be a legal challenge to the council changing the terms of a legal annexation; many who do not live in this area like the area because of this restriction and having, or not having, liquor does not determine the success of a restaurant business.

Katie Beeman supported the change for the reasons of: times have changed; other areas of the city that have liquor sales are doing just fine, without any problems; liquor stores and bars are regulated and this would give residents the choice to go to an establishment in their neighborhood to have glass of wine with their dinner.

Councilors Stauber and Ness opposed the resolution for the reasons of: the residents of this area do not want this and this issue would be a distraction to the city's legislative agenda.

Councilors Stewart, Krause, Johnson and Little supported the resolution, noting: this was not brought to the council in response to a specific business; this is a matter of fairness because laws should apply equally to everyone; there are insurance requirements, zoning restrictions and licensing before a location could have liquor sales; other neighborhoods do not have bars because of zoning and economic viability; this area today, is not free of alcohol related problems ; this is one city and it does not help if one area has different rules than the other; when the Hawks Ridge proposal was first presented in this area, there were concerns from the neighborhood, which have been proven wrong; other areas in the First Council District have alcohol sales without problems and this area is as important as other legislative issues are.

Resolution 07-0772 was adopted upon the following vote:

Yeas: Councilors Johnson, Krause, Little, Reinert, Stewart and President Stover -- 6

Nays: Councilors Gilbert, Ness and Stauber -- 3

*[Editor's Note: Resolution 07-0772 was vetoed by Mayor Bergson on December 28, 2007 (Public Document No. 08-0103-01), reconsidered and adopted on January 3, 2008.]*

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

BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a supplemental labor agreement with the City of Duluth Supervisory Association, the same, except for any typographical corrections, as that which is on file in the office of the city clerk as Public Document No. 07-1217-12, that adds language requiring the city to contribute one percent of an employee's basic monthly pay into a health care savings plan account effective January 1, 2008,

and permits an employee to sell back one week of vacation in 2007.

Resolution 07-0755 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the city council hereby authorizes the city auditor to authorize the issuance of procurement cards to such city employees as he or she shall determine appropriate for the purpose of purchasing materials and services for the benefit of the city in accordance with Section 41-24(a)(3) of the Duluth City Code, 1959, as amended, and with the requirements of Minnesota Statutes Section 471.382.

Resolution 07-0780 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Robert Aho (preservation professional) to the heritage preservation commission, replacing Robert Hewitt, for a term expiring on May 31, 2010, is confirmed.

Resolution 07-0787 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proposed amendments to the pay range for the civil service classification of city architect are approved; that said classification shall remain subject to the city's collective bargaining agreement with this supervisory unit employees, that the pay range will change from Pay Range 1135 to pay ranges 1115-1135. 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 07-0790 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED that Eric Torch of Damiano Center is appointed to fill the council's seat on the St. Louis County heading home implementation committee.

Resolution 07-0802 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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BY COUNCILOR GILBERT:

RESOLVED, that the appointment by Mayor Bergson of Daniel Markham to the Duluth legacy endowment fund project group for a term expiring on July 12, 2008, replacing Kay Ross who resigned, is confirmed.

Resolution 07-0805 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to apply for and, if approved, accept from the state of Minnesota, through the Minnesota department of natural resources, division of waters, a grant in the amount of \$73,000 to be deposited into Fund 210-030-3154, to assist in development of parcel mapping and surveying control points in areas of the city lying in Bayview Heights, Gary-New Duluth, Morgan Park, Fairmount, Cody, Irving, Norton Park, Riverside, Smithville and the Fond Du Lac area.

FURTHER RESOLVED, that said officials are hereby authorized to accept a contribution from St. Louis County in the amount of \$67,000 in cash, to be deposited in Fund 210-030-3154, and \$4,719 in the form of an in-kind donation.

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 \$20,870, \$20,870 of which shall be from the Fund 100-015-1513-5100 and city cash matching funds in the amount of \$20,000; \$5,000 of which shall be payable from the Water Utility Fund 510-500-1915-5310, \$5,000 of which shall be payable from the Gas Utility Fund 520-500-1915-5310, \$5,000 of which shall be payable from the Sewer Utility Fund 530-500-1915-5310 and \$5,000 of which shall be payable from the Stormwater Utility Fund 535-500-1915-5310.

Resolution 07-0798 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a grant agreement, substantially the same as that on file with the clerk as Public Document No. 07-1217-13, between the city and Minnesota historical society in the amount of \$800 for the purpose of reimbursing the city for the costs incurred by three members of the Duluth heritage preservation commission (HPC) to attend the National Trust conference.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant, to execute any documents required to be executed to accept such grant. The grant will be accounted for in Fund 210, Agency 030, Organization 3150, Revenue Source 4210-02.

Resolution 07-0810 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the state of Minnesota, department of natural resources, division of waters, administers financial assistance for coastal management purposes, through Minnesota's Lake Superior coastal program; and

WHEREAS, the city of Duluth desires financial assistance under the coastal management assistance grant program.

NOW, THEREFORE, BE IT RESOLVED, as follows:

(a) That the Duluth City Council approves of and supports the city administration in filing an application to Minnesota's Lake Superior coastal management program for financial assistance in the amount of \$4,000 to complete a greenhouse gas emissions inventory of the city of Duluth;

(b) That the proper city officers are hereby authorized and directed to execute and file an application with the Minnesota department of natural resources and to provide all information and documentation as required to become eligible for possible funding assistance;

(c) That the city of Duluth does agree to obligate the funds required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms and conditions of the coastal management assistance grant program. Matching funds to come from the city's Energy Management Fund 257.

Resolution 07-0808 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that Resolution 06-0663 is hereby amended and Contract 20251 with Salo Engineering, Inc., for professional engineering services in the construction of improvements to the Garfield Service Center material storage yard, is increased by \$5,875.93, for a new contract total of \$16,174.94, payable as follows:

(a) \$1,762.77 from Water Fund 510, Department/Agency 500, Organization 1915, Object 5441;

(b) \$587.62 from Gas Fund 520, Department/Agency 500, Organization 1915, Object 5441;

(c) \$1,762.77 from Sewer Fund 530, Department/Agency 500, Organization 1915, Object 5441;

(d) \$1,762.77 from Stormwater 535, Department/Agency 500, Organization 1915, Object 5441.

Resolution 07-0769 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to continue the contract with KTM Paving, Inc., for the snowplowing of municipal lots and ramps for the facilities management division as needed during the 2007-2008 winter season (the second year of a four year contract) in accordance with its 2007 low bid for an estimated amount of \$30,000, terms net 30, FOB job sites, payable as follows:

(a) \$6,000 from the Parking Fund 505, Department/Agency 015, Organization 1480 and various object numbers;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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(b) \$24,000 from the Parking Fund 505, Department/Agency 015, Organization 1481 and various object numbers.

Resolution 07-0786 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into a second amendment to City Contract No. C-19990 with LHB Engineers and Architects, Inc., to include construction engineering services related to the painting and rehabilitation of the Aerial Lift Bridge, Bridge No. L6116, located on MSAS 140 (Lake Avenue), in an amount not to exceed \$149,919, payable from the Permanent Improvement Fund 0411, Department/Agency 035, Object 5520, City Project No. 0079TR, S.A.P. 118-140-029.

Resolution 07-0788 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are authorized to enter into a contract with Rainbow, Inc., for the painting and general structural rehabilitation of the Aerial Lift Bridge, Bridge No. L6116, located on MSAS 140 (Lake Avenue) for the engineering division in accordance with specifications on its low specification bid of \$2,019,230, payable out of the Permanent Improvement Fund 0411, Department/Agency 035, Object 5520, City Project No. 0079TR, S.A.P. 118-140-029.

Resolution 07-0789 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with MacQueen Equipment, Inc., for the purchase and delivery of a 2008 Elgin Pelican Model NS street sweeper with options for the fleet services division in accordance with state of Minnesota Contract #437708, Release S843(5) specifications and pricing in the amount of \$153,803 (includes freight) plus sales tax of \$9,997.20 for a total amount of \$163,800.20, terms net 30, FOB destination, payable from the Stormwater Fund 535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 07-0795 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that city officials are hereby authorized to contract with MTI Distributing, Inc., for the purchase and delivery of a Toro Groundsmaster GM3500-D sidewinder mower for the fleet services division in accordance with state of Minnesota Contract #436936, Release M-448 specifications and pricing in the amount of \$27,612 (including delivery charge) plus \$1,775.28 sales tax for a total amount of \$29,387.28, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007-CE250-V714, Object

5580, Project CE250-V714.

Resolution 07-0806 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file with the city clerk as Public Document No. 07-1217-14, with the Minnesota state department of transportation to cooperate in the provision of services related to the design, construction and maintenance of roadways.

Resolution 07-0807 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on filed in the office of the city clerk as Public Document No. 07-1217-15, with St. Louis County and the Duluth Airport Authority relating to the county's transfer of ownership of a communications tower and associated equipment to the City and the lease by the city of certain property located at 4848 Lackland Street, the current 911 communications facility site, upon which the tower and the equipment is located in order to provide for use of the tower and equipment for public safety purposes, any payments required thereunder payable from Fund 100 200 1610 5321.

Resolution 07-0771 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with ICOP Digital, Inc., for the tax-exempt purchase and delivery of in-car digital video surveillance equipment and associated software for the Duluth police department in accordance with specifications and the vendor's bid of \$65,154.02, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015, Organization 2007, Object 5580, Project CE250-V703.

Resolution 07-0781 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Bayly Communications, Inc., for the purchase and delivery of a T1 Omniplexer system and associated communications equipment for the Duluth police emergency operations center (EOC) in accordance with specifications of St. Louis County proposal #A-5140 and the vendor's quote of \$23,738.64 plus \$125 estimated shipping plus \$1,551.14 sales tax for a total estimated amount of \$25,414.78, terms net 30, FOB destination, payable from the Duluth Police Grant Programs Fund 215, Depart-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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ment/Agency 200, Organization 2276, Object 5580.  
Resolution 07-0791 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that city officials are hereby authorized to contract with Microwave Networks, Inc., for the purchase, delivery and installation of microwave communications equipment for the Duluth police department emergency operations center (EOC) in accordance with state of Minnesota Contract Release M-518 (5) specifications and pricing in the amount of \$132,156 plus \$2,250 estimated installation and shipping plus \$8,736.39 sales tax, for a total estimated amount of \$143,142.39, terms net 30, FOB destination, payable from the Duluth Police Grant Programs Fund 215, Department/Agency 200, Organization 2276, Object 5580.

Resolution 07-0792 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to accept a grant from the state of Minnesota, department of public safety, in the amount of \$12,000 for increased impaired and drunk driving enforcement during the period October 1, 2007, to September 30, 2008, and to execute the grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 07-1217-16; grant funds to be deposited in Fund 100, Agency 200, Organization 1620, Revenue Source 4210.

Resolution 07-0793 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to enter into a contract substantially in the form of that on file with the city clerk as Public Document No. 07-1217-17, between the city and the town of Superior, Wisconsin, to provide fire fighting services in the amount of \$4,200 per year, said sum to be payable to Fund 100, Agency 100, Organization 1501, Revenue Source 4340.

Resolution 07-0803 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with J.R. Jensen Construction Company for the remodeling and re-carpeting of the city of Duluth main public library in accordance with its low specification bid of \$546,000, payable out of the funds as follows:

Fund 450, Department/Agency 030, Object 5520-CP 2007	\$134,000
Fund 243, Department/Agency 300, Object 5520	\$ 90,640

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Fund 244, Department/Agency 300, Object 5580	\$156,560
Fund 245, Department/Agency 300, Object 5580	\$164,800

Resolution 07-0777 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Target Commercial Interiors for the furnishing and installation of furniture at the main public library in accordance with its low specification bid of \$66,067.49, payable out of the funds as follows:

Fund 243, Department/Agency 300, Object 5520	\$14,535
Fund 244, Department/Agency 300, Object 5580	\$25,106
Fund 245, Department/Agency 300, Object 5580	\$26,427

Resolution 07-0778 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to enter into a lease agreement with St. James Home of Duluth, Inc., d/b/a Woodland Hills, for use of the Washington Recreation Center for its program activities for the period January 1, 2008, through December 31, 2008, and thereafter renewed on an annual basis and finally terminating on December 31, 2011, said agreement to be substantially in the form of Public Document No. 07-1217-18 on file in the office of the city clerk; rent proceeds to be deposited in Fund 100-015-1515-2500-4622.

Resolution 07-0783 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized and directed to execute the grant agreement on file in the office of the city clerk as Public Document No. 07-1217-19, between the city of Duluth and the state of Minnesota, which awards the city a matching grant in the amount of \$97,726 to be used for Phase II trail design and construction of the Grassy Point Trail on Grassy Point, said grant funds to be deposited into Fund 450, Agency 030, Revenue Source 4210-01, Project CP2005-C0503 and CP2003-C117.

Resolution 07-0796 was unanimously adopted.  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

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. 07-1217-20, with the Woodland Gardens Association, for the nonexclusive use of the recreation room of the Woodland Gardens Apart-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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ments, from January 1, 2008, through December 31, 2008, for the operation of the Duluth senior dining program.

Resolution 07-0800 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

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. 07-1217-21, 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, 2008, through December 31, 2008, for the operation of the Duluth senior dining program at a cost of \$7,860, payable at \$655 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 272, Agency 031, Project SN 2008 SD04/SD05, Object 5412.

Resolution 07-0801 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

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. 07-1217-22, with the St. Louis County health and human services department for furnishing approximately 31,804 hot meals for eligible senior citizens and guests at two St. Louis County facilities located in Duluth from January 1, 2008, through December 31, 2008, for the Duluth senior dining program at a cost of \$5.26 per meal for eligible senior citizens, \$5.71 per meal for guests, and an additional \$0.33 per meal for dining room management provided at Lincoln Park, or approximately \$172,099, payable out of Federal Program Fund 272, Agency 031, Project SN 2008 SD04, Object 5310.

Resolution 07-0809 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers execute the addendum to City Contract No. 19756 with the Arrowhead Regional Development Commission, a copy of which is on file in the office of the city clerk as Public Document No. 07-1217-23, modifying and increasing funding by a net amount of \$210, said additional funds to be deposited into Fund Account 272, Agency 031, Revenue Source 4241.

Resolution 07-0813 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Earl F. Anderson, Inc., for the furnishing and installation assistance of playground apparatus at Portland Square in accordance with its low specification bid of \$27,088.74, payable out of General

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Fund 100, Department/Agency 700, Organization 1420, Object 5530, Project CM100-0T-0614.  
 Resolution 07-0814 was unanimously adopted.  
 Approved December 17, 2007  
 HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 07-0784, by Councilor Stewart, allocating \$100,000 additional funds to the Greats Lakes Aquarium and distributing the estimated 2008 tourism taxes of hotel-motel and food and beverage, was introduced for discussion.

Councilor Stewart moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried

John Ramos opposed the resolution, noting that if this resolution is not defeated, at least the funding for it should be taken from the funding for Visit Duluth, because Visit Duluth supported the aquarium.

Councilors Stewart, Krause and President Stover opposed the resolution because it appears that it contains an additional \$50,000 that the administration gives to whomever it likes and that there is no long range plan.

Finance Department Director Stark reminded the council that: the city is in the last year of a three year agreement with Visit Duluth, which commits three percent of the hotel-motel tax collected and when the aquarium was built, former Administrative Assistant Nollenberger signed a waiver that any losses of the aquarium would be covered by the city.

Resolution 07-0784 was adopted as follows:

BY COUNCILOR STEWART:

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

WHEREAS, the city desires to assist the Great Lakes Aquarium in stabilizing their finances;

NOW, THEREFORE, BE IT RESOLVED, that \$100,000 in additional funds be allocated to the Great Lakes Aquarium beyond the amount accorded below; this source coming from the unreserved, undesignated fund balance in the tourism tax fund.

FURTHER RESOLVED, that the 2008 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			\$29,000	\$10,000	\$39,000
Sister cities			\$48,000	\$12,000	\$60,000
DECC	\$969,500				\$969,500
Convention & Visitors Bureau	\$522,000	\$173,900	\$576,300	\$160,000	\$1,432,200

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

	3% Hotel-Motel	1% Hotel-Motel	1.5% Food & Beverage	Additional 2.5% Hotel-Motel	TOTAL
Historical Union Depot		\$89,700	\$56,100	\$14,200	\$160,000
Donations			\$50,000		\$50,000
International Finnish Festival			\$10,000		\$10,000
To general fund	\$78,500	\$259,400	\$592,400	\$148,000	\$1,078,300
Spirit Mountain debt service			\$225,000		\$225,000
To debt service			\$941,000	\$721,800	\$1,662,800
Great Lakes Aquarium			\$72,200	\$127,800	\$200,000
TOTALS	\$1,570,000	\$523,000	\$2,600,000	\$1,193,800	\$5,886,800

Resolution 07-0784 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert and Stauber -- 6

Nays: Councilors Krause, Stewart and President Stover -- 3

Approved December 17, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officials are authorized to accept the donation of \$9,000 from Clyde Narhi in appreciation of health care benefits provided to him as a retired city employee, said sum to be deposited in the Group Health Fund 630-036-1660-4660.

FURTHER RESOLVED, that the city of Duluth expresses its appreciation to Mr. Narhi for his contribution and the public spirit it represents.

Resolution 07-0804 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

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BY COUNCILOR KRAUSE:

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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<b>Licensee</b>	<b>Gambling Site</b>
Elk's Lodge #133	<ul style="list-style-type: none"><li>• 4250 Haines Road</li><li>• Afterburner Lounge, 4701 Grinden Drive</li><li>• Great American Bar &amp; Grill, 1600 Miller Trunk Highway</li></ul>
Climb Theatre	<ul style="list-style-type: none"><li>• Incline Station, 601 West Superior Street</li><li>• Country Lanes, 2327 Mountain Shadow Drive</li></ul>

Resolution 07-0797 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR KRAUSE:

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 2008 for an administrative fee of \$27.71 per single employee or per family per month and a fee for stop loss coverage of \$11.88 per single employee per month and \$31.73 per family per month, for an estimated cost of \$1,118,085, which shall be paid from the group health fund.

Resolution 07-0812 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the reappointments by Mayor Bergson of Mike Akervik, Melinda M. Appold and David K. Sarvela to the planning commission for terms expiring on December 31, 2011, are confirmed.

Resolution 07-0799 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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 2008 action plan portion of the FY 2005-2009 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 07-0774 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 07-0775 and 07-0776 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 07-0773 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, city council Resolution No. 07-0773, adopted December 17, 2007, approved the FY 2008 action plan portion of the Duluth consolidated plan for housing and community development FY 2005-2009; 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

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 2007

2008 CITY OF DULUTH COMMUNITY  
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262 PROJECT CD08CD

<u>SUB</u>	<u>PROJECT</u>	<u>ACTIVITY</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
				<u>HOUSING PROJECTS</u>
	HOUS	1734	\$1,065,000	Duluth PROPERTY REHAB PROGRAM - HRA and/or NCLT
	HOUS	1291	\$ 47,800	Downpayment assistance for IDAs - Community Action Duluth
	HOUS	1091	\$ 242,000	Duluth weatherization program - AEOA
	HOUS	HS04	\$ 65,000	Section 108 loan guarantee payment - Duluth Rental Housing Program - Village Place
				<u>ECONOMIC DEVELOPMENT PROJECTS</u>
	ECDV	2412	\$ 150,000	SOAR economic opportunities initiative - SOAR Career Solutions
	ECDV	1244	\$ 112,500	CHUM support services for employment - Churches United in Ministry
	ECDV	2805	\$ 40,500	Neighborhood youth ventures - Neighborhood Youth Services
	ECDV	2264	\$ 80,000	Growing Neighborhood Businesses - Northeast Entrepreneur Fund, Inc.
				<u>PUBLIC FACILITY IMPROVEMENT PROJECTS</u>
	PFAC	PF01	\$ 180,000	Curb ramp accessibility and sidewalk improvements
	PFAC	PF02	\$ 50,000	CD street assistance program
				<u>PUBLIC SERVICE PROJECTS</u>
	PSVC	1244	\$ 76,000	Duluth Hunger Project - CHUM
	PSVC	1929	\$ 70,000	Primary health care services - Lake Superior Community Health Center
	PSVC	1348	\$ 20,000	Clothes That Work and social services - Damiano Center
	PSVC	2511	\$ 40,000	Emergency heating assistance - Salvation Army
	PSVC	1974	\$ 22,000	Youth Center - Life House
	PSVC	134A	\$ 20,000	Housing access center program - Damiano Center
	PSVC	2509	\$ 35,000	Battered women's shelter program - Safe Haven shelter and/or AICHO
	PSVC	251A	\$ 57,000	Transitional housing program - Salvation Army and/or WCDO
	PSVC	1168	\$ 95,000	Youth Development Collaborative: Valley Youth Center, Grant Community School Collaborative, Boys & Girls Club, YMCA Mentor Duluth Collaborative, YWCA Girls and Youth Programs
			\$ 25,000	Construction contingency
				<u>PLANNING/PROGRAM ADMINISTRATION</u>
	ADMC	AD01	\$ 457,675	Program administration
	ADMC	AD02	\$ 50,000	Neighborhood planning
	ADMC	AD03	\$ 40,000	Facility needs assessment and long range plan

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

ADMC	1913	\$ 50,389	SNAP plan implementation - LISC
		\$3,090,864	Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 2008	CDBG Grant - city	\$2,901,000
Year 2003	CDBG Grant - city	\$ 15,672
Year 2004	CDBG Grant - city	\$ 3,718
Year 2005	CDBG Grant - city	\$ 6,011
Year 2006	CDBG Grant - city	\$ 164,463

Total	\$3,090,864
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BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year community development accounts:

	<u>Original Budget</u>	<u>Amount of Change</u>	<u>Revised Budget</u>
<u>2003</u> CD03CD			
ECDV-ED01 NSCDC RLF	\$ 71,378	-\$15,672	\$ 55,706
<u>2004</u> CD04CD			
PFAC-PF06 City Homes Infrastructure	\$270,000	-\$ 3,718	\$266,282
<u>2005</u>			
HOUS-2239 NHS Affordable Housing Svcs	\$137,124	-\$ 1,966	\$135,158
PFAC-PF03 CD Street Assistance	\$ 87,700	-\$ 823	\$ 86,877
PFAC-PF08 Morgan Park Streets-Ph. II	\$ 85,820	-\$ 3,222	\$ 82,598
<u>2006</u>			
PFAC-PF06 Morgan Park Streets-Ph. III	\$ 80,000	-\$26,332	\$ 53,668
PFAC-PF03 CD Street Assistance	\$ 64,000	-\$38,678	\$ 25,322
PSVC-2811 YWCA Youth & Girls Prog.	\$ 14,900	-\$ 10	\$ 14,890
HOUS-1291 Community Action IDAs	\$ 21,600	-\$ 343	\$ 21,257
HOUS-1091 AEOA-Weatherization	\$242,000	-\$ 214	\$241,786
Bal.Sh.2220 Lien Repayments	\$ 98,886	-\$98,886	-0-
\$189,864 - 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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the appropriate agreements with these agencies upon receipt of HUD funds.

Resolution 07-0774 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, City Council Resolution No. 07-0773, adopted December 17, 2007, approved the FY 2008 action plan portion of the Duluth consolidated plan for housing and community development FY 2005-2009; 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).

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:

2008 HOME PROGRAM - FUND 260, PROJECT CD08HM

SUB

<u>PROJECT</u>	<u>ACTIVITY</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
GN08	1736	Homeless rental asst. program (TBRA)- HRA	\$ 37,950
GNO8	1737	TBRA admin - HRA	\$ 3,800
CH08	2270	City Homes Ph. VIII - predevelopment - NCLT	\$ 20,000
CH08	1226	Predevelopment - Center City Housing Corp.	\$ 17,950
CH08	2271	Rehabilitation - resale - NCLT	\$225,000
CH08	1050	Supportive housing - AICHO	\$162,000
CH08	2272	MACV-Duluth housing - NCLT	\$141,600
GN08	AD01	Program administration	\$ 72,100
		Homeowner development project	\$134,562
Total			\$814,962

BE IT FURTHER RESOLVED, the following are hereby designated as the financial sources for the above program:

Year 2008	HOME grant	\$759,000
Year 2006	Program income	<u>\$ 55,962</u>
Total		\$814,962

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year community development accounts:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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	<u>Original Budget</u>	<u>Amount of Change</u>	<u>Revised Budget</u>
<u>2006</u> CD06HM			
Bal. Sh. 2220	Lien repayments \$ 55,962	-\$ 55,962	-0-
	\$55,962 - 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 approval of HUD funds.

Resolution 07-0775 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Approved December 17, 2007

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, city council Resolution No. 07-0773, adopted December 17, 2007, approved the FY 2008 action plan portion of the Duluth consolidated plan for housing and community development FY 2005-2009; 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).

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:

2008 ESG PROGRAM - FUND 262, PROJECT CD08ES		
<u>SUBPROJECT</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
1244	CHUM stabilization services for homeless	\$ 29,000
2109	Minnesota Assist. Council for Veterans - Duluth	\$ 17,200
2509	Battered Women's Shelter programs-Safe Haven and/or AICHO	\$ 24,000
2511	Transitional housing-Salvation Army and/orWCDO	\$ 42,700
1974	Life House, Harbor House	\$ 15,000
	Program administration	\$ 1,140
Total		\$129,040

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

Source of Funding

2008 ESGP grant	\$125,000
2006 ESGP grant	<u>4,040</u>
Total	\$129,040

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfer in 2006 emergency shelter grant program account:

	<u>Original Budget</u>	<u>Amount of Change</u>	<u>Revised Budget</u>
<u>2006</u>			
CD06ES 2804 WCDO transitional housing	\$18,650	-\$4,040	\$14,610
\$4,040 - 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 approval of HUD funds.

Resolution 07-0776 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert and President Stover -- 7

Nays: Councilors Stauber and Stewart -- 2

Approved December 17, 2007

HERB W. BERGSON

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Resolution 07-0782, by Councilor Johnson, authorizing city officials to contract with Johnson Controls, Inc., for the installation of an automated meter reading system (AMRS) for water and gas meters in the amount of \$9,565,250, was introduced for discussion.

Councilor Johnson moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Carl Strohm, a city employee, expressed the following concerns: that the eight meter reader positions will be reduced to two; that the life expectancy and cost of the equipment is greater than keeping the status quo; it is not safe to be driving and watching a computer; an actual employee reading the meters can observe ice buildups on meters, trees growing up around meters and other potentially hazardous situations and there are more important issues to spend city funds on.

Councilor Krause moved to table the resolution to allow for time to study the issue, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Krause, Little and Ness -- 5

Nays: Councilors Reinert, Stauber, Stewart and President Stover -- 4

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Resolution 07-0767, by Councilor Little, to designate and establish as a one way

westbound-only street that part of the Miller Trunk Highway frontage road from Joshua Avenue to 130 feet westerly, was introduced for discussion.

Councilor Little moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Larry Nord, Michael Orman and Beth Wentzlaff expressed concerns of: the commercial buildings just down the road from this intersection has over 70 individuals utilizing this roadway, which depend on customers to easily access the respective businesses; there was no notice or request for input on this issue from those affected; when Walgreens was built, it should have been apparent that there would be a problem; the entity that caused the problem should be required to fix the problem; with the major improvements to Central Entrance, Cottonwood Avenue will be closed, therefore there will be no access to businesses on Sundby Road; more study is needed on this issue and soon there will be two new businesses in the former Gander Mountain building, thus increasing the traffic volume.

President Stover felt that, with this type of intersection, there will always be problems and if this change is not done, the state will have something to say about it when they redesign the frontage road.

Resolution 07-0767 failed upon the following vote (Public Document No. 07-1217-24):

Yeas: President Stover -- 1

Nays: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber and Stewart -- 8

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to execute and implement amended grant agreements to grants LW27-00565, LW27-00647, LW27-00655, LW27-00658, NR-690136 between the city, Spirit Mountain recreation area authority, state of Minnesota and any other government agency if required, substantially the same as those on file with the city clerk as Public Document No. 07-1217-25, which amendments relieve certain areas of SMRAA from LAWCON grant restrictions and simultaneously burden city recreational land near Oak Bend Drive and Rice Lake Road with LAWCON grant restrictions, all for the purpose of achieving compliance with federal and state requirements for LAWCON grants.

Resolution 07-0811 was unanimously adopted.

Approved December 17, 2007

HERB W. BERGSON, Mayor

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## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR KRAUSE

07-086 - AN ORDINANCE AMENDING SECTIONS 45-103 AND 8-54 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO CONCURRENT USE PERMITS FOR EXPANSION OF ALCOHOLIC BEVERAGE SERVING AREAS.

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The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

07-079 (9880) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2008.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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Councilor Stewart expressed concern that this is approximately an 11 percent increase.

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

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

- - -

BY COUNCILOR STEWART

07-080 (9881) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH SEAWAY PORT AUTHORITY, FOR THE YEAR 2008.

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

Yeas: Councilors Gilbert, Johnson, Ness, Stauber and President Stover -- 5

Nays: Councilors Krause, Little, Reinert and Stewart -- 4

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BY COUNCILOR STEWART

07-081 (9882) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2008.

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

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BY COUNCILOR STEWART

07-082 (9883) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2008 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Stauber moved to amend Section 9 of the ordinance to add the following paragraph: "There shall be removed from the budget the \$600,000 appropriated from community investment trust to housing investment fund in the 2008 other funds budget," which motion was seconded and carried upon the following vote:

Yeas: Councilors Krause, Little, Reinert, Stauber and Stewart -- 5

Nays: Councilors Gilbert, Johnson, Ness and President Stover -- 4

Councilors, City Attorney Brown and Ms. Stark discussed the appropriate process to accomplish what is intended by this amendment.

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

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BY COUNCILORS STAUBER AND STEWART

07-085 - AN ORDINANCE AUTHORIZING LICENSING OF UNLEASHED DOGS TO USE DESIGNATED AREAS AND TRAILS AMENDING SECTION 6-36 OF THE DULUTH CITY CODE, 1959, AS AMENDED AND ADDING NEW SECTIONS 6-36.1, 6-36.2 AND 6-36.3 TO ARTICLE IV OF CHAPTER 6 THEREOF.

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Joan Linski, George Hanson and Joan Christensen expressed support for the ordinance for the reasons of: it allows for the animals to exercise and run free; other cities have established these areas in existing parks; dogs are considered extensions of their families and need exercise; this would be a safe area for animals, without the worry of cars; it would raise funds for the city parks and attract tourist dollars, seeing that many travelers bring their dogs with them; it would divert traffic flow from our existing trail system; the parks should be enjoyed by all citizens; some dogs need extensive exercise for health reasons; those that will apply for this license are responsible owners; animals should be licensed for life, versus an annual license; this ordinance would allow for future designation of trails for unleashed dogs and many individuals are currently walking their dogs off leash to exercise them.

Dean Grace, member of the parks and recreation commission and chair of the park trails committee, noted that there were extensive meetings on the use of the trails, which lead to city council approval in 2002. He stated that with all trails being heavily used year round, the No. 1 concern of trail users is safety and that unleashed dogs were the primary area of those safety concerns. Mr. Grace added that the parks and recreation commission recently voted 10 to 1 that there was no support for the use of any existing trail for unleashed dogs. He noted that the commission did support the concept of this ordinance, but felt that an area other than the existing trails be utilized for this.

Councilor Stauber moved to amend the ordinance as follows:

(a) At the end of page 3, paragraph (a), to insert the words between the last sentence and the second to last sentence "life time trail licenses will be permitted";

(b) On page 6, paragraph (d), eliminate the language from the phrase "upon approval" through the words "said applicant," which was seconded for discussion.

Councilors discussed: the merits of the issue; whether this ordinance should be passed prior to it being known where the off leash trails will be established; the possibility of tying these trails into the dog parks; how a dog reacts with the family can be entirely different with strangers; the reality is that individuals are out there with unleashed dogs and volunteers do not want to spend a lot of time working on this unless the council supports the concept.

Councilor Reinert moved to remove this ordinance from the agenda and refer it the parks and recreation commission with an endorsement of the concept and requesting the trails committee to recommend what trails would be used for this, which motion was seconded and carried upon the following vote:

Yeas: Councilor Gilbert, Johnson, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 8

Nays: Councilor Krause -- 1

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### **COUNCILOR QUESTIONS AND COMMENTS**

Councilor Reinert announced, as per the Standing Rules of the council, that he would be willing to serve as city council president for the year 2008.

Councilor Krause announced, as per the Standing Rules of the council, that he would be willing to serve as city council vice president for the year 2008.

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The meeting was adjourned at 10:00 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9880**

BY COUNCILOR STEWART:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY  
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2008.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2008 for general operations is hereby determined to be the sum of \$13,543,600 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$7,761,500.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$4,958,700.

Section 4. For the pay of debt for the Duluth transit bonds, there will be levied the sum of \$88,400.

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 \$422,100.

Section 6. There will be levied for other post employment benefits - retiree insurance, the sum of \$312,900.

Section 7. That this ordinance shall take effect January 1, 2008.

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

Yeas: Councilors Gilbert, Johnson, Ness, Reinert and President Stover -- 5

Nays: Councilors Krause, Little, Stauber and Stewart -- 4

Passed December 17, 2007  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 9881**

BY COUNCILOR STEWART:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY  
TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH  
SEAWAY PORT AUTHORITY, FOR THE YEAR 2008.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2008 for Duluth Seaway Port authority taxing district's operations is hereby determined to be the sum of \$981,700 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 Statutes, Section 458.15, there will be levied for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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the purpose of providing the Duluth Seaway Port authority special taxing district the sum of \$981,700.

Section 3. That this ordinance shall take effect January 1, 2008.

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

Yeas: Councilors Gilbert, Johnson, Ness, Stauber and President Stover -- 5

Nays: Councilors Krause, Little, Reinert and Stewart -- 4

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 17, 2007  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

- - -

**ORDINANCE NO. 9882**

BY COUNCILOR STEWART:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2008.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2008 for Duluth transit authority taxing district's operations is hereby determined to be the sum of \$1,316,900 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 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,316,900.

Section 3. That this ordinance shall take effect January 1, 2008.

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

Yeas: Councilors Gilbert, Johnson, Krause, Little, Ness, Reinert, Stauber, Stewart and President Stover -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 17, 2007  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

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**ORDINANCE NO. 9883**

BY COUNCILOR STEWART:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2008 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, 2008, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the administrative assistant or his designee.

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 \$3,942,400 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$3,375,600 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$100,000 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 the 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, 503 in the golf division, and 505 in the parking 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

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 2008.

<b>010 - LEGISLATIVE AND EXECUTIVE</b>		
1101	City council - total	\$ 149,700
1102	Mayor's office - total	273,800
1103	Administrative assistant	1,042,100
1104	Attorney's office - total	1,379,400
1105	Human rights office - total	213,900
	Total legislative and executive	\$3,058,900

<b>015 - ADMINISTRATIVE SERVICES</b>		
1512	City clerk - total	578,100
1514	Management information systems - total	1,548,500
1515	Facilities management - total	3,552,900
1516	Architect's office	124,300
	Total administrative services	\$5,803,800

<b>020 - PLANNING AND DEVELOPMENT DEPARTMENT</b>		
	Urban development - total	\$649,200
	Total planning department	\$649,200

<b>030 - FINANCE</b>		
1321	Finance administration - total	\$336,600
1322	City assessor's office - total	804,500
1324	City auditor's office - total	1,288,200
1325	Purchasing office - total	225,400
1327	City treasurer's office - total	344,600
	Total finance and records	\$2,999,300

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>100 - FIRE DEPARTMENT</b>		
1501	Fire administration - total	\$462,700
1502	Firefighting operations - total	14,244,500
1503	Fire prevention and training - total	409,300
1504	Building safety - total	1,895,100
	Total fire department	\$17,011,600

<b>200 - POLICE DEPARTMENT</b>		
1610	Police admin and investigation - total	\$6,417,200
1620	Police patrol division - total	10,902,700
	Total police department	\$17,319,900

<b>300 - LIBRARY</b>		
1702	Library services - total	\$4,062,700
1703	Buildings and equipment - total	262,200
	Total library	\$4,324,900

<b>400 - PARKS AND RECREATION</b>		
1812	Recreation and senior services - total	\$1,513,500
1814	Zoo - total	1,064,500
	Total parks and recreation	\$2,578,000

<b>500 - PUBLIC WORKS</b>		
1900	Director's office - total	\$43,000
1920	Maintenance - total	7,513,100
1930	Transportation engineering services - total	2,895,900
	Total public works	\$10,452,000

<b>700 - TRANSFERS AND OTHER FUNCTIONS</b>		
	Total transfers and other functions	\$16,795,700

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2007

<b>PUBLIC ENTERPRISE</b>		
503	Golf fund - total	\$1,851,200
505	Parking fund - total	\$3,245,600

<b>PUBLIC UTILITIES</b>		
510	Water fund - total	\$11,051,800
520	Gas fund - total	54,587,100
530	Sewer fund - total	16,252,300
535	Stormwater fund - total	3,539,400
540	Steam fund - total	5,597,100

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 secure. Local funding will be available after a full review to determine whether the program should be continued.

There shall be removed from the budget the \$600,000 appropriated from community investment trust to housing investment fund in the 2008 other funds budget.

Section 10. That this ordinance shall take effect January 1, 2008.

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

Yeas: Councilors Gilbert, Johnson, Krause, Ness, Reinert and President Stover -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 17, 2007  
Approved December 17, 2007  
HERB W. BERGSON, Mayor

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