



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
2001**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 8, 2001, 6:00 p.m. in the Lake Superior Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

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

Absent: None -- 0

ELECTION OF OFFICERS

Councilor Gilbert, 2000 council president, announced that the election of officers for 2001 would now take place.

Councilor Edwards was elected president upon a unanimous vote.

Councilor Ness was elected vice president upon a unanimous vote.

UNFINISHED BUSINESS

Resolution 00-0862, by Councilor Gilbert, adding a new Rule 18 to the standing rules of the Duluth City Council; requiring resolutions granting business subsidies to be read and remain on file for at least one week before passage, was introduced for discussion.

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

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

BY COUNCILOR HOGG:

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

(a) Force main sanitary sewer in Greysolon Road from 35th Avenue East to 650 feet west (Contract No. 5328, assessable amount - \$22,218.95);

(b) Watermain in Rice Lake Road from 490 feet southerly of Allen Street to 1,845 feet northerly of Allen Street and westerly 1,400 feet to Arlington Avenue (Contract No. 11901, assessable amount - \$100,795.53);

are hereby confirmed.

Resolution 01-0003 was unanimously adopted.

Approved January 8, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2001 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 01-0108-01, at a cost to the city of not to exceed \$30,200 plus in kind services, which shall be paid from Fund 0258-030-1431-5490; \$20,200 of this amount shall be paid from the current (2001) allocation and the additional \$10,000 will be funded from prior year reserves.

Resolution 01-0005 was unanimously adopted.

Approved January 8, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the city is authorized to enter into a sponsorship agreement with North Shore Inline Marathon under which the city will contribute \$15,000 to assist with promotion of the year 2001 marathon, which agreement is on file in the office of the city clerk as Public Document No. 01-0108-02, and such contribution shall be paid from Fund 0258-030-1431-5490.

Resolution 01-0006 was unanimously adopted.

Approved January 8, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, on March 15, 2000, the city council approved Resolution 00-0206, granting a use permit, in accordance with Section 50-107(k) of the Duluth City Code, to the Western Lake Superior Sanitary District to conduct a pilot project for a food waste compost project at the Courtland Street yard waste compost facility, and that pilot project has proved successful; and

WHEREAS, the Western Lake Superior Sanitary District has submitted to the city council a request for a use permit in accordance with Section 50-107(k) of the Duluth City Code to permanently operate an organic composting facility on property described as Block "K," Auditors Plat No. 4 and located at 2600 Courtland Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its unanimous approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a use permit is hereby granted to Western Lake Superior Sanitary District to operate an organic composting facility at the compost yard waste facility at 2600 Courtland Street subject to the following condition: that the facility be limited to, operated and maintained in accordance with the project description and plans submitted by Western Lake Superior Sanitary District, entitled, "Western Lake Superior Sanitary District's Organic Composting Facility," as identified as Public Document No. 01-0108-03.

Resolution 01-0011 was unanimously adopted.

Approved January 8, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 01-0108-04, with the Woodland Gardens Association, for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 2001, through December 31, 2001, for the operation of the Duluth senior dining program.

Resolution 01-0001 was unanimously adopted.

Approved January 8, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 33,600 hot meals for eligible senior citizens and guests at two St. Louis County facilities located in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$3.60 per meal for eligible senior citizens, \$4.15 per meal for guests, and an additional \$0.28 per meal for dining room management provided at Lincoln Park, or approximately \$126,500, payable out of Federal Program Fund 272, Dept./ Agency 031, Organization 6301, Activity SD04, Object 0071.

Resolution 01-0002 was unanimously adopted.

Approved January 8, 2001

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

00-047 (9476) - AN ORDINANCE AUTHORIZING AMENDMENT TO CONTRACT NO. 18154 WITH AND SALE OF CERTAIN PROPERTY IN LINCOLN PARK TO DULUTH BUILDING LIMITED LIABILITY COMPANY.

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

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President Edwards thanked councilors for their support and spoke of her view for the coming year. She introduced Mayor Doty.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Mayor Doty presented the 2001 State of the City Address (Public Document No. 01-0108-06.)

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Councilor Gilbert spoke of the accomplishments of the council during the past year.

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Mayor Doty introduced the 2000 employees of the month and announced the selection of Bob McCubbin as employee of the year.

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9476

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING AMENDMENT TO CONTRACT NO.
18154 WITH AND SALE OF CERTAIN PROPERTY IN LINCOLN
PARK TO DULUTH BUILDING LIMITED LIABILITY COMPANY.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an addendum to City Contract No. 18154 with Duluth Limited Liability Company, L.L.C., a copy of which addendum is on file in the office of the city clerk as Public Document No. 01-0108-05, to modify some of the terms for sale and development of property in Lincoln Park in said contract, to sell and convey the property in St. Louis County, Minnesota, described on Public Document No. 01-0108-05 by quit claim deed, to said company and to execute all documents necessary with regard to said addendum and conveyance.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: February 18, 2001)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed January 8, 2001
Approved January 8, 2001
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, January 16, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on August 28, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0116-01 David Schauer, et al. (four signatures) submitting petition to construct a bituminous surface on Commonwealth Avenue from 483 feet to 658 feet south of Hibbing Avenue. -- Assessor

01-0116-02 Dawn Strother, et al. (three signatures) submitting petition to construct a permanent design alley for Spear Avenue (an alley easement) between Glenwood Street and Park Street. -- Assessor

01-0116-03 Harold Wahlstrom, et al. (four signatures) submitting petition to vacate the area of a proposed paper cul-de-sac in the original plat of Wahlstrom Division. -- Assessor

01-0116-04 St. Louis County Board of Commissioners submitting certified copy of resolution appointing Commissioners Fink, Kron and Fay (alternate) as representatives to the Northwest Airlines tax increment financing district board (Duluth) for one year terms which will expire on December 31, 2001. -- Received

01-0116-42 Evensen Dodge, Inc., submitting presale analysis regarding \$9,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2001. -- Received

01-0116-43 Jeff Patrick (supported by 85 signatures) submitting communication regarding layout for the proposed improvement of Piedmont Avenue from south of Fourth Street to 0.25 miles north of Skyline Parkway (01-0038R). -- Received

01-0116-05 Kinnan Stauber submitting appeal of the planning commission decision regarding the variance request for increased impervious surface at 3330 Minnesota Avenue. -- Committee 2 (planning)

01-0116-06 The following submitting communications regarding the passage of legislation allowing on sale intoxicating liquor establishments in Duluth to sell liquor until 2:00 a.m. (01-0025R): (a) Cliff Lanthier; (b) Roger A. Mattson; (c) Dwayne Terwey. -- Received

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REPORTS OF OFFICERS

01-0116-07 Assessor submitting:

(a) Letters of sufficiency to:

(1) Construct a bituminous surface on Commonwealth Avenue from 483 feet to 658 feet south of Hibbing Avenue;

(2) Vacate portion of West Michigan Street;

(b) Letter of insufficiency to construct a permanent design alley for Spear Avenue (an alley easement) between Glenwood Street and Park Street. -- Received

01-0116-08 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (raffle) from St. Luke's Foundation on July 9, 2001. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

01-0116-09 Engineering division submitting monthly project status report of December 1, 2000. -- Received

01-0116-10 Purchasing agent submitting emergency purchase order awarded to Cartier Agency, Inc., for the continuation of the city's property insurance for the first quarter of year 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0116-11 Civil service board minutes of December 5, 2000, meeting. -- Received

01-0116-12 Commission on disabilities minutes of December 6, 2000, meeting. -- Received

01-0116-13 Duluth airport authority minutes of November 21, 2000, meeting. -- Received

01-0116-14 Duluth transit authority minutes of October 25, 2000, meeting. -- Received

01-0116-15 Heritage preservation commission minutes of November 8, 2000, meeting. -- Received

01-0116-16 Housing and redevelopment authority of Duluth minutes of November 28, 2000, meeting. -- Received

01-0116-17 Parking commission minutes of November 14, 2000, meeting. -- Received

01-0116-18 Planning commission minutes of: (a) November 14; (b) November 28, 2000, meetings. -- Received

01-0116-32 Special assessment board: (a) Minutes of December 19, 2000, meeting; (b) Report, minutes, findings and recommendations for the proposed drainage ditch in Kingston Alley from 51st to 52nd Avenues East. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis voiced concern pedestrians are in danger at the corner of Anderson Road and Central Entrance and that people are trampling down the snow fencing to walk on the Lakewalk.

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RESOLUTIONS TABLED

Councilor Gilbert moved to remove Resolution 00-0590, adopting heritage preservation guidelines for the heritage preservation landmark created by Ordinance 00-026, from the table, which motion was seconded and unanimously carried.

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

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Councilor Gilbert moved to remove Resolution 00-0862, adding a new Rule 18 to the standing rules of the Duluth City Council; requiring resolutions granting business subsidies to be read and remain on file for at least one week before passage, which motion was seconded and unanimously carried.

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

Sharon Kirtley, Central Hillside United Ministries representative; Lillie Booth; representing the Northeast Minnesota Senior Coalition; and Robert Kosuth voiced support for the resolution as tax dollars should be used carefully and thoughtfully and given to businesses providing good paying jobs according to the living wage ordinance; due diligence would be given to see if a business subsidy is for good public purpose; the council can make good and sound decisions if given time to study the project and the resolution positive thing for the community.

Councilor Stenberg stated that because the resolution establishing the business subsidy criteria hurts small businesses in Duluth, he cannot support this resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 00-0862 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that a new Standing Rule 18 be added to the standing rules of the Duluth City Council to read as follows:

Rule 18. Resolutions granting a business subsidy under Article XXVI of Chapter 2 of the Duluth City Code or under Minnesota Statutes, Sections 116J.993 to 116J.995, shall not be passed by the council until they have received a first reading before the council and have remained on file at least one week thereafter.

Resolution 00-0862 was adopted upon the following vote:

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

Nays: Councilor Stenberg -- 1

Approved January 16, 2001

GARY L. DOTY, Mayor

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At this time, 7:30 p.m., President Edwards called to order the public hearing regarding TIF District #21 (Garfield industrial site) (Public Document No. 01-0116-41).

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At this time, 7:45 p.m., President Edwards closed the public hearing and the regular order of business was resumed.

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Councilor Hogg moved to consider Resolution 01-0022 at this time, which motion was seconded and unanimously carried.

Resolution 01-0022, by Councilor Gilbert, approving a tax increment financing plan for Tax Increment Financing District No. 21 in Development District No. 17 as proposed by the Duluth economic development authority, was introduced for discussion.

Resolution 01-0022 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, by the city council of the city of Duluth, as follows:

Section 1. Recitals.

1.01 The council has established the Duluth economic development authority (DEDA) to promote development and redevelopment of property located in the city of Duluth (the city).

1.02 In order to promote such development, DEDA has established Development District No. 17 (the development district) in the city and adopted a development program (the development program) therefor pursuant to Minnesota Statutes, Sections 469.090 through 469.1801 and Sections 469.124 through 469.134 (collectively, the act). DEDA has prepared the development program in accordance with Sections 469.125 and 469.126 of the act.

1.03 DEDA proposes to establish Tax Increment Financing District No. 21 (the TIF district) within the development district and adopt a tax increment financing plan (the TIF plan) therefor pursuant to Minnesota Statutes, Sections 469.174 through 469.179 (the TIF act) for the purpose of financing public improvements and encouraging investment in the development district. DEDA has prepared the TIF plan in accordance with the TIF act (Public Document No. 01-0016-24).

1.04 Pursuant to Section 469.175, Subdivision 3 of the TIF act, the city held a public hearing on the TIF plan, which hearing was held this day, at which the views of all interested parties were heard.

1.05 DEDA has transmitted a copy of the TIF plan to the council in a document entitled "Fifth Amendment to Development Program for Development District No. 17 and Tax Increment

Financing Plan for Tax Increment Financing District No. 21 (Garfield Industrial District)", which is now on file in the office of the city clerk.

1.06 Pursuant to Minnesota statutes, Section 273.1399 (the section), upon creation of the TIF district, the city will experience a reduction in state aids to be paid to the city (the reduction) unless an exemption provided in the section applies.

1.07 Pursuant to the section, the TIF district is exempt from the reduction if the city elects at the time of approving the tax increment financing plan for the TIF district to make a qualifying local contribution (the contribution).

1.08 After investigation of the facts, the council is of the opinion that:

(a) It is necessary for the sound and orderly development of the development district and of the city as a whole and for the protection and preservation of the public health, safety and general welfare, that the powers authorized by the act and the TIF act be exercised by the city to provide public financial assistance to the development district;

(b) Proper development of the development district and implementation of the development program in accordance with the city's long range plans is essential to (i) the economic viability of the development district, (ii) the economic well being of the city and its residents, (iii) the orderly development of the city, and (iv) the orderly and beneficial development of the Development District to ensure the construction of and provide moneys for the payment of the cost of certain public improvements within the Development District, including site improvements, in order to provide and finance development of suitable and necessary sites for development;

(c) There is a need for new development within the development district (i) to enhance the quality of life of the city's residents by redeveloping blighted or polluted areas, (ii) to improve the general economy of the city and the state, (iii) to provide employment opportunities for residents of the city, (iv) to improve the tax base of the city and the state, and (v) to provide other facilities identified in the development program and TIF plan;

(d) Creation of the development district and TIF district is in the public interest and will result in increased employment in the city and in the preservation and enhancement of the tax base of the city; and

(e) The TIF district is intended and, in the judgment of city, its effect will be to promote the public purposes and accomplish the objectives specified in the development program, which are all consistent with the efforts already made for the development of the development district.

1.09 The council has fully reviewed the contents of the TIF plan.

Section 2. Statutory findings.

2.01 There is a need for new development in the development district in order to enhance the quality of life of the city's residents by redeveloping blighted or polluted areas, to improve the tax base, to provide employment opportunities, and to improve the general economy of the state.

2.02 Establishment of the TIF district will provide impetus for commercial development; increase employment; and provide off-street parking to serve employees of the development district and the TIF district.

2.03 The actions required to assist the implementation of the development program are a public purpose and the execution and financing of the development program are a public purpose.

2.04 It is the opinion of the council, based on discussions with developers of projects proposed to be constructed in the TIF district and information contained in the development program and the TIF plan that:

(a) Development and redevelopment within the TIF district would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future;

(b) The increased market value of the site to be included in the TIF district that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from development in the TIF district after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan; and

(c) The use of tax increment financing is necessary.

2.05 Based on information contained in the development program and the TIF plan, the TIF plan conforms to the general plan for the development and redevelopment of the city as a whole.

2.06 Based on information contained in the development program and the TIF plan, the TIF plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development and redevelopment of the development district by private enterprise.

Section 3. Approval.

3.01 The TIF plan is approved.

3.02 The geographic boundaries of the development district and TIF district are as described in the development program and TIF plan, which documents are incorporated herein by reference and which, together with this resolution contain the requirements set forth in Section 469.175 of the TIF act.

Section 4. Designation of TIF district.

4.01 The proposed TIF district is a redevelopment district as defined in Section 469.174, Subdivision 10(a)(2) of the TIF act because it consists of a portion of the development district within which the following conditions, reasonably distributed throughout the TIF district, exist:

The property consists of vacant, unused, underused, inappropriately used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way.

4.02 The reasons and supporting facts for the determination that the TIF district meets the criteria set forth in Section 4.01 hereof will be retained and made available to the public by DEDA until the TIF district has been terminated.

4.03 At least 90 percent of the revenues derived from tax increments from the TIF district will be used to finance the cost of correcting conditions that allowed designation of the TIF district under Section 469.174 of the TIF act.

Section 5. Qualifying local contribution.

5.01 Since the TIF district is a redevelopment district, the city hereby elects to make a contribution equal to five percent of the increment from the TIF district.

5.02 The contribution for all tax increment financing districts in the city is limited to two percent of the city net tax capacity, except as otherwise provided by the Section.

5.03 The contribution will be paid out of unrestricted money of the city or DEDA, including but not limited to monies from the general fund, a property tax levy or a federal or state grant-in-aid which may be spent for general government purposes and will not be made directly or indirectly with tax increments or developer payments.

5.04 The contribution will be used solely to pay project costs set forth in the TIF plan and will not be used for general governmental purposes or for improvements or costs that the city or DEDA plans to incur absent the project described in the TIF plan.

Resolution 01-0022 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the city is hereby authorized to execute an agreement with John Beargrease Sled Dog Marathon, Inc., for sponsorship and advertising promotion of the 2001 John Beargrease Sled Dog Marathon, which agreement is on file in the office of the city clerk as Public Document No. 01-0116-19, at a cost to the city of \$10,000, which shall be payable from Fund 0258-030-1431-5490.

Resolution 01-0004 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

Section 1. Certificates of indebtedness, purpose and authorization.

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

1.02 Pursuant to the authority herein recited, the city council authorizes and directs the issuance, sale and delivery of certificates of indebtedness in anticipation of collection of taxes and state aids for the general fund of the city in the amount of \$9,000,000 to be dated February 22, 2001 (the certificates).

Section 2. Issuance and sale of the certificates. The terms and conditions of the certificates and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 01-0116-20. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the certificates and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the certificates.

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

Section 4. Subsequent resolution. The form, specifications and provisions for repayment of the certificates shall be set forth in agreements and subsequent resolutions of this city council.

Resolution 01-0015 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the city is hereby authorized to renew an agreement, on file with the city clerk as Public Document No. 01-0116-21, with Delta Dental for year 2001 for administrative services to the city in connection with its self-funded employee dental plan, at a rate of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

\$1.85/month for single coverage, \$3.67/month for employee plus spouse and \$5.52/month for employee plus two or more dependents, at an estimated total cost of \$38,386, which shall be payable from Fund 633.

Resolution 01-0018 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the city is hereby authorized to execute agreements with Blue Cross and Blue Shield of Minnesota under which that company will provide administrative services and stop loss insurance to the city group health plan during calendar year 2001 for an administrative fee of \$28.46 per single employee or per family per month and a fee for stop loss coverage of \$10.61 per single employee per month and \$28.34 per family per month, for a total estimated cost of \$1,075,979.52, which shall be paid from the group health fund.

Resolution 01-0026 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the Duluth News-Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 2001, and the contract for publishing the proceedings of the city council of the city of Duluth, hereby is awarded to the Duluth News-Tribune on its bid for said publications of \$0.2364 per line, these being the legal rates for the state of Minnesota. The estimated total annual cost \$25,000. The billing is to be on the inch rate; term: net 30 and payable out of various funds, depts./agencies, organizations and objects.

Resolution 01-0032 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of athletic turf maintenance coordinator, which were approved by the civil service board on December 5, 2000, and which are filed with the city clerk as Public Document No. 01-0116-22, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay and rates shall remain unchanged, Pay Range 30, Pay Rate \$2,868 to \$3,427.

Resolution 01-0007 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of city engineer, which were approved by the civil service board on December 5, 2000, and which are filed with the city clerk as Public Document No. 01-0116-23, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range and rates shall remain unchanged, Pay Range 1140, Pay Rate \$5,058 to \$6,169.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0008 was unanimously adopted.
Approved January 16, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

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

File #	Applicant Name	Legal Description	Location
00080	Bud Didrikson	east 1/2 of east 1/2 of northwest quarter of southeast quarter, Section 4, T 50-R14 (10-2710-00920)	north side of Norton Road west of Howard Gnesen Road (Kenwood)
00150	Robert Kervina	northerly 15 feet of Lot 3, Block 152, West Duluth Fifth Division (10-4510-05990)	west side of Central Avenue between Grand Avenue and Cody Street (Spirit Valley)
00152	Dustie Wosmek	Lot 11, Block 18, Hunters Grassy Point Addition, Third Division (10-2410-01020)	Grand Avenue and 66th Avenue West (West Duluth)
00156	Jim Frye	Lots 5-8, Block 14, Minne Wakan Division (10-3270-950,960, 970, 980, 990)	north side of Beaudry Avenue and east of Mcleod Street (Lower Smithville)
00158	Hunters Park Congregation of Jehovah's Witnesses	north 431 feet of northwest quarter of northwest quarter of northwest quarter except westerly 602.35 feet, Section 18, T50, R14 (10-2710-4450)	south side of Arrowhead Road east of Haines Road (Duluth Heights)
00159	Range Paging, Inc.	westerly 25 feet of Lot 92, Block 110, Duluth Proper Third Division (10-1350-50600)	south side of Ninth Street 100 feet east of Sixth Avenue West (Central Hillside)

BE IT FURTHER RESOLVED, that for FN 00080 the board of county commissioners of St. Louis County be strongly encouraged to approve sale of only with an avigation easement attached to the deed.

Resolution 01-0012 was unanimously adopted.
Approved January 16, 2001
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 01-0116-25, 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 \$8,000, payable from Fund 100-500-2010-5441.

Resolution 01-0035 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 01-0116-26, 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 100-500-2010-5441.

Resolution 01-0036 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, Minnesota Statute 268.88 (b) requires that counties with a city of the first class develop and submit a joint local service unit ("LSU") plan for the distribution of employment services funding; and

WHEREAS, based on differing interpretations of state requirements, St. Louis County had previously submitted the LSU plan for St. Louis County, including the city, without the approval of the city; and

WHEREAS, St. Louis County now wishes to submit a modified LSU plan for supplemental local intervention grant funding for the provision of targeted employment services to MFIP families for the period July 1, 2000, through June 30, 2003, which modified plan has been prepared and circulated throughout the community without involvement from the city and there is insufficient time to go through the process of properly developing the plan with appropriate city input and of securing the community's input on such a properly developed plan; and

WHEREAS, failure to approve submission of the plan as it presently exists would result in depriving citizens of the city of the benefits of the local intervention grant funding; and

WHEREAS, it is the desire of the city council to make such supplemental funding available to those deserving members of the community entitled to the benefits thereof but also to clarify its intent that in the future the requirements of statutes and regulations applicable to the local service unit plan and Minnesota family investment program are strictly followed.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to submit a modified joint LSU plan for supplemental local intervention grant funding with St. Louis County for the provision of targeted employment services to MFIP families for the period July 1, 2000, through June 30, 2003, consistent with Minnesota Statute 268.88 (b). A copy of this plan for supplemental local integration grant funding will be on file in the city clerk's office as Public Document No. 01-0116-27.

RESOLVED FURTHER, that the city council of the city of Duluth hereby declares its intent not to approve any future LSU plans or any modifications thereto after this date unless and until all applicable statutes, rules, regulations and procedures of the state of Minnesota and its department of employment security applicable thereto, including but not limited to those pertaining

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

to the city's involvement in the development thereof and those pertaining to the city's receipt of the full share of program funds to which it is entitled, are fully complied with.

Resolution 01-0013 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the city is hereby authorized to participate in the joint property tax study project during 2001, at a cost to the city of \$10,500, which shall be payable from the city council's budget, Fund 100, Agency 010, Organization 1101, Object 5319.

Resolution 01-0024 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized to execute and implement an agreement with Fryberger, Buchanan, Smith & Frederick, P.A. under which that firm will provide professional services related to the city's 2001 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 01-0116-28, at a cost to the city of not to exceed \$42,230, which shall be payable from the General Fund 100-015-1514-5312.

Resolution 01-0027 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Project SOAR for career assistance counseling services to welfare-to-work clients for the period from January 1, 2001, to July 31, 2002, at a cost not to exceed \$35,000. A copy of this agreement shall be on file at the city clerk's office as Public Document, No. 01-0116-29.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6222, 6236, and 6237.

Resolution 01-0028 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with On Track for Life, Inc., to provide project management assistance to the city to initiate a nontraditional careers project for welfare-to-work clients for the period from December 1, 2000, to June 30, 2002, at a cost not to exceed \$19,912. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 01-0116-30.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6222, 6236, and 6237.

Resolution 01-0030 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with the Human Development Center to provide mental health social work services to welfare-to-work clients for the period from January 1, 2001, to July 31, 2002, at a cost not to exceed \$104,776. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 01-0116-31.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6222, 6236 and 6237.

Resolution 01-0031 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Change Order No. G-2 to Contract No. 18801 with A.W. Kuettel & Sons, Inc., be and hereby is authorized, in an amount of \$21,595, payable from Capital Fund 450, Ag. 015, Org. 2000, Obj. C002; and Capital Fund 450, Ag. 015, Org. 2001, Obj. C103, for additional roofing work in connection with citywide reroofing projects, 2000.

Resolution 01-0016 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by Resolution of Intent Numbered 00-0834 the council did request the administration to prepare plans and specifications for the construction of a drainage ditch and storm sewer in Kingston Alley from 51st Avenue East to 52nd Avenue East to serve Lots 1772 through 1787 of Block 127, Crosley Park Addition Duluth (City Job No. 9044ST98); and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$15,000, 50 percent of which is payable from the Stormwater Utility Fund 0535, Agency 500, Organization 1905, Object 5533, and 50 percent of which is payable from the Special Assessment Fund 0410, Agency 038, Organization 5316, Object 5530, by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board, and which report is on file in the office of the city clerk as Public Document No. 01-0116-32(b) and which description is hereby incorporated herein by reference to Public Document No. 01-0116-32(b) that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 01-0014 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved January 16, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into Mn/DOT Agreement No. 80880, filed as Public Document No. 01-0116-33, with the state of Minnesota, department of transportation for the following purposes: to provide for a lump sum payment in the amount of \$4,778.75 by the state to the city as the state's share of the costs of the sewer separation construction and associated construction engineering designated by the state as State Project No. 6925-119 (T.H. 61=103) performed at the intersection of Trunk Highway No. 61 (London Road) and 36th Avenue East within the corporate city limits under Work Order No. 10 of City Project No. 9057RS00.

Resolution 01-0017 was unanimously adopted.

Approved January 16, 2001
GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an employment contract with Mark Winson for the position of administrative assistant, which contract is on file with the city clerk as Public Document No. 01-0116-34.

Resolution 01-0019 was unanimously adopted.

Approved January 16, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and AFSCME Council 96, Local 66, representing the basic bargaining unit for years 2000, 2001, 2002. The contract shall contain the terms and conditions set out in the contract on file with the city clerk as Public Document No. 01-0116-35, though insubstantial changes in wording or corrections for typographic errors may be made.

Resolution 01-0020 was unanimously adopted.

Approved January 16, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and Union of Needle Trades, Industrial and Technical Employees Local 150, representing the confidential bargaining unit for years 2000, 2001, 2002; the contract to contain the terms and conditions of the contract on file with the city clerk as Public Document No. 01-0116-36, though insubstantial changes in wording or typographical corrections may be made.

Resolution 01-0021 was unanimously adopted.

Approved January 16, 2001
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0025, by Councilor Stewart, memorializing the Duluth delegation to the state legislature to secure passage of legislation allowing on sale intoxicating liquor establishments in Duluth to sell liquor until 2:00 a.m., was introduced for discussion.

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

Dean Buerke, Better Brands distributor representative; John Bonneville, Tap Room; Brian Daugherty, Grandma's Restaurants; and Christopher Rundell, Canal Park Inn bartender; supported the resolution for the following reasons: disparity of liquor laws between Minnesota and Wisconsin; it's in the city's best interest financially to pass the resolution; lots of hospitality businesses leave Minnesota because of the 1:00 a.m. closing time; there would be an increase in city sales tax revenue which goes to support events in the city; it would make the streets somewhat safer by drivers having to drive less miles when leaving the bar to go home; it would slow down the mass flow to Superior after midnight; it would not increase the consumption the alcohol, but change the location from Superior to Duluth; it is time for the city to help small businesses in Duluth having to deal with dram shop insurance, since Wisconsin has no dram shop insurance and the state of Minnesota makes bars liable for damages in accidents.

Councilor Stewart reviewed that this resolution is requesting the state legislature to consider changing state law and, if passed, would come back to the council for approval. He stated support of the resolution for the following reasons: Safety—the change in the law is not going to create more responsible drinkers; it would create equity between Duluth and Superior bars, especially with the smoking ban; the tax base would be higher.

Councilor Fena expressed concern over the potential increased cost for police coverage later into the night because of the later hours of drinking.

Councilors discussed various aspects of this resolution: it would help the small businesses in Duluth; changing dram shop insurance requirements might be a better idea than changing the hours; it would increase the economy, but is it a good social cost to get money that way; Duluth would now be drawing people from the surrounding cities for the late hour closing; the idea of helping small local business and promoting responsibility for the individual is a good one, but the council has a responsibility to the whole city of Duluth and the quality of life issue; potential nuisance crimes will appear on the streets; and 40 percent of the liquor licenses failed an underage drinking test.

Administrative Assistant Winson reviewed that the administration is not in favor of this resolution and is concerned about the social issues and the potential police costs of alcohol related problems being pushed back one hour at night.

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

Yeas: Councilors Eckenberg, Fena, Hogg and Stenberg -- 4

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

Resolution 01-0025 was adopted upon the following vote:

Yeas: Councilors Fena, Gilbert, Ness, Stenberg, Stewart and Stover -- 6

Nays: Councilors Eckenberg, Hogg and President Edwards -- 3

[Editor's Note: The resolution was vetoed by the mayor on January 24, 2001 (Public Document No. 01-0129-22), reconsidered by the city council on January 29, 2001, and failed (Public Document No. 01-0129-13).]

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Resolution 01-0059, by Councilor Stewart, amending Resolution 00-0644 establishing legislative priorities, was introduced for discussion.

Resolution 01-0059 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Yeas: Councilors Fena, Gilbert, Ness, Stenberg, Stewart and Stover -- 6

Nays: Councilors Eckenberg, Hogg and President Edwards -- 3

[Editor's Note: The resolution was vetoed by the mayor on January 24, 2001 (Public Document No. 01-0129-22), reconsidered by the city council on January 29, 2001, and failed (Public Document No. 01-0129-14).]

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Resolution 01-0009, by Councilor Gilbert, denying a special use permit to Northern PCS for a 70 foot flag pole communication tower on property located at 1814 North 51 Avenue East, was introduced for discussion.

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

Joe Koranda, minister of Faith Lutheran Church, urged the council not to deny the special use permit and vote this resolution down, as the church is in favor of, and will be paid rent for, the tower. He continued by saying it is an excellent site for the tower, as it is a piece of property that cannot be used for much of anything and is a perfect fit for a cell tower; while not all the neighbors are for the tower, technology will happen and one tower is better than several in the neighborhood.

Ray Cayemberg, representing Lester Park/Lakeside Patrol, stated support for the cell tower as they need the tower for their cell phones which are their main communication level to the police.

Councilors reviewed and discussed the legal standards for a possible denial of this special use permit.

Councilor Stenberg felt that the resolution should be defeated so that it can be reviewed by the immediate neighbors, community club, church, supporters and the applicant.

Councilors discussed with Jim Mohn, urban planning division, the history on this type of issue and possible options that might be available for the applicant and the need to address this issue on a citywide basis.

Councilor Hogg moved to defeat Resolution 01-0009 and request the administration to send it back to the planning commission for them to deal with it again and if they wish to deny it, that defensible reasons need to be stated, which motion was seconded and unanimously carried (Public Document No. 01-0116-37).

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Resolution 01-0010, by Councilor Gilbert, granting a special use permit to Northern PCS for a 70 foot flag pole communication tower on property located at 1405 Miller Trunk Highway was introduced for discussion.

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

Denny Nelson and Richard Hufmann reviewed the specific characteristics of this particular location and the tower.

Norm Hewett expressed his opposition to this resolution because he felt that there are other locations on existing buildings that could be used that do not require a tower.

Resolution 01-0010 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Northern PCS has submitted to the city council a request for a special use permit for a communication tower on property described as: parts of Lots 14, 15, 16, Block 2 in the Plat of Handy Garden Tracts; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Northern PCS to allow for the construction and operation of a communications tower on the above described property generally located at 1405 Miller Trunk Highway on the condition that improvements be limited to, constructed and maintained in accordance with plans as identified as Public Document No. 01-0116-38; and that improvements be maintained in accordance with the terms of Section 51-32 of the City Code.

Resolution 01-0010 was adopted upon the following vote:

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

Nays: Councilor Gilbert -- 1

Approved January 16, 2001

GARY L. DOTY, Mayor

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Resolution 01-0029, by Councilor Fena, authorizing proper city officials to enter into an agreement with Lake Superior College to provide technical instruction and technical mentoring services at costs not to exceed \$33,552, was introduced for discussion.

Councilor Stewart stated that he would be abstaining from discussion and voting on this resolution because he is employed by Lake Superior College.

Resolution 01-0029 was adopted as follows:

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Lake Superior College for technical instruction and technical mentoring services to welfare-to-work clients for the period from January 1, 2001, to July 31, 2002, at a cost not to exceed \$33,552. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 01-0116-39.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6222, 6236, and 6237.

Resolution 01-0029 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Stewart -- 1

Approved January 16, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0038, by Councilor Stover, recommending approval of preliminary layout for the improvement of a part of Trunk Highway Number 53 renumbered as Trunk Highway 106 (Piedmont Avenue) within the corporate limits of the city of Duluth from south of Fourth Street to 0.25 miles north of Skyline Parkway, was introduced for discussion.

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

Jeff Patrick presented a petition (Public Document No. 01-0116-43) opposing aspects of the project; Bruce Lobermeier, Val Valentine and John Vorderbruggen supported opposition to the aspects noted in the petition, not the project on the whole.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Jodi Bergh expressed the need for a pedestrian underpass for safely crossing Piedmont Avenue and the need for a direct access to the frontage road at Voss Avenue.

Roberta Dwyer, Minnesota department of transportation, stated that they will attempt to work with the neighborhood to develop alternatives for the issues raised, noting that this is a preliminary layout approval.

Resolution 01-0038 was adopted as follows:

BY COUNCILOR STOVER:

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

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

NOW, THEREFORE, BE IT RESOLVED, that said preliminary layouts for the improvement of said trunk highway within the corporate limits of Duluth are hereby approved.

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

Resolution 01-0038 was unanimously adopted.

Approved January 16, 2001

GARY L. DOTY, Mayor

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Resolution 01-0043, by Councilor Stover, authorizing an agreement between the city of Duluth and St. Louis County including plan approval for the reconstruction of Wallace Avenue between Fourth Street and St. Marie Street for an estimated cost of \$182,976.10, was introduced for discussion.

Councilors Stewart, Hogg and President Edwards opposed the resolution for the following reasons: the dispute resolution board stated that the city council has the authority to approve or disapprove the plans; the city initiated a compromise that the county board would not consider; the specifics of the plan are not attached; the many hours of councilors' and staff time devoted to this should not come to this and that the county should not pull funding for this project if it is not approved as they wish.

Mr. Winson addressed the issues raised.

Resolution 01-0043 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for the reconstruction of Wallace Avenue between Fourth Street and St. Marie Street, said agreement filed as Public Document No. 01-0116-40. The city's costs in this project, which are estimated to be \$182,976.10, are payable with \$27,261.20 coming from Fund 531, Agency 500, Object 5532 and \$155,714.90 coming from Fund 535, Agency 500, Organization 0505, Object 5533.

RESOLVED FURTHER, that the plans and specifications prepared by St. Louis County for the above-mentioned project are hereby approved.

Resolution 01-0043 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg and Stover -- 6

Nays: Councilors Hogg, Stewart and President Edwards -- 3

Approved January 16, 2001

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR GILBERT

00-026 - AN ORDINANCE DESIGNATING SIXTH AND SEVENTH STREETS BETWEEN IRVING PLACE AND WALLACE AVENUE, IRVING PLACE AND CLOVER STREET BETWEEN IRVING PLACE AND SEVENTH STREET AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

Councilor Gilbert moved to refer this ordinance to the administration, which motion was seconded and unanimously carried.

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The following entitled ordinance was read for the first time:

BY COUNCILOR HOGG

01-001 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$7,500,000 GENERAL OBLIGATION REFUNDING REVENUE BONDS (DULUTH ENTERTAINMENT CONVENTION CENTER/IMAX® DOME THEATER PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL.

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 29, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meetings held on September 11, 21 and 25, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0129-01 Burke W. Edgerton, et al. (two signatures), submitting petition to vacate Lots 99, 100 and 101, Block 000, Nortons Acre Outlots. -- Assessor

01-0129-29 Neill Atkins submitting Leif Erikson Viking Ship restoration project historical timeline (01-0083R). -- Received

01-0129-26 The following submitting communications regarding the proposed passage of legislation to allow on sale intoxicating liquor establishments in Duluth to sell liquor until 2:00 a.m. (01-0025R and 01-0059R): (a) Bob Basara; (b) Bob Bryan; (c) Dean Buerke; (d) Cal Haworth; (e) Dukes Knutson; (f) Minnesota state patrol, District 2700. -- Received

01-0129-27 The following submitting communications regarding the proposed DEDA agreement with BRW, Inc. (01-0082R): (a) Margaret Haapoja; (b) Kathy Winkler. -- Received

01-0129-28 The following submitting communications regarding the proposed approval of a site plan under conditions of a Water Resources Management Ordinance Variance to Betty George Sola, et al., for property located at 701 Lake Avenue (01-0079R): (a) Janet S. Karon; (b) John N. Nys; (c) Kinnan Stauber. -- Received

01-0129-12 The following submitting communications regarding a proposed special use permit amendment request for condominium/apartment and townhouse units on Block 2, Lakeview Division First Addition (01-0042R): (a) David and Judith Arnold; (b) Emerald Realty; (c) Harold A. Frederick; (d) George Hovland, by William M. Burns, atty.; (e) Daniel D. Maddy; (f) Daniel Murphy. -- Received

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REPORTS OF OFFICERS

01-0129-22 Mayor Doty submitting veto of resolutions 01-0025 and 01-0059, proposing to secure the passage of legislation to allow on sale intoxicating liquor establishments in Duluth to sell liquor until 2:00 a.m. -- Received

01-0129-02 Assessor submitting letters of sufficiency to vacate: (a) Area of a proposed paper cul-de-sac in the original plat of Wahlstrom Division; (b) Right-of-way on the Howard Gnesen Road, C.S.A.H. No 34 in between Lots 99, 100 and 101, Nortons Acre Outlots. -- Received

01-0129-03 Community development and housing division submitting HRA housing rehabilitation report for December 2000. -- Received

01-0129-04 Engineering division submitting monthly project status report of January 1, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0129-05 Board of zoning appeals minutes of November 28, 2000, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- 01-0129-06 Charter commission minutes of October 13, 1999, meeting. -- Received
01-0129-07 Duluth transit authority minutes of November 29, 2000, meeting. -- Received
01-0129-08 Environmental advisory council minutes of December 6, 2000, meeting. --
Received
01-0129-09 Heritage preservation commission minutes of December 13, 2000, meeting. --
Received
01-0129-10 Human rights commission 2000 year end report. -- Received
01-0129-11 Parking commission minutes of December 12, 2000, meeting. -- Received

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RESOLUTIONS RECONSIDERED

Resolution 01-0025, memorializing the Duluth delegation to the state legislature to secure passage of legislation allowing on sale intoxicating liquor establishments in Duluth to sell liquor until 2:00 a.m.; and Resolution 01-0059, amending Resolution 00-0644 establishing legislative priorities, by Councilor Stewart, were introduced for reconsideration.

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

The following speakers opposed the resolutions: Greg Bachhuber, M.D.; Dean Bjorlin; Patty Wheeler; Alan Davin; Cal Haworth; Brad Perrett, president of St. Louis Chapter of MADD (read letter from Gab Komish); Leslie Perrett; David Taylor; Jim Skoog; Ken Steil; Kay L. Lewis and Gary Foley; for some of the following reasons: alcohol's harmful medical effects; increased domestic violence; more drunken drivers; more underage drinking; alcohol never solves problems, only creates them; there is adequate time before 1:00 a.m. to consume; making more money, at any cost is the issue; at establishments customers can still consume until 2:00 a.m. drinks that were purchased before 1:00 a.m.; having drunk drivers driving shorter distances is not a benefit; the police department is against this; there will be extra police costs with this; there needs to be more education provided to servers now; there is an unproven assumption that all customers leave an establishment to go to Superior; alcohol blood levels will increase; this will not make Duluth a better place to live; drunken drivers injure and kill others; responsible drinkers do not concern themselves with having more time to drink; responsible operators act in a responsible manner by not allowing their patrons to drink to excess; .08 blood levels is a significant impairment; bars should promote opportunities for patrons to remain and have fun from 1:00 a.m. to 2:00 a.m.; the city council has a responsibility to protect the good of the community; the vast majority of the citizenry will not benefit from this; at 1:00 a.m., those still at the bar are the problem drinkers; allow establishments to stay open as long as they wish, as long as nonalcoholic beverages are served after 1:00 p.m.; and emergency rooms see a lot of late night customers who are intoxicated or have been injured by an intoxicated driver.

The following speakers supported the resolutions: Sam Carlson; John Bonneville and Dean Buerke; noting reasons of: the lack of a level playing field with the Superior establishments relative to earlier closings, liquor fees and liquor liability insurance; safety concerns of driving to Superior and back; there is no incentive to stay in Duluth establishments after 1:00 a.m. because dancing is not allowed after that time; besides helping 90 businesses, it effects thousands of people who are employed who contribute to the local economy; shorter driving distances, would yield less accidents; establishments in Duluth are separated, so there are less problems with large concentrations; insurance requirements prohibit excessive purchases at closing time; more accountability means less problems; alcohol does have a place in society, that is, in a responsible location; if someone wants to drink, they will, whenever they want to; financial estimates (Public Document No. 01-0129-26(c)) reflect loss due to Superior sales.

Councilors Stewart and Stover supported the resolutions for the reasons of allowing the responsible individuals another hour to enjoy their evening; it would not create more irresponsible people than there are already; the responsible majority should be allowed to live their lives; there is reason to believe that this would be safer; in sending this on to the legislature, the city would have more time to study this; individuals can drink until 2:00 a.m. now; it is just a matter of where they drink and that it is a responsibility issue.

Councilors opposing the resolutions cited reasons of: the number of violations of sales to minors when the police did their recent compliance checking; Duluth might not be ready for this yet; there are times, while protecting the public safety, that the city might have to restrict the rights of the responsible and this proposal is not in the best interests of the whole community.

Resolution 01-0025 failed upon the following vote (Public Document No. 01-0129-13):

Yeas: Councilors Stewart and Stover -- 2

Nays: Councilors Eckenberg, Gilbert, Fena, Hogg, Ness, Stenberg and President Edwards -- 7

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Resolution 01-0059 failed upon the following vote (Public Document No. 01-0129-14):

Yeas: Councilors Stewart and Stover -- 2

Nays: Councilors Eckenberg, Gilbert, Fena, Hogg, Ness, Stenberg and President Edwards -- 7

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RESOLUTION TABLED

Councilor Fena moved to remove Resolution 00-0720, amending Resolution 00-0522 relating to business subsidy criteria, from the table, which motion was seconded and unanimously carried.

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

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At this time, 8:30 p.m., the public hearing on the Garfield Industrial Park, LLC, business subsidy and development agreement began (Public Document No. 01-0129-30).

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At this time, 8:45 p.m., the hearing ended and the regular order of business was resumed.

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were read for the first time:

BY COUNCILOR GILBERT

01-0023 - RESOLUTION ACCEPTING THE BUSINESS SUBSIDY REPORT AND APPROVING DEDA AGREEMENT WITH GARFIELD INDUSTRIAL PARK LLC PURSUANT TO DEDA RESOLUTION 01D-02.

- - -

BY COUNCILORS FENA AND STEWART

01-0091 - RESOLUTION AMENDING RULE 3 OF THE STANDING RULES OF THE CITY COUNCIL.

- - -

BY COUNCILORS ECKENBERG AND HOGG

01-0093 - RESOLUTION AMENDING RULE 14 OF THE STANDING RULES (COMMITTEE APPOINTMENTS).

- - -

CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 01-0129-15, and under which agreement the bureau will provide advertising and promotion services to the city during the year 2001, at a cost to the city not to exceed \$1,066,700, payable from Fund 0258, Agency 030, Org. 1460, Object 5441.

Resolution 01-0062 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2001, subject to departmental approvals:

Grandma's Grand Avenue, Inc. (Grandma's Grand Avenue Cafe), 4602 Grand Avenue, transferred from Grandma's Restaurant Company (Grandma's Grand Avenue Cafe), same address, with Michael Paulucci, 90 percent stockholder, and Andy Borg, CEO and ten percent stockholder.

Resolution 01-0037 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering fuel as needed during the year 2001 for the various departments/divisions, in accordance with specifications on its low specification bid of \$363,150, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations, objects.

Resolution 01-0044 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Clareys Safety Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering 55 Scott air pak backframes for the fire department in accordance with specifications on its low specification bid of \$26,125, terms net 30, FOB destination, \$12,350 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization 2107, Object E749; \$4,275 payable out of Capital Equipment Fund 250, Dept./Agency 015, Organization NR00, Object E019; \$5,225 payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5241 and \$4,275 payable out of General Fund 100, Dept./Agency 100, Organization 1505, Object 5241.

Resolution 01-0045 was unanimously adopted.

Approved January 29, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Performance Computer Forms, Inc., be and hereby is awarded a bid for furnishing and delivering approximately 700 cartons of computer printer paper for the M.I.S. division in accordance with specifications on its low specification bid of approximately \$18,000, terms net 30, FOB shipping point, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5203.

Resolution 01-0047 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute a maintenance agreement with International Business Machines Corporation covering maintenance of various M.I.S. equipment beginning January 1, 2001, through December 31, 2001, at an estimated annual cost of approximately \$38,709, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5404.

Resolution 01-0049 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Amendola Construction Company be and hereby is awarded a contract for elevator upgrade for the ADA improvements at the main library for the city architect in accordance with specifications on its low specification bid of \$49,750, terms net 30, FOB job site, \$12,397 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1999, Object C917 and \$37,353 payable out of Brownlee Estate Library Trust Fund 743, Dept./Agency 300, Object 5520.

Resolution 01-0053 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for snow blowers for the fleet services division in accordance with specifications on its low specification bid of \$28,000, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 01-0072 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Maney International of Duluth, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Navistar trucks and Caterpillar diesel engines for the fleet services division in accordance with specifications on its low specification bid

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

of \$30,000, terms net 30, FOB destination, \$27,000 payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$3,000 payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 01-0073 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

Resolution 01-0074 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Gateway Companies, Inc., and En Pointe Technologies Sales, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12 month period in accordance with specifications and referencing state of Minnesota Contracts #425039 and #425553 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, depts./agencies, organizations, objects; not to exceed the year 2001 budget allocation for computer equipment.

Resolution 01-0075 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Johnson Insurance Consultants for professional consulting services relating to city's group health insurance program during the year 2001, which agreement shall be substantially in the form of Public Document No. 01-0129-16, on file in the office of the city clerk, at a cost to the city of not to exceed \$13,200, which shall be payable from the group health fund administration account.

Resolution 01-0081 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKS AND RECREATION COMMISSION

Bradley Beckman (District 1), John Kohlhaas (District 4) and Gregory Meagher (District 2) for terms expiring February 13, 2004.

Resolution 01-0064 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of measurement services supervisor, which were approved by the civil service board on January 9, 2001, and which are filed with the city clerk as Public Document No. 01-0129-17, are approved; that said classification shall be subject to the city's collective bargaining unit with its supervisory unit employees; and that pay range for said classification shall be Range 1090 to 1105, \$3877 to \$5063 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 01-0066 was unanimously adopted.

Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that Resolution 99-0570 be amended to read as follows:

RESOLVED, that the annual salary for the office of mayor for the term beginning January 3, 2000, shall be \$78,000.

RESOLVED FURTHER, that the mayor shall be entitled to the following fringe benefits:

(a) A monthly car allowance in the amount of \$400;

(b) Hospital-medical, dental, deferred compensation and insurance benefits that are available to city employees covered by the confidential bargaining unit collective bargaining agreement with the city;

(c) Group term life insurance in the amount of \$50,000;

RESOLVED FURTHER, that this resolution shall be effective on February 1, 2001.

Resolution 01-0077 was unanimously adopted.

Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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

File #	Applicant Name	Legal Description	Location
01004	DEDA	easterly one-half of Lot 292, Block 35, Duluth Proper Second Division (10-1120-2420)	southwest corner of 18th Avenue West and Superior Street (Lincoln Park/West End)

Resolution 01-0039 was unanimously adopted.

Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an unimproved half cul-de-sac on Lot 1, Block 3, Wahlstrom Division Second Addition legally

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

described as: commencing at the most northerly corner of Lot 3, Block 1, Wahlstrom Division; thence along the northwesterly line of said Wahlstrom Division on an assumed bearing of north 44 degrees 30 minutes 55 seconds east 50 feet to the point of beginning of the land to be described; thence south 45 degrees 29 minutes 05 seconds east 130 feet; thence northwesterly a distance of 204.20 feet along a tangential curve concave to the southeast having a radius of 65 feet and a central angle of 180 degrees 00 minutes 00 seconds to the point of beginning and there terminating; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its January 9, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the half cul-de-sac described above, and as more particularly described on Public Document No. 01-0129-18.

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

Resolution 01-0041 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the Minnesota city participation program application commitment agreement with the Minnesota housing finance agency related to the allocation and sale of qualified mortgage bonds for the benefit of low and moderate income home buyers in the city, which agreement is substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0129-19.

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

Resolution 01-0060 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, the proper city officials are hereby authorized to accept \$3,588 in Workforce Investment Act capacity building funds from the Minnesota department of economic security in accordance with Grant 0043400 and the capacity building plan as approved. Funds are available

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

for the period from December 1, 2000, through December 31, 2001; funds received will be deposited in Fund 268, Budget Item 6245.

Resolution 01-0033 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract, containing the terms and conditions of that contract on file with the city clerk as Public Document No. 01-0129-20 (corrections for matters such as spelling or typographical errors being authorized) between the city and Western Lake Superior Sanitary District, which allocates capacity for wastewater treatment.

Resolution 01-0040 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

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 water utilities division in accordance with specifications on its low specification bid of \$61,485, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5237.

Resolution 01-0054 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that K.A. Steel Chemicals, Inc., be and hereby is awarded a contract for furnishing and delivering 100,000 gallons of caustic soda for the water utilities division in accordance with specifications on its low specification bid of \$146,620, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5238.

Resolution 01-0055 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that D C Enterprises, Inc., be and hereby is awarded a contract for furnishing thawing service for water lines at various locations throughout the city of Duluth for the water utilities division in accordance with specifications on its low specification bid of an estimated \$10,000, terms net 30, FOB job site, payable out of Water Fund 0510, Dept./Agency 500, Organization 1930, Object 5441.

Resolution 01-0056 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0030 to Bachand Painting and Decorating for painting of gas meters throughout the city of Duluth be amended to increase the amount by \$11,140.75 for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

a new total of \$39,480.75, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5400.

Resolution 01-0057 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0031 to Earth Burners, Inc., for construction of a ten inch water main on Rice Lake Road be amended to increase the amount by \$52,451.30 for a new total of \$181,722.30, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 01-0058 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Eggebrecht Chevrolet be and hereby is awarded a contract for furnishing and delivering a Chevrolet construction van with compressor, generator, crane and rail lift gate for the sewer division in accordance with specifications on its low specification bid of \$67,440.31, terms net 30, FOB destination, payable out of Stormwater Utility Fund 535, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 01-0048 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0380 to Short Elliot Hendrickson, Inc., for engineering services to provide street and utilities which serve Woodlawn Street, be amended to increase the amount by \$42,500 for a new total of \$71,500, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5330, Object 5530.

Resolution 01-0050 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that proper city officials are hereby authorized to pay the county of St. Louis an approximate \$40,000 payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5445 for the St. Louis County jail during the year 2001 of persons charged with violations of the Duluth City Code, 1959, as amended; said boarding fees to be paid in four equal quarterly installments on March 31, June 30, September 30 and December 31.

Resolution 01-0046 was unanimously adopted.
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that E/S Support Services be and hereby is awarded a contract for furnishing computer hardware and software maintenance for a one-year period beginning January 1, 2001,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

through December 31, 2001, for the police department in accordance with specifications on its proposal of \$15,450, terms net 30, FOB job site, payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 01-0051 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that Stratus Computer be and hereby is awarded a contract for furnishing and delivering 12 months of maintenance covering computer hardware and software for the police department in accordance with specifications on its low specification bid of \$22,132, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 01-0052 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and the city of Duluth supervisory association, representing the supervisory bargaining unit, for years 2000, 2001, 2002. The contract shall contain the terms and conditions set out in the contract on file with the city clerk as Public Document No. 01-0129-21, though insubstantial changes in wording or corrections for typographic errors may be made.

Resolution 01-0076 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

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Resolution 01-0063, by Councilor Stewart, confirming reappointment of James Peterson to housing and redevelopment authority, was introduced for discussion.

Councilors Hogg and Eckenberg expressed their concerns, not relative to the specific individual, but to the situation that, while consistent with the mayor's policy of not serving more than two full terms, an individual already serving 14 years is not in the city's best interest.

Resolution 01-0063 was adopted as follows:

BY COUNCILOR STEWART:

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

HOUSING AND REDEVELOPMENT AUTHORITY

James R. Peterson for a term expiring January 2, 2006.

Resolution 01-0063 was adopted upon the following vote:

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

Nays: Councilors Eckenberg and Hogg -- 2

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0042, by Councilor Gilbert, denying a special use permit amendment request by George Hovland for condominium/apartment and townhouse units on Block 2, Lakeview Division First Addition, was introduced for discussion.

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

The following speakers spoke in support of the resolution: Robyn Roslak; Jim Turchi; Daniel Maddy, attorney representing about 12 families; Robert Bennett; Jim Denney; David Arvold; Tom Storm; Cheryl Meese; Katie Krikorian; Gary Foley; Susan Schumacher; Dan Murphy and Kay L. Lewis; with some of the reasons being: the peace and beauty of the area; the area should be developed within the agreement that was established in 1976; a six story building is totally inappropriate and legally not allowed; the 1976 plan was a compromise between both sides; summary review of the content of communications from Daniel Maddy (Public Document No. 01-0129-12(e)); immediate neighbors purchased their homes based on the understanding that the adjoining property would be developed within the 1976 plan; with the start of the comprehensive planning process, this sort of change can never be reversed; traffic, especially at the Kenwood and Skyline intersection, will become worse than it is already; this area is a treasure for the youth; the residents of Skywood Lane support the resolution (Public Document No. 01-0129-12(f)) and structures in this area should not be higher than the highest trees.

The following speakers: Mark Melhus; George Hovland; Wayne Dahlberg and William Burns, attorney; opposed the resolution for the reasons of: the need for more housing in the city; without any further approvals, this area could have been developed with houses that covered that area; it was not economically feasible then, or now, to develop the area as stated in 1976; this is just an amendment that would not compromise the neighborhood; what was the final outcome in 1976, was protested against right up to the end; this area cannot economically be developed and that shows that it was not a fair agreement; from an architectural standpoint, the site analysis shows how this development can be done and co-exist with the natural beauty of Chester Park; the 1976 agreement allowed for a maximum of 159 units, this request is for only 132 units; the remaining existing allowable acreage does not allow for an economical development at three stories, that is why the six stories is need; the 159 allowable units could legally have a much greater amount of bedrooms and occupants; if the city and/or the neighborhood is interested in purchasing the property, the applicant is willing to give a six month option to purchase it for \$300,000.

City Attorney Brown reviewed the aspects of his memo *[attached to the resolution]* on this issue.

Councilors asked questions and discussed at length the issues that were raised.

Resolution 01-0042 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the city council did, on November 1, 1975, approve Resolution No. 76-546 granting a community unit plan, subject to conditions, within Lots 1 through 3 of Block 2, Lakeview Division, First Addition, with Lot 4 of Block 2 being "limited to uses which are accessory to the apartment uses of lots one through three but shall not be commercial uses, it being understood that said prohibitions of commercial uses shall not prohibit recreational facilities if they do not contain liquor or other such commercial sales establishments. Any building on said Lot 4 shall be approved by the city council prior to construction"; and

WHEREAS, George Hovland has submitted to the city council a request for an amendment to Resolution 76-546 to provide for:

(a) Replatting of Lots 1-4 and Outlots A and B, in Block 2, for the alteration of the cul-de-sac of "Lovers Lane" and expansion of affected lot areas;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(b) Increasing the allowable building heights to 661 feet (above Lake Superior) on Lot 3; 653 on Lot 2; and 634 on Lot 1, to accommodate up to six story buildings;

(c) Allow for six townhouse units on Lot 4;

(d) Eliminate the requirement for "a 300 foot long dense evergreen planting screen be provided in the area of 12th Avenue East". Said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its recommendation for denial to the city council; and

WHEREAS, the recommendation for denial was made because of the city planning commission's findings that the amendments did not provide safeguards to protect the adjacent city park or protect property values in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that the city council affirms the planning commission's recommendation and denies the requested amendment based on the following finding: the requested height amendment does not respect the intent of Resolution 76-546 with regard to impact on the adjacent city park or protect property values in the neighborhood.

Resolution 01-0042 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2000 CDBG accounts; and

WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending the funding change as set forth below, effective December 31, 2000.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to reprogram \$130,921.97 from program income to FY2000 projects as follows:

Project #	Project	Previous Budget	Revised Budget	Differences
	1200 Fund	\$330,921.97	\$200,000.00	\$130,921.97
6333	Program administration	\$315,413.00	\$446,334.97	\$130,921.97

Resolution 01-0067 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U. S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of a five year consolidated plan and an annual action plan as part of a HUD-approved five year consolidated plan for the city of Duluth; and

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of 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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that the FY 2001-2005 consolidated plan and action plan portion of the city of Duluth consolidated plan for housing and community development FY 2001-2005 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 01-0069 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low and moderate income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto 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 01-0068 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0069, by Councilor Gilbert, authorizing a request for HUD federal community development block grant (CDBG) funds for the 2001 program year as well as approving the reallocation of certain prior CDBG funds and authorizing agreements with appropriate agencies, was introduced for discussion.

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

Tom Fearnall, representing the Fond du Lac utility task force, requested that his organization, be granted "zero funding" status until their funding sources are secured.

Keith Hamre, community development and housing division manager, reviewed how the aspect requested by the prior speaker works.

Jeff Jackson, community development committee (CDC) chairperson, reviewed the background work that went into the CDBG resolutions before the council tonight and also commented that the CDC would support a zero funding status for the Fond du Lac project.

Georgia Robillard, manager of the Flex Work site, and John Murphy, expressed appreciation for their recommended CDBG funding.

Resolution 01-0069 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U. S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 01-0068, adopted January 29, 2001, approved the FY 2001-2005 consolidated plan and the FY 2001 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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:

**2001 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262**

ACCOUNT	AMOUNT	PROJECTS
HOUSING PROJECTS		
6401	\$ 700,000	Duluth property rehabilitation program - HRA
6402	\$ 200,000	Property rehabilitation programs - NHS
6403	\$ 170,000	West Duluth Revitalization II - SVCNDA
6404	\$ 120,000	Duluth weatherization - AEOA
6405	\$ 24,000	Property acquisitions in Duluth - Habitat for Humanity
PUBLIC FACILITY IMPROVEMENT PROJECTS		
6406	\$ 12,000	Memorial parking lot improvements
6407	\$ 35,400	Sacred Heart Music Center renovation
6408	\$ 84,000	Hillside streetscape Phase IV
6438	\$ 110,000	Lower Chester recreation improvements
6409	\$ 65,000	Damiano Center renovations
6410	\$ 80,000	Grant Recreation Center expansion
6411	\$ 43,300	13th Street improvement
6412	\$ 19,000	88th Avenue West street lighting
6413	\$ 160,000	Citywide street improvement
6414	\$ 67,000	Harrison Community Center improvements
6415	\$ 100,000	Young Mothers supportive housing
6440	-0-	Morgan Park sidewalk safety
ECONOMIC DEVELOPMENT PROJECTS		
6416	\$ 40,000	Opportunities Cooking - Damiano Center
6417	\$ 265,930	North Star Community Development Corporation
6419	\$ 30,000	Ethnic Minority Enterprise Initiative (SEAMAA)
6420	\$ 416,200	Career development & self emp. trng. - Project SOAR

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

ACCOUNT	AMOUNT	PROJECTS
PUBLIC SERVICE PROJECTS		
6421	\$ 61,000	Primary health care for low income people (LSCHC)
6422	\$ 10,900	Veteran's Outreach North-MACVP-VON
6423	\$ 30,900	YMCA community services
6424	\$ 35,900	Harbor View Youth Leadership Initiative-Copeland community.
6425	\$ 76,000	Hunger project - CHUM
6426	\$ 50,900	Housing Access Center
6427	\$ 50,900	YWCA youth programs
6428	\$ 55,900	Lincoln Park youth enrichment program.-Boys & Girls Club
6429	\$ 30,900	Transitional housing-WTHC
6430	\$ 10,900	Oshki Odaadiziwini Waaka-Igan-AICHO
6431	\$ 30,900	Family transitional housing - Salvation Army
6432	\$ 39,900	Women's Coalition advocacy
6433	\$ 27,000	Youth Center - Life House
6439	\$ 7,300	Little Treasures family time program
6434	\$ 30,900	Washington Activity Center - NYS
ADMINISTRATION/PLANNING/CONTINGENCY		
6435	\$ 322,350	Program administration
6436	\$ 175,000	Neighborhood planning
6437	\$ 15,000	Contingency
	\$3,804,380	Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

SOURCE OF FUNDING

Year 24 (2001)	CDBG grant - city - estimated	\$3,668,000
Year 19 (1996)	CDBG grant - city	1,908
Year 20 (1997)	CDBG grant - city	684
Year 21 (1998)	CDBG grant - city	29,406
Year 22 (1999)	CDBG grant - city	98,382
Year 23 (2000)	CDBG grant - city	6,000
Total		\$3,804,380

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year community development accounts:

Account	Project	Orig.	Mod.	Revised
Year 19 (1996) CDBG Program - 262 Fund				
6913	Hillside Sport Court	\$ 23,000	- 1,908	\$ 21,092
Year 20(1997) CDBG Program - 262 Fund				
6011	Hillside Sport Court	\$ 79,938	- 219	\$ 79,719
6036	Contingency	\$ 465	- 465	-0-
Year 21 (1998) CDBG Program - 262 Fund				
6112	Observation Park	\$ 54,518	- 3,214	\$ 51,304
6142	Contingency	\$ 26,192	-26,192	-0-
Year 22 (1999) CDBG Program - 262 Fund				
6202	SVCNDA	\$220,000	-17,750	\$202,250
6211	Lincoln Park Goat Hill streets	\$172,845	-20,484	\$152,361
6216	Citywide street improvement	\$ 85,000	- 391	\$ 84,609
6221	Child care substitutes	\$ 30,000	-30,000	-0-
6244	Contingency	\$ 29,757	-29,757	-0-
Year 23 (2000) CDBG Program - 262 Fund				
6310	W.D. Memorial Recreation Center	\$ 5,000	- 5,000	-0-
6332	Akina Nijj	\$ 1,000	- 1,000	-0-
\$136,380 - Total amount reprogrammed				

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 01-0069 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U. S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of a five year consolidated plan and an annual action plan as part of a HUD-approved five year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 01-0068, adopted January 29, 2001, approved the FY 2001-2005 consolidated plan and the FY 2001 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels, set forth below:

2001 HOME PROGRAM - FUND 260

NUMBER	PROJECTS	
H002	Substantial rehabilitation - Young mothers supportive housing	\$120,000
H003	Other rehabilitation - homeowner property rehabilitation	394,156
H004	Acquisition - Habitat for Humanity	39,102
H008	Program administration	82,600
H009	CHDO operating	37,000
	NCLT	- \$20,000
	Life House	- \$17,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NUMBER PROJECTS

H012	Homeownership initiative	115,000
	Total	\$847,858

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

Source of Funding

2001 HOME grant	\$826,000
1998 HOME grant	4,858
1999 HOME grant	6,000
2000 HOME grant	11,000
Total	\$847,858

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year HOME accounts:

Account	Project	Orig.	Mod.	Revised
Year 1998 HOME Program - Fund 260				
H011	Project specific assistance	\$ 4,858	- 4,858	-0-
Year 1999 HOME Program - Fund 260				
H003	Other rehabilitation	\$111,000	- 6,000	\$105,000
Year 2000 HOME Program - Fund 260				
H003	Other rehabilitation	\$111,000	- 11,000	\$100,000

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 01-0070 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, Regulation 24 CFR Part 91 issues by the U. S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of a five year consolidated plan and annual action plan as part of a HUD-approved five year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 01-0068, adopted January 29, 2001, approved the FY 2001-2005 consolidated plan and the FY 2001 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, an amended, (the HOME program), and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels set forth below:

2001 ESG Program

5434	Emergency shelter or transitional housing operation	
	Veterans Outreach North-MACVP-VON	\$ 4,925
	CHUM emergency shelter	16,925
	CHUM drop-in center	11,300
	Transitional housing - WTHC	17,925
	Oshki Odaadiziwini Waaka-Igan-AICHO	7,675
	Dabiboo'Igan	6,925
	Shelter operations - Women's Coalition	16,925
	Harbor house - Life House	14,175
	Family transitional housing - Salvation Army	23,550
5495	Program administration	4,675
	Total	\$125,000

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

Source of Funding

2001 ESGP Grant \$125,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 issues 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 01-0071 was unanimously adopted.

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0079, reaffirming, and Resolution 01-0080, overturning, respectively, a planning commission action approving a site plan under conditions of a Water Resources Management Ordinance variance to Betty George Sola, et al., for property located at 701 Lake Avenue, by Councilor Gilbert, were introduced for discussion.

Councilor Gilbert stated that he would not be participating in the discussion, nor voting on either of these resolutions, because of potential conflict with his law firm.

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

William Burns, the applicants' attorney, voiced support for Resolution 01-0079, citing the issue before the council and the rationale for approving this resolution.

Resolution 01-0079 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, an appeal has been submitted to the city council for the planning commission approval of a site plan in accordance with the conditions of a Water Resources Management Ordinance variance, granted on August 23, 2000, and affirmed by city council Resolution No. 00-0627 on September 11, 2000, to allow a 60 percent impervious surface of the surface area of property described as Lots 238 and 140, Lake Avenue, Upper Duluth and Lots 235, 237 and 239, Minnesota Avenue, Upper Duluth, and located at 701 Lake Avenue South, 718-720 Minnesota Avenue; and

WHEREAS, the city council finds that the planning commission's finding that the site plan submitted by Blesener-Dahlberg-Prestige Architects entitled, "Site Plan, South Pier Inn," dated 10-18-00 and the calculation of the proportion of the parcel that has impervious surface, complies with the August 23, 2000, variance action "for up to 60 percent impervious surface"; and

WHEREAS, the city council planning committee heard public comment on the appeal of the November 14, 2000, planning commission action on January 16, 2001.

NOW, THEREFORE, BE IT RESOLVED, that the city council affirms the action of the city planning commission of November 14, 2000, and finds that the above cited site plan and calculation complies with the condition of the commission variance action of August 23, 2000, and the council Resolution No. 00-0627 of September 11, 2000, to allow up to 60 percent impervious surface of the surface area of the property described as Lots 238 and 140, Lake Avenue, Upper Duluth and Lots 235, 237 and 239, Minnesota Avenue, Upper Duluth, and located at 701 Lake Avenue South, 718-720 Minnesota Avenue, and that this decision is based upon the submissions to council and the file of the planning department and planning commission.

Resolution 01-0079 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stover and President Edwards -- 7

Nays: Councilor Stewart -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Abstention: Councilor Gilbert -- 1
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

At this time, 10:58 p.m., Councilor Fena moved to suspend the rules to extend the meeting until 11:20 p.m., which motion was seconded and unanimously carried.

- - -

Resolution 01-0080 failed upon the following vote (Public Document No. 01-0129-23):

Yeas: Councilor Stewart -- 1

Nays: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stover and President Edwards -- 7

Abstention: Councilor Gilbert -- 1

- - -

Resolution 01-0082, by Councilor Gilbert, approving DEDA agreement with BRW, Inc., pursuant to DEDA Resolution 01D-08, was introduced for discussion.

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

Lynn VanDervort; Roger Reinert, representing Duluth Public-Policy Alliance; and Richard Haney felt that: there needs to be public input on the Bayfront task force plan that was developed; before a feasibility implementation is done on the plan, the public needs to fully know the content of the plan and discussion of Bayfront Park should be part of the comprehensive plan.

- - -

At this time, 11:18 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:45 p.m., which motion was seconded and unanimously carried.

- - -

Councilors discussed the merits of the speakers' comments.

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

- - -

Resolution 01-0083, by Councilor Gilbert, approving DEDA agreement with Architectural Resources, Inc., pursuant to DEDA Resolution 01D-11.

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

Neill Atkins reviewed this project as noted in his Viking Ship historical timeline (Public Document No. 01-0129-29) in support of the resolution.

- - -

At this time, 11:43 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:55 p.m., which motion was seconded and unanimously carried.

- - -

Randy Ellestad and Deanna Keeney noted their support for the resolution, citing the famous people who have seen the ship and the story that the ship represents.

Councilor Ness noted his concern that this is being paid for from Duluth economic development authority (DEDA) funds, which are intended for economic development, with the anticipation that it will be reimbursed from tourism taxes.

Resolution 01-0083 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Architectural Resources, Inc., in the amount of \$36,800, payable from DEDA Fund 0860, Agency 860, Object 8640, as approved by the DEDA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

board at its meeting of January 16, 2001, pursuant to DEDA Resolution No. 01D-11, a copy of which is on file in the office of the city clerk as Public Document No. 01-0129-24, is hereby approved.

Resolution 01-0083 was adopted upon the following vote:

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

Nays: Councilor Ness -- 1

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0078, by Councilor Ness, authorizing a consultant agreement with Short Elliott Hendrickson, Inc. (SEH), for providing certain architectural and engineering services to the city of Duluth in connection with the Hartley Nature Center, in an amount not to exceed \$193,800, was introduced for discussion.

Councilor Stover stated his concerns over spending dollars for a new building, with all the existing buildings that the city owns that already need repair and maintenance.

Resolution 01-0078 was adopted as follows:

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Short Elliott Hendrickson, Inc., for the sum of not to exceed \$193,800, from Capital Fund 450 and the Hartley Nature Center, as follows:

Capital Improvement Fund 450, Ag. 015, Org. 2001, Obj. C108:	\$ 75,000
Hartley Nature Center (Attachment "B"):	<u>\$118,800</u>
Total:	\$193,800

for providing certain architectural and engineering services to the city of Duluth in connection with Hartley Nature Center, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 01-0129-25.

Resolution 01-0078 was adopted upon the following vote:

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

Nays: Councilor Stover -- 1

Approved January 29, 2001

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinance was read for the first time:

BY COUNCILOR NESS

01-002 - AN ORDINANCE MODIFYING THE DUTIES OF THE PARKS AND RECREATION COMMISSION; AMENDING SECTION 2-48 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HOGG

01-001 (9477) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$7,500,000 GENERAL OBLIGATION REFUNDING REVENUE BONDS (DULUTH ENTERTAINMENT CONVENTION CENTER/IMAX® DOME THEATER PROJECT) OF THE CITY OF

DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL.

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

- - -

The meeting was adjourned at 11:54 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9477

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF UP TO \$7,500,000 GENERAL OBLIGATION REFUNDING REVENUE BONDS (DULUTH ENTERTAINMENT CONVENTION CENTER/IMAX® DOME THEATER PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 The city previously issued its \$8,755,000 gross revenue recreation facility bonds (Duluth Entertainment Convention Center/Imax® dome theater project), Series 1994, dated as of December 1, 1994 (the "1994 bonds"), in order to construct, acquire and install a dome theater and Imax® projection system (the "project"). The project has been completed.

1.02 Laws of Minnesota 1999, Chapter 248, Section 21 (the "act"), authorizes the city to issue general obligation revenue refunding bonds to refund in advance of their maturity the 1994 bonds, on condition that the Duluth Entertainment Convention Center authority (the "DECC") pledges net revenues of the DECC facilities for payment of principal and interest on the refunding bonds.

1.03 The city council hereby determines that it is in the best interest of the city and it is necessary to issue general obligation revenue refunding bonds (Duluth Entertainment Convention Center/Imax® dome theater project) (the "bonds") in an amount not to exceed \$7,500,000 for the purpose of refunding the 1994 bonds and paying for a portion of the interest cost of the issue.

1.04 Pursuant to the authority of the act, Minnesota Statutes, Chapter 475 and the Home Rule Charter of the city, the city council hereby authorizes and directs the issuance and sale of the bonds in an amount not to exceed \$7,500,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. Terms of bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of the bonds and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of the bonds, and prescribe the form thereof, and offer to sell the bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of the act and Minnesota Statutes, Chapter 475, and of other applicable laws.

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the authorization of a pledge agreement with the DECC, in which the DECC provides for the method of imposing and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

collecting just and equitable charges for all use and occupancy of the DECC facilities at the times and amounts required to pay the current operating expenses and to maintain 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 obligations 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 to such 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 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 purchaser of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 4, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 29, 2001
Approved January 29, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 8, 2001, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Stover -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0208-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement regarding sale of \$9,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2001. -- Received

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR HOGG:

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

Section 1. Pursuant to authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue and sell general obligation tax and aid anticipation certificates of indebtedness in anticipation of collection of taxes and state aids. The City Council has, by Resolution No. 01-0015, adopted January 16, 2001, authorized the issuance and provided for the sale of \$9,000,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2001 (the "Certificates") in anticipation of collection of taxes levied in the year 2000 for collection during the year 2001 and state aids receivable in 2001 for the general fund of the City (the "General Fund"), which is necessary for timely payment of anticipated expenditures from the General Fund.

Section 2. Pursuant to such solicitation for bids for the sale of the Certificates, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Wells Fargo Brokerage Services, LLC of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$9,014,400, plus accrued interest on the total principal amount from February 22, 2001, to the date of delivery of the Certificates and upon condition that the Certificates mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's 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 22, 2001, 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, 2001 (the "Maturity Date"). The Certificates shall not be subject to redemption prior to the Maturity Date. The Certificates shall bear interest at the rate of 3.50 percent per annum. Interest on the Certificates shall be payable on the Maturity Date. Interest shall be computed on the basis of a 365-day year. The Bond Registrar designated

below shall make the interest payment with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business on December 16, 2001, whether or not a business day, at such owners' addresses shown on such bond registration records. Principal of each Certificate shall be payable in accordance with and on presentation and surrender of the Certificate to the Bond Registrar.

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

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

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

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

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

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

Section 9. The City and the Bond Registrar may treat the person in whose name any Certificate is registered as the owner of such Certificate for the purpose of receiving payment of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

principal of and interest on such Certificate and for all other purposes whatsoever, whether or not such Certificate be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

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

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

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

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

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

CITY OF DULUTH

GENERAL OBLIGATION TAX AND AID ANTICIPATION CERTIFICATE
OF INDEBTEDNESS OF 2001

R-1 \$9,000,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	December 31, 2001	February 22, 2001	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: NINE MILLION DOLLARS

The city of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate

specified above. Interest shall be computed on the basis of a 365-day year. Interest on this Certificate shall be payable on the maturity date set forth above. This Certificate is not subject to redemption prior to maturity. Both principal and interest are payable at Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council, in coin or currency of the United States of America, which on the date of payment is legal tender for payment of public and private debts. The Bond Registrar shall make the interest payment with respect to this Certificate directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on December 16, 2001, whether or not a business day, at such owner's address shown on said bond registration records. Payment of principal of the Certificates shall be made to the registered owner upon presentation and surrender of this Certificate to the Bond Registrar when due.

This Certificate is issued by the City in the aggregate amount of \$9,000,000, pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, and pursuant to a resolution adopted by the City Council of the City on February 8, 2001 (the "Resolution").

It is hereby certified and recited that a sum of \$29,706,400 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 2000 for collection during the year 2001, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 2001; and that none of said amounts have at this time been collected and credited to the City's Fund; that heretofore no tax or aid anticipation certificates have been issued against said tax levies or state aids for such Fund; and that this Certificate is issued in anticipation of collection of said taxes and state aids.

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

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

Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate.

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

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

IN WITNESS WHEREOF, City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the signatures of the mayor and the city clerk; and the City has caused this Certificate to be dated the 22nd day of February, 2001.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Minneapolis, Minnesota

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

By _____
Authorized Representative

(Certificate as to Legal Opinion)

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by Bond Counsel on the issuance of the General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 2001, of the City of Duluth which includes the within Certificate, dated as of the original date of delivery of and payment for the Certificates.

City Clerk

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
2/22/01	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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

said Certificate on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

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

Signature Guaranteed:

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

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

B. The City Council has levied \$300,000, pursuant to Section 3 of Ordinance No. 9472 (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 \$3,243,100, and based on notices from the Minnesota Department of Revenue, the State Aids are reasonably expected to be \$26,463,300.

C. The City Council hereby declares that the full faith and credit and taxing power of the City and the proceeds of the current tax levies for the General Fund, which is the amount levied in Section 2 of Ordinance No. 9472, adopted by the City Council on December 18, 2000 (the "General Fund Taxes"), and the amounts of state aids from Local Government Aid and Homestead and Agricultural Credit Aid receivable from the state of Minnesota for the General Fund in 2001 (the "General Fund State Aids") (collectively the General Fund Taxes and the General Fund State Aids are the "General Fund Taxes and State Aids"), to the extent necessary to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment

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

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

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

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

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

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

Resolution 01-0094 was unanimously adopted.

Approved February 8, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Under and pursuant to Minnesota Statutes, Sections 471.191 and Chapter 475, the city previously issued its \$4,700,000 gross revenue recreation facility bonds (Spirit Mountain recreation area), Series 1992, dated August 1, 1992 (the "1992 bonds"). The 1992 bonds were authorized by Resolution 92-0609 duly adopted by the city council on July 23, 1992 (hereinafter referred to as the "1992 bond resolution"), and the 1992 bonds were issued pursuant to an indenture of trust (the "indenture") between the city and First Trust National Association, now U.S. Bank Trust National Association (the "trustee").

Section 2. The Spirit Mountain recreation area authority has requested that the city redeem the outstanding 1992 bonds. The city council hereby determines that it is necessary and expedient, in order to reduce debt service costs to the city and the Spirit Mountain recreation area authority, that the city redeem the 1992 bonds maturing on and after February 1, 2002 (the "redeemed bonds"), of which \$2,490,000 in principal amount are outstanding and shall be prepaid on April 2, 2001.

Section 3. The director of finance is hereby authorized and directed to send written notice of call to the trustee and direct the trustee to notify the bondholders of such call as required by the indenture. Such notice shall be in the form attached hereto as Attachment A.

Resolution 01-0104 was unanimously adopted.

Approved February 8, 2001

GARY L. DOTY, Mayor

- - -

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 12, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Eckenberg -- 1

- - -

The minutes of the council meetings held on October 2, 10, 23 and November 13, 2000, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0212-01 Duluth airport authority submitting petition to reclassify from S suburban district to M-2 manufacturing district the southeast 1/4 of northeast 1/4 except the easterly 153 feet and southerly 125 feet (Section 6-50-14). -- Assessor

01-0212-02 Jane C. Hovland, et al. (two signatures) submitting:

(a) Petition to construct a permanent residential street named Lover's Lane in Lakeview Division, First Addition and sanitary sewer, water and gas to serve Lots 1, 2, 3 and 4 in Block 2, Lakeview Division, First Addition. -- Assessor

(b) Waiver agreement regarding the construction of a permanent residential street named Lover's Lane in Lakeview Division, First Addition and sanitary sewer, water and gas to serve Lots 1, 2, 3 and 4 in Block 2, Lakeview Division, First Addition. -- Engineering

01-0212-23 Lynn M. Youngbloom submitting communication regarding the exemption of certain rural residential properties from stormwater utility fees (99-023-O). -- Received

01-0212-24 The following submitting communications regarding the approval of a business loss exemption from the provisions of the public smoking ordinance (01-0120R): (a) Kristy Hill; (b) Dante Matthes; (c) St. Mary's/Duluth Clinic Health System. -- Received

- - -

REPORTS OF OFFICERS

01-0212-03 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing regarding reassessment of costs for development in Parkwood Plat-Parcel 3762-660 by the special assessment board on February 13, 2001, at 2:30 p.m. in Room 106A, first floor of City Hall;

(b) For confirmation the assessment rolls levied to defray the assessable portions of demolition of building at 1534-36 West Superior Street, Contract 5338 (assessable - \$50,089.35) and sanitary sewer at Seventh Avenue West, Contract 5336 (assessable - \$22,074.50). -- Clerk

01-0212-10 Business development division submitting report of financial assistance extended to businesses in 2000, pursuant to Ordinance 9359. -- Received

01-0212-04 Community development and housing division submitting HUD-funded community development program quarterly status report for July-September 2000. -- Received

01-0212-05 Property manager submitting rental agreement for Chester Bowl Chalet building at 1800 East Skyline Parkway to Jason Brandt and Walter Carlson, pursuant to Section 2-31 of the Duluth City Code, 1959, as amended. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-0212-06 Duluth airport authority: (a) Minutes of December 19, 2000, meeting; (b) Unaudited balance sheet of November 30, 2000. -- Received

01-0212-07 Parks and recreation commission minutes of: (a) November 1; (b) December 13, 2000; (c) January 10, 2001, meetings. -- Received

01-0212-08 Seaway Port authority of Duluth minutes of November 15, 2000, meeting. -- Received

01-0212-09 Tree commission minutes of January 9, 2001, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Rick Leighton requested reimbursement for an asphalt driveway that was torn up during the reconstruction of the road in front of his home.

- - -

KL Lewis voiced concern for the lack of sidewalks at Anderson Road and Central Entrance.

- - -

Joel Hatland and Kelsey Lanier, Denfeld High School DECA Chapter students, voiced concern that the city has overlooked an aquatic center as entertainment for the tourists and the city residents. They reviewed that they have done a survey for DECA and hoped that the city would pursue this project.

- - -

CJ Bird voiced concern on the presentation for a proposed housing development at Chester Park and that developers should not be discriminating against potential groups when designing the housing project.

- - -

RESOLUTIONS TABLED

Councilor Gilbert moved to remove Resolution 99-0690, authorizing an agreement with Camp, Dresser & McKee to provide technical assistance in the modification of the stormwater utility rate structure; and Resolution 99-0710, of intent to adopt the SFU method of determining fees for the stormwater utility, from the table, which motion was seconded and unanimously carried.

Councilor Gilbert moved to return both resolutions to the administration, which motion was seconded and unanimously carried.

- - -

Councilor Hogg moved to remove Resolution 00-0864, establishing fixed charge water rates effective with meter readings after January 1, 2001, and rescinding all prior inconsistent or conflicting resolutions with respect to such rates, introduced by Councilor Eckenberg, from the table, which motion was seconded and unanimously carried.

Resolution 00-0864 was adopted as follows:

BY COUNCILOR HOGG (Introduced by Councilor Eckenberg):

RESOLVED, effective with the water meter readings after January 1, 2001, all customers of the water utility of the city of Duluth, whose water supply is measured by meter, shall be charged for such water in accordance with the schedule of rates established by this resolution as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

MONTHLY METERED VOLUME		
	effective January 1, 2001, rate \$/CCF	effective January 1, 1997, rate \$/CCF
first 4,000 cubic feet, per 100 cubic feet	\$1.49	\$1.42
next 96,000 cubic feet, per 100 cubic feet	0.97	0.92
next 900,000 cubic feet, per 100 cubic feet	0.81	0.77
over 1,000,000 cubic feet, per 100 cubic feet	0.67	0.64

For consumers requiring water at an elevation in excess of 290 feet above Lake Superior, the rate for all water in excess of 100,000 cubic feet per month shall be effective January 1, 2001, \$0.97 per cubic feet (effective January 1, 1997, \$0.92).

FIXED CHARGES ARE AS FOLLOWS:		
Meter size	effective January 1, 2001	effective January 1, 1997
1 inch & under	\$ 2.50	\$ 2.00
1-1/2 inch	4.38	3.50
2 inch	7.50	6.00
3 inch	27.50	22.00
4 inch	35.00	28.00
6 inch	52.50	42.00
8 inch	72.50	58.00
10 inch	95.00	76.00

Water metered at or beyond the city limits, for use by individual customers located outside the corporate limits of the city of Duluth:

All water, per 100 cubic feet	\$2.25 effective 1/1/01
	\$2.14 effective 1/1/97.

Rates charged for water furnished to political subdivisions or state or federal government installations located outside the corporate limits of the city will be by individual contract, using the following schedule:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

	Hermantown	Proctor	Rice Lake	
first 100,000 cubic feet,	\$1.93	\$2.10	\$1.75	effective 1/1/01
per 100 cubic feet	1.96	1.96	1.96	effective 1/1/97
next 200,000 cubic feet,	1.71	1.86	1.55	effective 1/1/01
per 100 cubic feet	1.74	1.74	1.74	effective 1/1/97
over 300,000 cubic feet,	1.54	1.68	1.41	effective 1/1/01
per 100 cubic feet (Proctor 300,001- 500,000 cubic feet)	1.57	1.57	1.57	effective 1/1/97
over 500,000 cubic feet,	n/a	1.33	n/a	effective 1/1/01
per 100 cubic feet	n/a	0.95	n/a	effective 1/1/97

RESOLVED FURTHER, any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 00-0864 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

UNFINISHED BUSINESS

BY COUNCILOR GILBERT:

RESOLVED, that the city council of the city of Duluth hereby accepts the business subsidy report for the Garfield Industrial District project.

FURTHER RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Garfield Industrial Park LLC, as approved by the DEDA board at its meeting of January 16, 2001, pursuant to DEDA Resolution No. 01D-02, a copy of which is on file in the office of the city clerk as Public Document No. 01-0212-12, is hereby approved.

Resolution 01-0023 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0091, by Councilors Fena and Stewart, amending Rule 3 of the standing rules of the city council, was introduced for discussion.

Councilor Stewart moved to table the resolution for a committee meeting on February 26, which motion was seconded and unanimously carried.

- - -

Resolution 01-0093, by Councilors Eckenberg and Hogg, amending Rule 14 of the standing rules (committee appointments), was introduced for discussion.

Councilor Hogg moved to table the resolution for a committee meeting on February 26, which motion was seconded and unanimously carried.

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are authorized to execute a release of claims and accept settlement funds in the amount of \$12,500, pursuant to the terms and conditions set forth in that document entitled "release of all claims" filed as Document No. 01-0212-13 which shall release Architectural Resources, Inc., DPIC Companies and Seaway Engineering/SEH from all claims as a result of construction plan variations and design oversights which caused cost overruns in city Contract Number 18513 between the city of Duluth and Krech & Ojard, consulting engineers, for construction engineering services in connection with the Lakewalk East pedestrian and bike trail extension.

Resolution 01-0088 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Network Services Company be and hereby is awarded a contract for furnishing and delivering paper towels, tissue, wipes and other related paper products for the year 2001 for various sites of city departments/divisions in accordance with specifications on its low specification bid of \$17,050, terms net 30, FOB destination, payable out of various funds, various depts./agencies, various organization, various funds available in the various objects.

Resolution 01-0105 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that General Cleaning Corporation of Duluth be and hereby is awarded a contract for furnishing and delivering janitorial services at Washington Center for year 2001 for the facilities management in accordance with specifications on its low specification bid of \$27,500, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 2500, Object 5319.

Resolution 01-0107 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Nortrax Equipment of Duluth be and hereby is awarded a contract for furnishing and delivering O.E.M. parts, repairs and rental of equipment for the fleet services, public works and utilities, water and gas division, as needed during 2001, for an estimated total of \$45,000, terms net 30, FOB shipping point, payable out of various funds, various depts./agencies, various organizations, various objects.

Resolution 01-0108 was unanimously adopted.

Approved February 12, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Little Falls Machine, Inc., be and hereby is awarded a contract for furnishing and delivering Falls O.E.M. parts and service for the fleet services in accordance with specifications on its low specification bid of \$10,650, terms net 30, FOB destination, payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 01-0112 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES

Kim Ochocki for a term expiring November 1, 2001, replacing Richard Maki who resigned.

Resolution 01-0084 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKS AND RECREATION COMMISSION

Nicole Eld (District 7) for a term expiring February 13, 2002, replacing Wells Patten who resigned.

Resolution 01-0086 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PLANNING COMMISSION

John Vigen for a term expiring December 31, 2004, replacing Beth Brown.

Resolution 01-0087 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Marvin Heikkinen for a term expiring March 30, 2002, replacing Fred Youngstrand who resigned.

Resolution 01-0090 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved February 12, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

HOUSING AND REDEVELOPMENT AUTHORITY

Richard Whiteman for a term expiring January 2, 2006, replacing John Peck.

Resolution 01-0092 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH PUBLIC ARTS COMMISSION

Dennis Lamkin for a term expiring September 30, 2003, replacing Adu Gindy.

Donald Tubesing for a term expiring September 30, 2002, replacing Lyn Lokken who resigned.

Resolution 01-0097 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of city gardener, including a title change to parks and gardens maintenance lead worker, which were approved by the civil service board on February 6, 2001, and which are filed with the city clerk as Public Document No. 01-0212-14, 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 29, pay rate of \$2,906 to \$3,448 per month to Pay Range 32, pay rate of \$3,303 to \$3,927 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 01-0123 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of traffic operations lead worker which were approved by the civil service board on January 9, 2001, and which are filed with the city clerk as Public Document No. 01-0212-15, 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 32, \$3,129 to \$3,720 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members with this resolution.

Resolution 01-0124 was unanimously adopted.

Approved February 12, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth does hereby authorize acceptance of a grant from the Minnesota historical society in the amount of \$25,000 for the Lincoln Park bandstand project, said funds to be deposited into Fund 262, Agency 622, Object 6212.

Resolution 01-0096 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that city council Resolution No. 01-0069 is hereby amended to add the following project:

ACCOUNT	AMOUNT	PUBLIC FACILITY IMPROVEMENT PROJECTS
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6441	\$0	Fond du Lac water service extension
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Resolution 01-0099 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 01-0212-16.

Resolution 01-0100 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of North Star Machine and Tool, Inc.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of North Star Machine and Tool, Inc.

Resolution 01-0110 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that R.L.K. Kuusisto, Ltd., be and hereby is awarded a contract for the professional engineering services for design services for Lincoln Park for the community development division in accordance with specifications on its low specification bid of \$49,095,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

payable out of (\$25,610.68) CDBG Fund 262, Dept./Agency 621, Object 6109, and (\$23,483.32) CDBG Fund 262, Dept./Agency 622, Object 6212.

Resolution 01-0117 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the city desires to protect the sand dunes of Minnesota Point; and

WHEREAS, the Park Point Community Club has applied, on behalf of the city, for a coastal program grant to be used solely for reducing sand dune erosion in the vicinity of the Park Point Beach House; and

WHEREAS, the Minnesota coastal program has approved a matching grant in the amount of \$8,600.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the grant agreement filed as Public Document No. 01-0212-17, between the city of Duluth and the state of Minnesota, which awards the city a matching grant in the amount of \$8,600 to be used for the Minnesota Point sand dune erosion project, said grant funds to be deposited into Fund 0210-030-2103.

Resolution 01-0034 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the Park Point Community Club has made application on behalf of the city to the Minnesota department of natural resources coastal program for a matching grant for the sand dune restoration project; and

WHEREAS, the coastal grant program has approved said application in the amount of \$8,600; and

WHEREAS, the Park Point Community Club desires to take a leadership role in the completion of this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 01-0212-18, with the Park Point Community Club for the acquisition and installation of the materials necessary for the proper completion of said sand dune restoration project and further authorizing the reimbursement to the Park Point Community Club for an amount not to exceed \$8,600, payable from Fund 0210-030-2103.

Resolution 01-0102 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering zoo animal foods for feline, omnivore, Polar Bear and primate diets for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$16,000, terms net 30, FOB shipping point, payable out of General Fund 0100, Dept./Agency 400, Organization 1814, Object 5245.

Resolution 01-0106 was unanimously adopted.

Approved February 12, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that D.R.E., Inc., be and hereby is awarded a contract for furnishing and delivering an anesthesia machine for the animal hospital at the Lake Superior Zoo in accordance with specifications on its low specification bid of \$21,400.63, terms net 30, FOB job site, payable out of capital improvements Fund 0450, Dept./Agency 015, Organization 1998, Object C813.

Resolution 01-0111 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that Suburban Surgical Company, Inc., be and hereby is awarded a contract for furnishing and delivering animal hospital equipment for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$11,103.37, terms net 30, FOB job site, payable out of Capital Equipment 450 Fund, Dept./Agency 018, organization 1998, Object C813.

Resolution 01-0113 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that Heska Corporation, Inc., be and hereby is awarded a contract for furnishing and delivering EKG units for the Lake Superior Zoo animal hospital in accordance with specifications on its low specification bid of \$11,246.82, terms net 30, FOB destination, payable out of Capital Equipment Fund 450, Dept./Agency 015, Organization 1998, Object C813.

Resolution 01-0114 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County, filed as Public Document No. 01-0212-22, for the installation of sidewalks on Maple Grove Road from Haines Road to Mall Drive; on Haines Road from Mall Drive 800 feet southerly; and on Mall Drive from Maple Grove Road to Decker Road, with the city's estimated cost of the project being \$21,604, reimbursable out of the MSA fund, payable from P.I. Fund 0411.

RESOLVED FURTHER, that the plans and specifications for the above-mentioned project are hereby approved.

Resolution 01-0101 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are authorized to execute a memorandum of understanding, substantially in the form as the document filed with this resolution as Public Document No. 01-0212-19, with the Minnesota pollution control agency, the Western Lake Superior Sanitary District, the University of Minnesota-Duluth Natural Resources Research

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Institute and department of education, the University of Minnesota sea grant and Apprise Technologies, Inc., as part of a grant application for a United States environmental protection agency Environmental Monitoring for Public Access and Community Tracking (EMPACT) grant to monitor and collect and disseminate data about streams located in the city of Duluth.

Resolution 01-0109 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that LaRoche Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 40,000 pounds of anhydrous ammonia for the water and gas department in accordance with specifications on its low specification bid of \$17,600, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 500, Organization 1955, Object 5234.

Resolution 01-0115 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Carlson and Kirwan be and hereby is awarded a contract for furnishing and marketing and media purchasing services for the natural gas advertising program of the public works and utilities department in accordance with specifications on its low specification bid of \$110,400, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 500, Organization 2430, Object 5340.

Resolution 01-0116 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to city Contract Number 18513, dated July 22, 1999, with Krech & Ojard, consulting engineers, for the sum of \$12,500, payable from Capital Fund 450, in the form substantially as set forth in the agreement on file in the office of the city clerk as Public Document No. 01-0212-20, for the provision of certain construction engineering services to the city of Duluth in connection with the Lakewalk East pedestrian and bike trail extension.

Resolution 01-0089 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer main in a ten foot utility easement between 60th Avenue West and 60th Avenue West Alley, between Polk Street and Raleigh Street to serve Lots 1, 2, 3 and the northerly 15 feet of Lot 4, Block 92, West Duluth Fourth Division, at a total estimated cost of \$18,750 (City Job No. 9298SA01). An additional ten foot easement will be necessary from Block 92, Lot 5, West Duluth Fourth Division in order to construct the new sanitary main.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 01-0103 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 5,970 gallons of yellow and white traffic marking paint for the building maintenance division in accordance with specifications on its low specification bid of \$28,107.85, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2020, Object 5226.

Resolution 01-0118 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

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

- Front of 5719 Tacony Street;
- Front of 618 North 57th Avenue West;
- Front of 2319 West Third Street;
- Front of 121 West Lemon Street;
- Front of 126 South 59th Avenue West;
- Front of 421 North 23rd Avenue West;
- Front of 1130 North Seventh Avenue East.

Resolution 01-0061 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement, filed as Public Document No. 01-0212-21, and accept grant monies from the Minnesota department of public safety, alcohol and gambling enforcement division underage compliance check program, to reimburse the Duluth police department for costs incurred in performing underage alcohol compliance checks in an amount not to exceed \$5,000 during the grant period ending June 30, 2001.

BE IT FURTHER RESOLVED, that all revenue received under this agreement shall be deposited in General Fund 100, Agency 200, Org. 1620.

Resolution 01-0098 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

The following resolutions were also considered:

Resolution 01-0122, by Councilor Fena, authorizing the proper city officers to execute an agreement with the Minnesota air national guard and the Duluth airport authority for the temporary use of portions of Hangar 103, was introduced for discussion.

Councilor Fena stated that the administration requested that the resolution be removed from the agenda, which motion was seconded and unanimously carried.

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BY COUNCILOR HOGG:

RESOLVED, that Resolution 00-0644, which set city council priorities for the 2001 session of the Minnesota State Legislature, be amended to add an Item No. 7, which reads: supporting S.F. 200 clarifying the 60 day rule for the approval or disapproval of requests for a permit, license or other governmental approval of an action relating to zoning, septic systems or expansion of the metropolitan urban service area as set forth in Minnesota Statutes Section 15.99.

Resolution 01-0130 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

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Resolution 01-0120, approving, and Resolution 01-0121, denying, respectively, a business loss exemption from the provisions of the public smoking ordinance for Jim's Hamburgers located at 2005 West Superior Street, by President Edwards, were introduced for discussion.

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

Dennis Christensen, representing the applicant for the exemption; Kevin Norrie; Jack Carr; Clarence Adair; Tony Sales; Kay L. Lewis and Andy Peterson, representing the Duluth Area Chamber of Commerce, specifically supported Resolution 01-0120 for the reasons of: some bars that allow smoking are taking business away from restaurants by serving breakfasts; this business has met the conditions for receiving an exemption; there should not be any changes to rules of the original ordinance, such as an 18 year old restriction; it is time to correct the injustice that was imposed on these businesses that were damaged by this ordinance; the ordinance creates a unfair market advantage for businesses that serve alcohol; the customers want to have a choice; a granted exemption needs to be transferable and this application is a reasonable use of the exemption provision.

Christen Hedges, Jim Scag and Jenny Peterson noted that when looking at this exemption, the council should consider the issues of: the economy for the area around the business; that the ordinance was passed to protect children, thus there should be an 18 year old restriction; that the exemption be reviewed in six to 18 months; proper signage should be done and that the granting of exemptions should not set a precedent.

Councilor Hogg requested that, if Resolution 01-0120 passes, the facts, the owners' letters of February 1 and February 9 and the city sales tax receipts report establish that smoking customers have abandoned the business, be incorporated into the evidence stated. He moved to amend the resolution to add language that:

"(a) No persons under the age of 18, including employees, permitted on the premises when smoking is permitted;

(b) The exemption is transferrable to the new owner if the business is sold," which motion was seconded for discussion.

There was councilor discussion regarding: amendments being considered now would apply to all future exemptions granted; it appears to some that the rules are being changed at this point; the 18 year old restriction would adversely affect a business by losing customers and also affect

the employees that could work there and the council's core reason for the ordinance was to protect those under 18 years of age.

Councilor Stewart requested that each part of the amendment be considered separately.

Subparagraph (a) of the amendment failed upon the following vote:

Yeas: Councilors Fena, Gilbert, Hogg and Ness -- 4

Nays: Councilors Stenberg, Stewart, Stover and President Edwards -- 4

Absent: Councilor Eckenberg -- 1

Subparagraph (b) of the amendment carried upon the following vote:

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

Nays: Councilor Fena and President Edwards -- 2

Absent: Councilor Eckenberg -- 1

Councilor Gilbert moved to amend Resolution 01-0120 to allow for an 18 month expiration date for the exemption, which motion was seconded and discussed.

Councilors commented on the merits or other options for the issue that this amendment addressed.

After much discussion, Councilor Gilbert agreed to a friendly amendment so that his original amendment would read: "This exemption is subject to any future council action affecting the operation of exemptions."

Councilor Gilbert called the question on the amendment, which motion was seconded and unanimously carried.

The amendment carried upon the following vote:

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

Nays: President Edwards -- 1

Absent: Councilor Eckenberg -- 1

Councilor Hogg called question on Resolution 01-0120, which motion was seconded and unanimously carried.

Resolution 01-0120, as amended, was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, on February 1, 2001, the city clerk received a request from Mary Sue Christen investorsen, owner of a restaurant known as Jim's Hamburgers located at 2005 West Superior Street, for a business loss exemption from the provisions of Duluth's public smoking ordinance as authorized by Section 28-66 of the Duluth City Code; and

WHEREAS, said request filed as Public Document No. 01-0212-11 indicates that January monthly sales for Jim's Hamburgers were \$5,908 in the year 2000 and \$4,844 in the year 2001, representing a business decline of approximately 18 percent; and

WHEREAS, the city sales tax administrator has verified that this information is consistent with sales tax returns submitted by Jim's Hamburgers for those months; and

WHEREAS, the owners of Jim's Hamburgers have submitted in writing, both on the application form and by separate letter dated February 1, 2001, filed as Public Document No. 01-0212-11, reasons why they believe their business loss was caused by enforcing the smoking ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby grants Jim's Hamburgers restaurant located at 2005 West Superior Street a business loss exemption from the provisions of Article VII of Chapter 28 of the Duluth City Code because:

(a) Substantial evidence has been presented showing that Jim's Hamburgers has suffered a decline in business of over 15 percent in the month of January 2001, as compared to January 2000;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(b) Substantial evidence has been presented showing that this business loss resulted from enforcement of the smoking ordinance as shown by the following documents and facts:

The owner's application for this exemption, the owner's letters of February 1, 2001, and February 9, 2001, to the council and the city sales tax receipt report dated February 9, 2001, which establish that smoking customers have abandoned the business.

BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

(a) The exemption is transferable to the new owner if the business is sold;

(b) This exemption is subject to any future council action affecting the operation of exemptions.

Resolution 01-0120, as amended, was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

[Editor's Note: The resolution was reconsidered on February 26, 2001.]

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Councilor Hogg moved to remove Resolution 01-0121 from the agenda, which motion was seconded and unanimously carried.

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BY COUNCILOR STEWART:

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

DULUTH HOUSING COMMISSION

Ann Marie Elstad (lending institutions) for a term expiring November 8, 2003, replacing Marsha Blackburn.

Resolution 01-0085 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0095, by Councilor Ness, authorizing the department of public works and utilities to exercise the powers set forth in Minnesota Statutes 453a.01 to 453a.12 in conjunction with the operation of the gas utility, was introduced for discussion.

Councilor Hogg moved to table the resolution so it could be acted upon with the accompanying ordinance [01-004], which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth has revised its housing code and rental housing licensing program including adoption of the International Property Maintenance Code; and

WHEREAS, the city desires to make its regulations available to the public in a convenient and economical format; and

WHEREAS, these regulations have been reproduced in a single document by means of a licensing agreement, referred to as the city of Duluth Housing Code booklet; and

WHEREAS, these documents should be available to the public at a reasonable cost to include a copyright licensing fee and costs of printing;

NOW, THEREFORE, BE IT RESOLVED, that said city of Duluth Housing Code booklets be sold to the public for a fee of \$9.30 plus tax.

Resolution 01-0119 was unanimously adopted.

Approved February 12, 2001

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR GILBERT

99-023 - AN ORDINANCE EXEMPTING CERTAIN RURAL RESIDENTIAL PROPERTY FROM STORMWATER UTILITY FEES; AMENDING SECTIONS 43-65 AND 43-66 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Gilbert moved to amend the ordinance, Section 3, to add the language: "and shall be deemed to have been in effect retroactively from May 11, 1998, until January 1, 2003; and after that date, this ordinance shall be null and void and of no further effect," which motion was seconded and unanimously carried.

Because of the substantial amendment, the ordinance was deemed to need another first reading.

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The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

01-005 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$350,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR GILBERT

99-023 - AN ORDINANCE EXEMPTING CERTAIN RURAL RESIDENTIAL PROPERTY FROM STORMWATER UTILITY FEES; AMENDING SECTIONS 43-65 AND 43-66 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR ECKENBERG

01-004 - AN ORDINANCE PERTAINING TO THE PROCUREMENT OF NATURAL GAS BY THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES, ADDING AN ARTICLE XVI TO CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STOVER

01-003 - AN ORDINANCE PERTAINING TO SANITARY SEWERS IN THE FOND DU LAC AREA OF DULUTH; ADDING A NEW ARTICLE XII TO CHAPTER 43, DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR STENBERG

01-006 - AN ORDINANCE CHANGING THE NOTIFICATION PROCEDURE FOR THE DEMOLITION OF DANGEROUS OR DILAPIDATED STRUCTURES WHEN THE BUILDING OWNER IS KNOWN TO BE DECEASED; AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR NESS

01-002 (9478) - AN ORDINANCE MODIFYING THE DUTIES OF THE PARKS AND RECREATION COMMISSION; AMENDING SECTION 2-48 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned by 10:05 p.m.

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

- - -

ORDINANCE NO. 9478

BY COUNCILOR NESS:

AN ORDINANCE MODIFYING THE DUTIES OF THE PARKS AND RECREATION COMMISSION; AMENDING SECTION 2-48 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-48 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-48. Duties--receiving public input, conducting studies and making recommendations to mayor and city council.

In order to gather public input on current parks and recreation issues in Duluth, the commission shall conduct a public meeting each year to hear citizen comments on current parks and recreation issues. From this meeting, the commission shall determine a list of not more than five primary topics or suggestions and the priority of each item on the list. Each topic shall be referred to a committee of the commission where it shall be studied and discussed at further public meetings. Each committee shall make a final recommendation on each topic studied to the commission. The commission shall compile these recommendations in a yearly report to the mayor and city council. The mayor and the city council shall, as soon as may be reasonably possible or practicable, dispose of such recommendations in such manner and to the extent permissible under the Charter of the city or any applicable statute.

Section 2. That this ordinance shall be in force and take effect 30 days from and after its passage and publication. (Effective date: March 25, 2001)

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

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

Nays: None -- 0

Absent: Councilor Eckenberg -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 12, 2001
Approved February 12, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 15, 2001, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fena, Gilbert, Hogg, Ness, Stenberg, Stover and President Edwards -- 7

Absent: Councilors Eckenberg and Stewart -- 2

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0215-01 LaVerne Wagner submitting letter regarding Northern PCS proposed cell tower (01-0136R). -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 01-0136, by Councilor Stenberg, granting a special use permit to Northern PCS for a 70 foot flag pole communication tower on property located at 1814 North 51st Avenue East, was introduced for discussion.

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

LaVerne Wagner voiced concern about the proposed cell tower being constructed in the neighborhood and requested that the restrictions outlined in his communication be placed on the permit (Public Document No. 01-0215-01).

To councilor questions, City Attorney Brown reviewed that according to the telecommunications act, the decision on this permit could not be based on concerns about health or environmental effects and it cannot have the affect of excluding other providers from the market. He also stated that there is no liability for change in property values that result from allowed use such as a cell tower, and there is no evidence that there is any adverse effect on property values. Mr. Brown continued to say that the attorney staff is currently working on a draft ordinance setting up regulations for cell towers in Duluth.

Denny Nelson, representing Northern PCS, stated that the type of tower they are constructing is designed to be disguised in residential neighborhoods and because of the flag pole design it will not allow for additional antennas for other carriers to be placed on the pole. He also stated that with their technology now, the maximum wattage they can broadcast at is 70 watts. Mr. Nelson also stated that to move this tower to another location, they would have to move 10-12 other towers because of the topography of Duluth and all of the towers need to talk to each other without overlaps or gaps in coverage.

Joe Koranda spoke in favor of the resolution as it sits on an unused piece of church property and the tower is needed for the cell phones for the Lakeside and Lester Park community patrol.

The council noted that per FCC regulations, they could not turn this permit down because the neighborhood and the council did not want the tower in that location.

After much discussion, Councilor Hogg moved the following amendment to be added to the conditions:

“(c) Before the wattage of the radio emissions from the tower is increased, the permit holder will inform the planning department and shall not implement the increase until the city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

council has evaluated whether the increase will interfere with radio wave reception in the area," which motion was seconded and carried upon the following vote:

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

Nays: Councilor Ness -- 1

Absent: Councilors Eckenberg and Stewart -- 2

Resolution 01-0136, as amended, was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Northern PCS has submitted to the city council a request for a special use permit for a communication tower on property described as those parts of Lots 21 and 22, Block 2, Rearrangement of part of Crosley Park Addition described as follows: commencing at the southeast corner of said Lot 21, thence westerly along the south line of said Lot 21 a distance of 54.50 feet; thence deflect 90°-00'-00" to the right in a northerly direction a distance of 17 feet to the point of beginning of the parcel of land to be described; thence continue northerly along the last described line a distance of 25 feet; thence deflect 90°-00'-00" to the left in a westerly direction a distance of 25 feet; thence deflect 90°-00'-00" to the left in a southerly direction a distance of 25 feet; thence deflect 90°-00'-00" to the left in an easterly direction a distance of 25 feet to the point of beginning; and

WHEREAS, said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its recommendation of approval to the city council; and

WHEREAS, the record in the case consists of the planning commission file and council proceedings; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards do exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the council makes and adopts the findings of the planning commission, and as set out in this statement of purpose, and honors the criteria of applicable federal law, and finds that the proposed tower is in compliance with federal law, and so concludes that a special use permit is hereby granted to Northern PCS for the construction and operation of a communications tower on the above described property subject to the following conditions:

(a) That the installation be limited to, constructed and maintained in accordance with plans submitted by Midwest Real Estate Services, Inc., for Northern PCS, dated 10/23/00;

(b) That the pole will only be up lighted when the United States flag is being displayed at night. There shall be no other lighting on the pole;

(c) Before the wattage of the radio emission from the tower is increased, the permit holder will inform the planning department and shall not implement the increase until the city council has evaluated whether the increase will interfere with radio wave reception in the area.

Resolution 01-0136, as amended, was unanimously adopted.

Approved February 15, 2001

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:45 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 26, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on November 27, 30, December 4, 18 and 21, 2000, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0226-01 Duluth airport authority resubmitting petition to reclassify from S suburban district to M-2 manufacturing district the southeast 1/4 of northeast 1/4 except the easterly 153 feet and southerly 125 feet (Section 6-50-14). -- Assessor

01-0226-04 Duluth Keystone, LLC, submitting petition to vacate a tract of land in the west half of the southwest quarter of the northeast quarter of Section 29, Township 50 North, Range 14 West. -- Assessor

01-0226-02 Michael W. Lien, et al. (ten signatures), submitting petition to reclassify from W-1 waterfront to R-1-C single family residential Lots 7 through 11, inclusive, Block 40, Hunter and Markells Grassy Point Addition to Duluth. -- Assessor

01-0226-03 Stacy Milner, et al. (five signatures), submitting petition to construct an eight inch ductile iron watermain in McCulloch Street from Superior Street to 48th Avenue East (alley). -- Assessor

01-0226-05 Dawn Strother, et al. (four signatures), resubmitting petition to construct a permanent design alley for Spear Avenue (an alley easement) between Glenwood Street and Park Street. -- Assessor

01-0226-15 Evensen Dodge, financial and investment advisors, submitting presale analysis regarding sale of \$1,405,000 G.O. improvement bonds, Series 2001A; \$3,135,000 G.O. Bayfront Festival Park improvement bonds, Series 2001B; \$7,040,000 G.O. refunding revenue bonds, Series 2001C. -- Received

01-0226-18 Dwight Gruetzmacher submitting communication regarding an appeal of the planning commission to deny a request for a variance in street width from 24 feet to 20 feet for the reconstruction of 30th Avenue East (01-0168R). -- Received

01-0226-06 Jane Wattrus submitting appeal of the planning commission to deny a request for a variance in street width from 24 feet to 20 feet for the reconstruction of 30th Avenue East. -- Committee 2 (Planning development)

01-0226-16 The following submitting communications regarding the proposed approvals of business loss exemptions from the provisions of the public smoking ordinance (01-0159R and 01-0161R): (a) Jeff Berg; (b) John Carr; (c) Laurie King; (d) Allen Merry; (e) John Preston; (f) Dwayne Terwey. -- Received

01-0226-07 The following submitting communications regarding the proposed improvement of Piedmont Avenue from south of Fourth Street to 0.25 miles north of Skyline Parkway (01-0170R): (a) Anna Devich; (b) Debra Hickok; (c) Bruce Lobermeier (supported by 394 signatures); (d) Lisa Messerer; (e) Valerie Valentine; (f) Rondi Watson. -- Received

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REPORTS OF OFFICERS

01-0226-08 Assessor submitting:

(a) Letter of insufficiency of petition to reclassify from S suburban district to M-2 manufacturing district the southeast 1/4 of northeast 1/4 except the easterly 153 feet and southerly 125 feet (Section 6-50-14);

(b) Letters of sufficiency regarding petitions to:

(1) Construct a permanent residential street named Lover's Lane in Lakeview Division, First Addition and sanitary sewer, water and gas to serve Lots 1, 2, 3 and 4 in Block 2, Lakeview Division, First Addition;

(2) Reclassify from W-1 waterfront to R-1-C single family residential Lots 7 through 11, inclusive, Block 40, Hunter and Markells Grassy Point Addition to Duluth. -- Received

(c) Letters for confirmation of assessment rolls levied to defray the assessable portions of the following:

(1) Creekside Circle, Contract Nos. 5315, 1199031, 1199032 (assessable - \$225,874.30); Como Avenue in Maple Ridge, Contract Nos. 3188, 1199021, 1199022 (assessable - \$480,965.78); Featherstone Drive and Featherstone Lane, Contract Nos. 5331, 1100051, 1100052 (assessable - \$312,527.63); sidewalk repair for 2000, Contract No. 5329 (assessable - \$42,459.74);

(2) Lakeside East Central, Contract No. 7042 (assessable - \$335,569.26); Denfeld West, Contract No. 7043 (assessable - \$208,689.16); Congdon Lower East, Contract No. 7044 (assessable - \$449,575.90); Woodland West, Contract No. 7046 (assessable - \$109,495.12); Cody Southwest, Contract No. 7047 (assessable - \$16,403.08). -- Clerk

01-0226-09 Clerk submitting applications to Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) Duluth-Superior Area Educational Television Corporation on June 9, 2001; (b) Minnesota Senior Federation - Northeast Coalition on May 23, 2001. -- Received

01-0226-10 Engineering division submitting monthly project status report of February 1, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0226-11 Alcohol, gambling and tobacco commission minutes of: (a) December 12, 2000; (b) January 9, 2001, meetings. -- Received

01-0226-12 Duluth/North Shore sanitary district minutes of February 6, 2001, meeting. -- Received

01-0226-13 Duluth transit authority: (a) Financial statement and summary of December 2000; (b) Minutes of December 20, 2000, meeting. -- Received

01-0226-14 Housing and redevelopment authority of Duluth minutes of December 26, 2000, meeting. -- Received

01-0226-17 Planning commission minutes of February 13, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Eugene Shull, Laurie Knapp, East High School principal, Debra Rickard, Congdon Park School principal and Lee Stubenvoll, development director for Holy Rosary School, addressed the council relative the Congdon Park Area Schools Neighborhood Group (Public Document No. 01-0226-35).

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Kay L. Lewis addressed issues of where tourism dollars are spent, Downtown workers parking in metered spots and preparation for flooding in low levels of the watershed.

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Debbie Isabell presented the council with materials relative to her sewer backup (Public Document No. 01-0226-36).

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RESOLUTIONS RECONSIDERED

Councilor Hogg moved to reconsider Resolution 01-0120, approving a business loss exemption from the provisions of the public smoking ordinance for Jim's Hamburgers located at 2005 West Superior Street, which motion was seconded and carried as follows:

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

Nays: Councilor Stenberg -- 1

Councilor Hogg moved to amend the resolution by adding a condition (c) to the last paragraph to read as follows:

"(c) No persons under 18 years of age may be allowed on the premises during times when smoking is permitted," which motion was seconded for discussion.

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

Mary Christensen, representing Jim's Hamburgers, noted that: they had financial losses with the smoking restrictions and met the conditions for the exemption; the exemption was approved; now an additional condition is being added that will be another loss and asked how can the city tell parents that they cannot bring in their children.

Deb Swan, representing the American Cancer Society; Carol Thibault, St. Louis County health department; Randy Pass, physician; Matt Johnson; Ken Steil, chemical health specialist; and Jody Pegal supported the amendment because: there are documented physical dangers of second-hand smoke on children that are patrons or employees; this is a way of changing social norms; restaurants have other health laws that they have to comply with; they cannot have it both ways, they can choose to allow children under 18 with no smoking or allow smoking without allowing youth under 18 years of age.

Tony Salls, Chi-Chi's Restaurant, opposed the amendment. He supported a requirement of signage like: "Warning--Smoking is permitted within this restaurant, it is recommended that children under 18 do not come in," and citing that this is a neighborhood restaurant.

Councilor Stenberg and President Edwards opposed the amendment, citing reasons of: problems like this were seen when the ordinance passed; if this was a fair and equitable ordinance across the board, there would not be a need for exemptions; businesses should be allowed to run their business without the government telling them how and that the "choice" that this amendment supposedly gives restaurants should be a "choice" left to the parents.

The amendment carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg and Ness -- 5

Nays: Councilors Stenberg, Stewart, Stover and President Edwards -- 4

Resolution 01-0120, as amended, was adopted as follows:

BY PRESIDENT EDWARDS:

WHEREAS, on February 1, 2001, the city clerk received a request from Mary Sue Christensen, owner of a restaurant known as Jim's Hamburgers located at 2005 West Superior Street, for a business loss exemption from the provisions of Duluth's public smoking ordinance as authorized by Section 28-66 of the Duluth City Code; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, said request filed as Public Document No. 01-0212-11 indicates that January monthly sales for Jim's Hamburgers were \$5,908 in the year 2000 and \$4,844 in the year 2001, representing a business decline of approximately 18 percent; and

WHEREAS, the city sales tax administrator has verified that this information is consistent with sales tax returns submitted by Jim's Hamburgers for those months; and

WHEREAS, the owners of Jim's Hamburgers have submitted in writing, both on the application form and by separate letter dated February 1, 2001, filed as Public Document No. 01-0212-11, reasons why they believe their business loss was caused by enforcing the smoking ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby grants Jim's Hamburgers restaurant located at 2005 West Superior Street a business loss exemption from the provisions of Article VII of Chapter 28 of the Duluth City Code because:

(a) Substantial evidence has been presented showing that Jim's Hamburgers has suffered a decline in business of over 15 percent in the month of January 2001, as compared to January 2000;

(b) Substantial evidence has been presented showing that this business loss resulted from enforcement of the smoking ordinance as shown by the following documents and facts:

The owner's application for this exemption, the owner's letters of February 1, 2001, and February 9, 2001, to the council and the city sales tax receipt report dated February 9, 2001, which establish that smoking customers have abandoned the business.

BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

(a) The exemption is transferable to the new owner if the business is sold;

(b) This exemption is subject to any future council action affecting the operation of exemptions;

(c) No persons under 18 years of age may be allowed on the premises during times when smoking is permitted.

Resolution 01-0120, as amended, was adopted upon the following vote:

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

Nays: President Edwards -- 1

Approved February 26, 2001

GARY L. DOTY, Mayor

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The rules were unanimously suspended to consider resolutions 01-0159, 01-0160, 01-0161 and 01-0162 at this time.

Resolution 01-0159, approving a business loss exemption from the provisions of the public smoking ordinance for Uncle Louis Cafe located at 520 East Fourth Street; Resolution 01-0160, denying a business loss exemption from the provisions of the public smoking ordinance for Uncle Louis Cafe located at 520 East Fourth Street; Resolution 01-0161, approving a business loss exemption from the provisions of the public smoking ordinance for 21st Delight located at 2125 West Superior Street; and Resolution 01-0162, denying a business loss exemption from the provisions of the public smoking ordinance for 21st Delight located at 2125 West Superior Street, by President Edwards, were introduced for discussion.

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

Penny Briddell, owner of the business noted in resolutions 01-0159 and 01-0160, reviewed the content of her application for exemption.

Kay L. Lewis felt that locations should have a separate isolated room for smokers.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

David Ross, representing the board of directors of the Duluth Area Chamber of Commerce, stated that the hardship clause that was initially established should be honored for those who qualify.

Steve O'Neil, representing the Twin Ports Youth and Tobacco Coalition, stated that they would not oppose Resolution 01-0159 but they oppose Resolution 01-0161. He felt that relative to the operations at 2125 West Superior Street, there were extenuating circumstances at this location last year in January, with the workers from the census bureau office frequenting this location which is not the case now, thus the reason for a financial loss is likely because of factors other than the smoking ban.

Councilor Hogg moved to amend Resolution 01-0159 by adding the following language:

"BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

(a) The exemption is transferable to the new owner if the business is sold;
(b) The exemption is subject to any future council action affecting the operation of exemptions;

(c) No persons under 18 years of age may be allowed on the premises during times when smoking is permitted," which motion was seconded and carried upon the following vote:

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

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

Resolution 01-0159, as amended, was adopted as follows:

BY PRESIDENT EDWARDS:

WHEREAS, on February 8, 2001, the city clerk received a request from Penny Briddell, owner of a restaurant known as Uncle Louis Cafe located at 520 East Fourth Street, for a business loss exemption from the provisions of Duluth's public smoking ordinance as authorized by Section 28-66 of the Duluth City Code; and

WHEREAS, said request, filed as Public Document No. 01-0226-30, indicates that January monthly sales for Uncle Louis Cafe were \$14,878.89 in the year 2000 and \$12,341.42 in the year 2001, representing a business decline of approximately 17 percent; and

WHEREAS, the city sales tax administrator has verified that this information is consistent with sales tax returns submitted by Uncle Louis Cafe for those months; and

WHEREAS, the owner of Uncle Louis Cafe has submitted in writing on the application form and by separate letter, filed as Public Document No. 01-0226-30, reasons why she believes her business loss was caused by enforcing the smoking ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby grants Uncle Louis Cafe located at 520 East Fourth Street a business loss exemption from the provisions of Article VII of Chapter 28 of the Duluth City Code because:

(a) Substantial evidence has been presented showing that Uncle Louis Cafe has suffered a decline in business of over 15 percent in the month of January 2001 as compared to January 2000; and

(b) Substantial evidence has been presented showing that this business loss resulted from enforcement of the smoking ordinance as shown by the following documents and facts:

BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

(a) The exemption is transferable to the new owner if the business is sold;
(b) The exemption is subject to any future council action affecting the operation of exemptions;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(c) No persons under 18 years of age may be allowed on the premises during times when smoking is permitted.

Resolution 01-0159, as amended, was adopted upon the following vote:

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

Nays: President Edwards -- 1

Approved February 26, 2001

GARY L. DOTY, Mayor

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Resolution 01-0160 failed upon a unanimous vote (Public Document No. 01-0226-31).

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Councilor Hogg moved to amend Resolution 01-0161 by adding the following language: "BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

(a) The exemption is transferable to the new owner if the business is sold;

(b) The exemption is subject to any future council action affecting the operation of exemptions;

(c) No persons under 18 years of age may be allowed on the premises during times when smoking is permitted," which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart -- 6

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

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

Judy Thomas, owner of 21st Delight, stated that the amount of business from the census bureau workers was not significant, in that they only wanted a place to have a cigarette.

Councilor Gilbert stated that while the application reflects the 15 percent loss, there is no further documentation to support that the loss is strictly due to the smoking ban.

Resolution 01-0161, as amended, was adopted as follows:

BY PRESIDENT EDWARDS:

WHEREAS, on February 9, 2001, the city clerk received a request from Judy M. Thomas, owner of a restaurant known as 21st Delight located at 2125 West Superior Street, for a business loss exemption from the provisions of Duluth's public smoking ordinance as authorized by Section 28-66 of the Duluth City Code; and

WHEREAS, said request, filed as Public Document No. 01-0226-32, indicates that January monthly sales for 21st Delight were \$22,648.00 in the year 2000 and \$18,797.85 in the year 2001, representing a business decline of approximately 17 percent; and

WHEREAS, the city sales tax administrator has verified that this information is consistent with sales tax returns submitted by 21st Delight, Inc., for those months; and

WHEREAS, the owner of 21st Delight has submitted in writing on the application form, filed as Public Document No. 01-0226-32, reasons why she believes business loss was caused by enforcing the smoking ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby grants 21st Delight restaurant located at 2125 West Superior Street a business loss exemption from the provisions of Article VII of Chapter 28 of the Duluth City Code because:

(a) Substantial evidence has been presented showing that the 21st Delight has suffered a decline in business of over 15 percent in the month of January 2001 as compared to January 2000; and

(b) Substantial evidence has been presented showing that this business loss resulted from enforcement of the smoking ordinance as shown by the following documents and facts:

BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

- (a) The exemption is transferable to the new owner if the business is sold;
- (b) The exemption is subject to any future council action affecting the operation of exemptions;
- (c) No persons under 18 years of age may be allowed on the premises during times when smoking is permitted.

Resolution 01-0161, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart and Stover -- 7

Nays: Councilor Gilbert and President Edwards -- 2

Approved February 26, 2001

GARY L. DOTY, Mayor

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Resolution 01-0162 failed upon the following vote (Public Document No. 01-0226-33):

Yeas: Councilor Gilbert -- 1

Nays: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

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RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 01-0091, amending Rule 3 of the standing rules of the city council, by councilors Fena and Stewart, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg moved to amend the resolution by adding the following phrase after the word "council" in the second line of the second paragraph of Rule 3: "but only after there has been a showing of just cause for such removal," which motion was seconded and unanimously carried.

Councilor Stenberg and President Edwards felt that this issue should be reviewed first by the Duluth Charter commission.

Resolution 01-0091, as amended, was adopted as follows:

BY COUNCILORS FENA AND STEWART:

BE IT RESOLVED, that the standings rules of the Duluth City Council shall be amended to read as follows:

Rule 3. **TERM OF OFFICE.**

Each councilor elected as an officer of the council shall hold office for a term of one year, or until his or her successor is elected.

An officer of the council may be removed from office by resolution passed by two-thirds vote of the council, but only after there has been a showing of just cause for such removal. If a resolution of removal is passed, then the next order of business at that meeting shall be the election of a councilor to serve in place of the removed officer for the remainder of the removed officer's unexpired term.

Resolution 01-0091, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stenberg and President Edwards -- 2

Approved February 26, 2001

GARY L. DOTY, Mayor

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Councilor Hogg moved to remove Resolution 01-0093, amending Rule 14 of the standing rules (committee appointments), by councilors Eckenberg and Hogg, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg moved to amend the resolution by deleting, in the first sentence of Rule 14, the following language: "the presiding officer with the consent" and adding in its place the following language: "nominations from the council and the vote," which motion was seconded and failed upon the following vote:

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

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

Resolution 01-0093 was adopted as follows:

BY COUNCILORS ECKENBERG AND HOGG:

BE IT RESOLVED, that Rule 14 of the standing rules of the Duluth City Council be amended as follows:

Rule 14. COMMITTEES.

Appointments to council committees shall be made by the presiding officer with the consent of a simple council majority. Councilors previously appointed to such committees shall not be removed involuntarily without the approval of two-thirds majority of the council.

Resolution 01-0093 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stenberg and President Edwards -- 2

Approved February 26, 2001

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

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

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$1,405,000 general obligation improvement bonds, Series 2001A, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of financing local public improvements;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 01-0226-19. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider proposals for the purchase of the bonds;

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0154 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its \$3,135,000 general obligation Bayfront Festival Park improvement bonds, Series 2001B, pursuant to Laws of Minnesota 1974, Chapter 130, Minnesota Statutes, Chapter 475, and Ordinance No. 9458 adopted September 11, 2000, for the purpose of providing funds to provide the local match of grant funds from private donations to pay part of the costs associated with the development and improvement of Bayfront Festival Park;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 01-0226-20. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider proposals for the purchase of the bonds;

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

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

Resolution 01-0155 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its general obligation refunding revenue bonds (Duluth Entertainment Convention Center/Imax® dome theater project), Series 2001C, in the approximate amount of \$7,040,000 pursuant to Laws of Minnesota 1999, Chapter 248, Section 21, Minnesota Statutes, Chapter 475, and Section 475.67, subdivisions 1 through 10, and Ordinance No. 9477 approved January 29, 2001, for the purpose of refunding the city's gross revenue recreation facility bonds (Duluth Entertainment Convention Center/IMAX® dome theater project), Series 1994, dated December 1, 1994;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 01-0226-21. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider proposals for the purchase of the bonds;

(c) Competitive sale of bonds. Evensen Dodge, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the bonds in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

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

Resolution 01-0156 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

(a) Demolition of building at 1534-36 West Superior Street (Contract No. 5338 razing - assessable amount \$50,089.35);

(b) Construction of sanitary sewer, Seventh Avenue West, Second Street Alley to 75 feet northerly (Contract No. 5336, assessable amount - \$22,074.50);
are hereby confirmed.

Resolution 01-0157 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Cellular One Duluth/Superior (\$43,000) and Verizon Wireless (\$30,250) be and hereby is awarded a contract for furnishing and delivering cellular air time service and hardware for the various departments/divisions in accordance with specifications on its low specification bids for a total amount of \$73,250, terms net 30, FOB job sites, various funds, depts./agencies, organizations and objects.

Resolution 01-0131 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar equipment for the fleet services division in accordance with specifications on its low specification bid of \$30,000, terms net 30, FOB destination, \$25,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 01-0132 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an extension of the existing software license rental agreement with International Business Machines Corporation covering operating software for the IBM 9221 mainframe for a one year period beginning January 1, 2001, through December 31, 2001, at an estimated annual cost of \$72,000, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5319.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0134 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

Duluth Curling Club, Inc. (Duluth Curling Club), 327 Harbor Drive, for March 29 through April 1, 2001, with Tim Wright, manager.

Resolution 01-0137 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals:

D&D Enterprises of Cloquet, Inc. (Mr. D's Spirit Valley), 5622 Grand Avenue, for March 4, 2001.

Resolution 01-0138 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale club license, for the period ending August 31, 2001, for issuance by the liquor control commissioner, and subject to departmental approvals, and the payment of sales and property taxes:

Duprey-Alexander, VFW Post #137, 2024 West Superior Street.

Resolution 01-0139 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth approves the transfer of the following on sale intoxicating liquor license and issuing an on sale Sunday license for the period ending August 31, 2001, subject to departmental approvals and the payment of sales and property taxes:

Zenith Duluth, Inc. (The Inn on Lake Superior), 350 Canal Park Drive, with Manley Goldfine, president and John Goldfine, vice president, transferred from Duprey-Alexander, VFW Post #137, 2024 West Superior Street.

Resolution 01-0140 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BE IT RESOLVED, that the city council of the city of Duluth approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing license, for the period ending August 31, 2001, subject to departmental approvals and the payment of sales and property taxes:

Coughlin-Tarvas, Inc. (Bedrock Bar), 2023 West Superior Street, with Ray Tarvas, 50 percent stockholder, and Patricia Coughlin-Tarvas, 50 percent stockholder, transferred from Modern Hotel, Inc. (Tom's Junkyard), same address.

Resolution 01-0141 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license, additional bar license and dancing license, for the period ending August 31, 2001, subject to departmental approvals and the payment of sales and property taxes:

Lincoln Park Western Corporation (Western Tavern), 2801 West Superior Street, with Greg S. Anderson, president and 100 percent stockholder, transferred from Western Development, Inc. (Western Lounge), same address.

Resolution 01-0142 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Hermantown Volunteer Fire Department, 4015 Airpark Boulevard, for March 24, 2001, with Todd Pelkey, manager.

Resolution 01-0143 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

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

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

NOW, THEREFORE, 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.

Licensee	Gambling Site	Date Application Filed
Duluth Curling Club	RT Quinlan's Saloon	February 7, 2001
Duluth Curling Club	Buena Vista	February 7, 2001

Resolution 01-0144 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved February 26, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an administrative services agreement with SuperiorUSA Benefits Corporation to provide communication, implementation and management of a flexible benefits plan for city employees for year 2001, in accordance with the provisions of Section 125 of the Internal Revenue Code, which agreement shall be substantially in the form of Public Document No. 01-0226-22, on file with the city clerk, at an estimated cost of \$10,991, which shall be paid from the General Fund 0100, Agency 700, Org. 1479.

Resolution 01-0158 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the Duluth City Council hereby approves of the abolishing of the 26 obsolete and inactive job classifications set forth in Exhibit A (filed as Public Document No. 01-0226-23), said action abolishing said classifications having been approved by the civil service board on February 6, 2001.

Resolution 01-0133 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

COMMUNITY DEVELOPMENT COMMITTEE

John Evans, Denice Johnson, Bonnie Jorgenson and Charles Thompson for terms expiring March 1, 2004.

Resolution 01-0146 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

NEIGHBORHOOD ADVISORY COMMITTEE

Karen Erickson (parks and recreation commission), Darrick Parker (Central Hillside) and Carol Thomson (planning commission) for terms expiring March 1, 2004.

Resolution 01-0147 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of portions of West Michigan Street legally described as:

The south half of Michigan Street adjacent to the northerly boundary of Lot 266, Block 19; and

All of Michigan Street adjacent to Lots 268, 270, 272 Block 19, Lot 274 Block 18, Lots 268, 270, 272, Block 33, and Lot 274, Block 34, including that portion abutting 17th Avenue West; and

The north 17 feet of Michigan Street adjacent to and southerly of Lots 276, 278 and 280, Block 34; all in Duluth Proper, Second Division; and

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

WHEREAS, the city planning commission approved unanimously the street vacation petition at its February 13, 2001, meeting;

NOW THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of West Michigan Street described above, and as more particularly described on Public Document No. 01-0226-24.

BE IT FURTHER RESOLVED, that the right-of-way being vacated be retained as a utility easement.

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

Resolution 01-0149 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an abandoned portion of Howard Gnesen Road (C.S.A.H. No. 34), located on the west side of Howard Gnesen Road approximately 400 feet to 800 feet north of McFarlane Road legally described as; abandoned County State Aid Highway No. 34 right-of-way located west of existing C.S.A.H. No 34 right-of-way adjacent to Lots 99, 100 and 101, Nortons Acre Outlots Duluth; and

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

WHEREAS, the city planning commission approved unanimously the street vacation petition at its February 13, 2001, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of Howard Gnesen Road (C.S.A.H. No. 34) described above, and as more particularly described on Public Document No. 01-0226-25.

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 right-of-way to be vacated.

Resolution 01-0150 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 01-0226-26) 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, 2001, through June 30, 2002. Monies collected under said contract shall be deposited in Federal Program Fund 0272, Dept. 031, Org. 6301/6302, Revenue Source 4654.

Resolution 01-0127 was unanimously adopted.

Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

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

Resolution 01-0126 was unanimously adopted.

Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Hallett Dock Company be and hereby is awarded a contract for furnishing and delivering Class 5 gravel for the various public works and utilities department/divisions in accordance with specifications on its low specification bid of \$56,791.93, terms net 30, FOB job sites, payable out of various funds, depts./agencies, organizations and objects.

Resolution 01-0135 was unanimously adopted.

Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering water meter repair parts for the water division in accordance with specifications on its low specification bid of \$35,000, terms net 30, FOB destination, \$15,000 payable out of Water Fund 0510, Dept./Agency 500, Organization 2410, Object 5227 and \$20,000 payable out of Water Fund 0510, Dept./Agency 500, Organization 2410, Object 5220.

Resolution 01-0153 was unanimously adopted.

Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 01-0226-27, between the city of Duluth and Field Training Associates for the purposes of providing instructional services to the Duluth police department at a cost to the city of \$6,250; to be paid from the Revenue Fund 215, Agency 200, Organization 2451.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0148 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, the proper city officers are hereby authorized and directed to execute an agreement (Public Document No. 01-0226-28) between the city of Duluth and the Duluth Area Family Services Collaborative to receive a time study funding grant in the amount of \$27,000. The grant shall be used to pay for a part-time recreation staff and supplies at Lower Chester/Endion community centers for the period of January 1, 2001, through December 31, 2001. Such funds shall be deposited into Parks and Recreation Account # 0100-400-1812-LCTS.

Resolution 01-0128 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources, which is on file in the office of the city clerk as Public Document No. 01-0226-29, which will extend the time for the city to expend existing snowmobile trail grant monies until March 3, 2002.

Resolution 01-0152 was unanimously adopted.
Approved February 26, 2001
GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0151, by Councilor Gilbert, supporting an increase by HUD of the Duluth fair market rental rates, was introduced for discussion.

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

Stan Kaitfors, director of Community Action Duluth and member of the low income housing consortium, and Bob Reichert, president of the Duluth housing commission, spoke of the benefits of this resolution and the need for affordable housing.

Resolution 01-0151 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the United States department of housing and urban development (HUD) sets the amount of rent subsidy, or fair market rents (FMRs), for the housing choice program, formerly called Section 8; and

WHEREAS, the city of Duluth is experiencing an extremely low rental vacancy rate; and

WHEREAS, there has been a major increase in the cost to operate rental property, including increases in heating and other utility costs; and

WHEREAS, FMRs set by HUD have increased minimally from last year; and

WHEREAS, HUD set Duluth FMRs at the 40th percentile of market rents in Duluth; and

WHEREAS, in large metropolitan areas such as Minneapolis and St. Paul, HUD set FMRs at the 50th percentile of market rent in those communities; and

WHEREAS, approximately 45 percent of renters are unable to afford FMRs for a two-bedroom unit; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the HRA utilizes only approximately 90 percent of available vouchers, due to the fact that persons holding ten percent of the vouchers return them because they are unable to find decent, affordable rental units; and

WHEREAS, there is a substantial need for Section 8 vouchers, as indicated by 884 households on the December 2000 waiting list; and

WHEREAS, the increase by HUD of the Duluth FMRs from the 40th percentile to the 50th percentile of the Duluth market rents will stimulate the deconcentration of affordable housing opportunities throughout the city.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby supports an increase by HUD of the Duluth FMRs from the 40th percentile to the 50th percentile of the Duluth market rents.

Resolution 01-0151 was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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Resolution 01-0168, granting, and Resolution 01-0169, denying, respectively, a variance from street improvement project standards for 30th Avenue East between Greysolon Road and Superior Street to allow a 20 foot street width, by Councilor Gilbert, were introduced for discussion.

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

Andy Larson, Sharon VanDruten, Nancy Gruetzmacher, Chester Brooks, Shirley Jamar and Nancy Nelson, chairperson of the Duluth tree commission, spoke in support of Resolution 01-0168, noting the following reasons: the history of why this was originally constructed at the 20 foot width; the charm of this two block street; the beauty of the trees that are there; the neighbors all support this; the request meets five of the six criteria for a variance and variances are allowed for a 20 feet width with no parking if mature boulevard trees can be saved.

Councilor Hogg moved to amend Resolution 01-0168 by adding to the end of the second paragraph the following language:

“(a) This variance request does meet the “local street design standards and process for variances” set by the planning commission last year;

(b) No compelling engineering, safety or planning needs which would necessitate prohibiting this variance have been offered by city staff,” which motion was seconded and unanimously carried.

Resolution 01-0168, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city of Duluth hereby grants a variance from application of street improvement project standards in order to allow construction of a street 20 feet wide for that portion of 30th Avenue East lying between Greysolon Road and Superior Street.

This variance is based upon the following facts which have been determined by the council:

(a) This variance request does meet the “local street design standards and process for variances” set by the planning commission last year;

(b) No compelling engineering, safety or planning needs which would necessitate prohibiting this variance have been offered by city staff.

The record in this case consists of this resolution, proceedings of the council and the planning commission file.

Resolution 01-0168, as amended, was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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Resolution 01-0169 failed unanimously (Public Document No. 01-0226-34).

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Resolution 01-0175, pertaining to the Spirit Mountain golf course; requesting additional information before work permits are issued; Resolution 01-0176, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain to take certain actions against the developer; and Resolution 01-0177, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain recreation authority to ascertain whether the golf course project constitutes a conversion to private use under the federal land and water conservation fund act of 1965, by Councilor Gilbert, were introduced for discussion.

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

Willow Maser spoke in opposition to the proposed golf course development at Spirit Mountain, noting the rare old growth forest that is there.

Councilor Hogg moved to table the resolutions for a committee meeting on April 2, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stenberg and President Edwards -- 2

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Resolution 01-0163, by Councilor Eckenberg, of intent to construct a permanent residential street named Lover's Lane in Lakeview Division, First Addition and sanitary sewer, water and gas to serve Lots 1, 2, 3 and 4 in Block 2, Lakeview Division, First Addition, was introduced for discussion.

Councilors stated that they need more information on the options for this area and that this is subject to the city's business subsidy law.

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

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Resolution 01-0170, by Councilor Eckenberg, amending Resolution 01-0038 to provide for a pedestrian underpass under part of Trunk Highway 53 renumbered as Trunk Highway No. 106 (Piedmont Avenue), was introduced for discussion.

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

Bruce Lobermeier, Lisa Messerer, Val Valentine, Melissa McCarty, David Anderson, Debra Hickok, Suella Vorderbruggen, John Vorderbruggen, Kay L. Lewis, Roger Bergh, Jodi Bergh, Beth Erickson, Brett Andrews and Ben Gozola supported the 22nd Avenue option for a pedestrian underpass for the following reasons: a petition (Public Document No. 01-0226-07(c)) was signed by over 400 residents; this location is safer because police can see through the tunnel; the west side will open to a proposed DTA bus turnaround parking area that will be well lighted and have a park like environment; a traffic light intersection is not feasible; this area will not require any further homes to be taken; there have not been accidents at this location; if there cannot be a regular pedestrian crosswalk, then this is the best location for the tunnel; the tunnel at the other site will create severe traffic congestion; it will preserve this community; it has high visibility from the immediate neighborhood and this tunnel will encourage more people to visit their own neighborhood.

Jeff Patrick supported a traffic light intersection and spoke in opposition to any tunnel due to the safety of youth and accessibility issue with snow in the winter.

Councilor Stewart moved to amend the resolution, fifth paragraph, to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

“NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby amends Resolution No. 01-0038 to add a pedestrian underpass to the project layout designated as 22nd Avenue option,” which motion was seconded, discussed and unanimously carried.

Resolution 01-0170, as amended, was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, the Duluth City Council, in Resolution No. 01-0038, approved of a preliminary layout for the improvement of Trunk Highway No. 53 renumbered as Trunk Highway 106 (Piedmont Avenue) within the corporate limits of the city of Duluth from south of Fourth Street to .25 miles north of Skyline Parkway, said layout identified as S.P. 6915-123 IRC T.H. 53 (T19163-Phase P) Layout 2B; and

WHEREAS, said layout provided for a pedestrian crossing underpass near the intersection of 23rd Avenue West that was deemed unacceptable because of its width and the fact that it dead ended an alley; and

WHEREAS, Mn/Dot is willing to construct as a part of the project either a pedestrian underpass near the intersection of 23rd Avenue West, a layout of which is labeled “Modified 9th Street Design,” or, in the alternative, a pedestrian underpass at 22nd Avenue West, a layout of which is labeled “22nd Avenue Option,” or, in the alternative, construct the project with no pedestrian underpasses at either 22nd Avenue West or 23rd Avenue West; and

WHEREAS, in order to proceed with the project, MnDot needs approval of either the “Modified 9th Street Design” or the “22nd Avenue Option” from the city council or an indication from the city council that the project should be built without either underpass.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby amends Resolution No. 01-0038 to add a pedestrian underpass to the project layout designated as 22nd Avenue option.

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

Resolution 01-0170, as amended, was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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Resolution 01-0174, by Councilor Ness, memorializing the city’s opposition to proposed state taxes on not for profit corporations, was introduced for discussion.

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

John Moline, representing Lutheran Social Services and Bethany Crisis Shelter; Karen Diver, executive director of the YWCA and the chairperson of the Minnesota Council of Nonprofits; Mark Huber, vice president for government relations and public policy at St. Mary’s/Duluth Clinic Health System; and Kay L. Lewis supported the resolution because: if nonprofit organizations have to pay a tax, then less work of the organization in the community can be accomplished; these organizations are really charities that receive money from the community to fulfill a need in the community; in following the principle of going where the money is, there is a need to consider what effect it will create; people know that a high percentage of their donations go to help people directly and that could change if nonprofits have to pay taxes.

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At this time, 10:50 p.m., Councilor Fena moved to suspend the rules to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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Councilor Hogg moved to divide the resolution by having Resolution 01-0174(a) address only the public safety fee issue and Resolution 01-0174(b) address the other issues, which motion was seconded and unanimously carried.

Councilor Hogg commented that he opposed Resolution 01-0174(a), noting that nonprofits that own property do not pay property taxes and they receive all the public services at the taxpayers' expense. He stated that, while at this time he is opposed to any sort of public safety fee, the council needs to be thinking about the future, be responsible to all constituents and not go on record as opposing a public safety fee.

Councilor Fena stated that at some future time if the public says it cannot cover these expenses, the nonprofits will have difficulty paying also.

Resolution 01-0174(a), regarding the public safety fee, was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the city of Duluth makes the following finding:

The governor of Minnesota has proposed allowing cities to require not for profit corporations to pay a new kind of tax called a "public safety fee."

NOW, THEREFORE, BE IT RESOLVED, by the city council of Duluth that the city is opposed to the governor's proposal to allow a public safety fee to be charged to not for profit corporations.

BE IT FURTHER RESOLVED, that the legislative agents of the city be instructed to oppose this proposal, and the elected representatives be urged to oppose it.

Resolution 01-0174(a) was adopted upon the following vote:

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

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

Approved February 26, 2001

GARY L. DOTY, Mayor

- - -

Councilor Ness moved to amend Resolution 01-0174(b) by adding the following paragraph:

"BE IT FURTHER RESOLVED, that the city of Duluth supports the department of revenue's proposal to make all 501(c)3 corporations in Minnesota tax exempt," which motion was seconded and unanimously carried.

Resolution 01-0174(b), as amended, was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, the city of Duluth makes the following findings:

(a) The governor of Minnesota has proposed to tax not for profit corporations' sales of tickets, memberships, and fundraising sales over \$25,000;

(b) Not for profit corporations provide programs and services that are essential to the quality of life in Duluth;

(c) The legislature has granted tax exempt status to not for profit corporations. This is indicative of a long standing public policy to encourage and assure that these corporations continue their activities;

(d) At this time, not for profit corporations are being asked, by the government, to provide more services to more people. Many of these corporations are supported by tax dollars. If the governor's proposals were enacted, in many instances the corporations would have to use tax dollars received from the government to pay new taxes levied by the government. This is irrational and diminishes the resources available for delivery of services by the corporations;

(e) Donors contribute to not for profit corporations with the expectation that the money will be used to carry out the corporation's mission, not to pay taxes. The donors have already paid the applicable tax on the money donated.

NOW, THEREFORE, BE IT RESOLVED, by the city council of Duluth that the city is opposed to the governor's proposal to tax such corporations's sales of tickets, memberships and fundraising sales in excess of \$25,000.

BE IT FURTHER RESOLVED, that the legislative agents of the city be instructed to oppose these proposals and the elected representatives be urged to oppose them.

BE IT FURTHER RESOLVED, that the city of Duluth supports the department of revenue's proposal to make all 501(c)3 corporations in Minnesota tax exempt.

Resolution 01-0174(b), as amended, was unanimously adopted.

Approved February 26, 2001

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

01-005 (9479) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$350,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

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BY COUNCILOR GILBERT

99-023 (9480) - AN ORDINANCE EXEMPTING CERTAIN RURAL RESIDENTIAL PROPERTY FROM STORMWATER UTILITY FEES; AMENDING SECTIONS 43-65 AND 43-66 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILOR STENBERG

01-006 (9481) - AN ORDINANCE CHANGING THE NOTIFICATION PROCEDURE FOR THE DEMOLITION OF DANGEROUS OR DILAPIDATED STRUCTURES WHEN THE BUILDING OWNER IS KNOWN TO BE DECEASED; AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILOR ECKENBERG

01-003 - AN ORDINANCE PERTAINING TO SANITARY SEWERS IN THE FOND DU LAC AREA OF DULUTH; ADDING A NEW ARTICLE XII TO CHAPTER 43, DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILOR ECKENBERG

01-004 - AN ORDINANCE PERTAINING TO THE PROCUREMENT OF NATURAL GAS BY THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES, ADDING AN ARTICLE XVI TO CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9479

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$350,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws, 1979, Chapter 113 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and statutes, the city is authorized to issue its general obligation revenue bonds to provide funds for the improvement of the municipal steam plant, which bonds shall be a specific lien upon such plant and may be payable primarily from net revenues to be derived from steam service charges pledged for their payment.

1.02 The city council determines that it is necessary to make improvements to the central steam utility located in the downtown area of Duluth (the "Duluth Steam Plant"), and determines that it is necessary to issue general obligation revenue bonds in an amount not exceeding \$350,000 for the purpose of paying for the improvements, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city heretofore issued and sold general obligation steam revenue bonds dated November 1, 1992, now outstanding in the amount of \$435,000; dated December 1, 1998, now outstanding in the amount of \$260,000; and dated December 1, 2000, now outstanding in the amount of \$325,000. Under the provisions of the ordinance authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated November 1, 1992, December 1, 1998, and December 1, 2000.

1.04 Pursuant to the authority herein recited, the City Council authorizes and directs the sale of general obligation steam utility revenue bonds of the city of Duluth in an amount not exceeding \$350,000 for the purposes stated in Section 1.02 hereof and pledges the full faith and credit and taxing powers of the city irrevocably to the extent required, for the payment of the principal and interest when due on such bonds and the maintenance of a reserve securing such payment, and also pledges and appropriates irrevocably for such payments the net revenues to be derived from time to time from the operation of the Duluth Steam Plant in excess of the normal reasonable and current costs of the operating and maintenance thereof.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the Duluth Steam Plant for the payment thereof, when authorized in accordance with the law and the City Charter and determined by the city council to be necessary for the improvement of the utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. Term of Bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and covenants securing their payment, and prescribe the form thereof, and offer to sell such bonds in such manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475, and other applicable laws.

Section 3. Revenues and Accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of facilities of the Duluth Steam Plant at the times and amounts required to pay the normal, reasonable, and current operating expenses and to maintain the Duluth Steam Plant and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Certifications of Proceedings.

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

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

Section 5. Effective Date.

5.01 That this ordinance shall take effect and be in force 30 days from and after its date of passage and publication. (Effective date: April 8, 2001)

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

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

Nays: None -- 0

ATTEST:

Passed February 26, 2001
Approved February 26, 2001

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

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ORDINANCE NO. 9480

BY COUNCILOR GILBERT:

AN ORDINANCE EXEMPTING CERTAIN RURAL RESIDENTIAL PROPERTY FROM STORMWATER UTILITY FEES; AMENDING SECTIONS 43-65 AND 43-66 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 43-65 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-65. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section:

Budget. The budget of the stormwater utility. The budget shall include yearly operating and maintenance costs, capital costs, debt service and amounts necessary to meet unanticipated costs.

Capital costs. Costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to:

- (a) Acquisition of all property, real or personal and all interests in connection therewith, including all rights-of-way and easements therefor;
- (b) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith;
- (c) Architectural, engineering, legal and other professional services;
- (d) Expenses of obtaining permits or approvals before construction or other project charges which become due during construction;
- (e) Any miscellaneous expenses incidental to a project.

Debt service. The principal and interest necessary to pay an indebtedness of the city related to the stormwater utility in any year.

Director. The director of public works or the director's designee.

Dwelling unit. A single unit that provides complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking and sanitation.

Equivalent residential unit or ERU. The average impervious area of residential property per dwelling unit located within the city.

ERU rate. A utility fee charged on each ERU as established by resolution as provided herein.

Impervious area. Roofed and paved areas, including, but not limited to, areas covered by roofs, roof extensions, patios, porches, driveways, sidewalks, parking areas and athletic courts.

Nonresidential property. Developed property that is classified by the city assessor as Property Types 3 and 5 pursuant to Minnesota Statutes Section 273.13. Property that has a mixture of residential and nonresidential uses shall be considered nonresidential.

Operating and maintenance costs. The current paid or accrued expenses of operation, maintenance and current repair of the system, as calculated in

accordance with sound accounting practices and includes, without limitation, administrative expenses, labor, the cost of materials and supplies used for current operations and charges for the accumulation of appropriate reserves for current expenses not annually incurred but which are such as may be reasonably expected to be incurred in accordance with sound accounting practices.

Residential property. Developed property that is classified by the city assessor as land use Types 1, 4 and 2a pursuant to Minnesota Statutes Section 273.13.

Rural residential property. Residential property that is determined by the director to be rural in character. In determining whether property is rural, the director shall consider:

- (a) Location of the parcel of property;
- (b) Zoning classification of the parcel of property;
- (c) Size of the parcel;
- (d) Distance from the parcel to stormwater facilities;
- (e) Amount of impervious surface on the parcel;
- (f) Distance from the parcel to other developed parcels;
- (g) Benefit derived by the parcel from stormwater facilities;
- (h) Whether or not the parcel is being served by other city utilities;
- (i) Expense of collecting stormwater utility fees in relation to the amount of revenue raised.

Stormwater drainage system or system. The existing constructed and natural stormwater drainage facilities and channels of the city and all improvements thereto which are the property and responsibility of the utility, to be operated by the utility to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

Stormwater utility or utility. The utility created by this Article to operate, maintain and improve the stormwater drainage system.

Utility fee. A utility fee authorized by Minnesota law and this Article which is established to pay for operations and maintenance, extension and replacement and debt service.

Section 2. That Section 43-66 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 43-66. Rates and charges.

(a) The stormwater utility shall charge utility fees as provided in this Article to recover from property benefitting from the system the capital costs, debt service, operation and maintenance costs of stormwater facilities in the city. Subject to the limitations contained in this Section, this Article shall apply to all property in the city of Duluth;

(b) Utility fees shall be based upon the amount of impervious area on the benefitting property and shall be computed as provided in this Article. Each parcel of property within the city shall be categorized as residential, nonresidential or undisturbed property. The utility fees for each type of property shall be as follows:

(1) The utility fee for residential property shall be the ERU rate multiplied by the number of dwelling units existing on the property;

(2) The utility fee for nonresidential property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious area for a nonresidential property by one ERU. The minimum utility fee for any nonresidential property shall be equal to one ERU rate;

(3) Undisturbed parcels of land shall be exempt from the utility fee;

(c) The city council shall, by resolution, adopt a schedule of utility fees sufficient to produce revenue equal to the budget of the stormwater utility. The resolution shall state the utility fee rate per ERU;

(d) The director shall gather impervious area data on residential property within the city and calculate an ERU value. The utility fees shall be based on this ERU value. In determining the ERU value, the director shall not be required to measure and consider all residential property in the city, but shall consider a reasonable sample representing areas throughout the city. The director shall further investigate nonresidential properties within the city to determine the impervious area on each property. The determination of impervious area made by the director shall be conclusive unless modified by the adjustment procedure set forth in this Article. The director shall endeavor to investigate and reestablish an ERU value for the city every five years after the effective date of this ordinance *[Article]*;

(e) Public rights-of-way, rural residential property not connected to a city sewer, and airport runways and taxiways shall be exempt from utility fees;

(f) The utility fees established by this Article are the joint and several responsibility of the owner, lessee and the occupant of each lot or parcel subject to the fee. The director shall cause monthly bills to be sent for each lot or parcel and shall develop a billing and collection system for said fees. Bills may be combined with other city utility bills. The city council may provide for penalties and interest for late payments in the resolution establishing the utility fee rate;

(g) Delinquent utility fees shall be collected as provided in Minnesota Statutes 444.075, Subd. 3, in the same manner as taxes against the property and may also be collected in an action at law against the owner, lessee or the occupant of the parcel. On or before July 1 of each year, the director shall transmit to the city assessor a list of all delinquent stormwater utility fees for the preceding calendar year and the parcels which each delinquent fee relates to. Upon receipt of such list, the city assessor shall prepare a delinquent utility fee roll containing, in columns, the name of the owner, if known, of each lot or parcel where utility fees are delinquent, a description of each lot or parcel and the amount of delinquent utility fees from the previous year. On or before August 1 of each year, the city assessor shall certify the delinquent utility fee roll to the city council. The city clerk shall send notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in the property stating the amount of the utility fee due, a description of the property, that the utility fees are due and payable before October 1 of that year and that the delinquent utility fee roll is on file in the office of the city clerk. If the city council finds the roll to be proper and correct, it shall by resolution confirm the roll on or before October 1. The confirming resolution shall contain a collection fee added to each amount due to reimburse the city for its administrative costs of collection. On or before the tenth day of October each year,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

the city treasurer shall file with the county auditor a certified statement of all delinquent utility fees under this Article, describing the land affected and giving the amount of the fee, with a ten percent penalty added, after which the delinquent fee shall be processed in the same manner as an assessment under the provisions of Chapter 70 of the City Charter.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication until January 1, 2003; after that date, this ordinance shall be null and void and of no further effect. (Effective date: April 8, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 26, 2001
Approved February 26, 2001
GARY L. DOTY, Mayor

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ORDINANCE NO. 9481

BY COUNCILOR STENBERG:

AN ORDINANCE CHANGING THE NOTIFICATION PROCEDURE FOR THE DEMOLITION OF DANGEROUS OR DILAPIDATED STRUCTURES WHEN THE BUILDING OWNER IS KNOWN TO BE DECEASED; AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 10-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10-3. Demolition procedure.

(a) General. Whenever it comes to the notice of the building official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be his duty to make an inspection of such building or structure. It shall be unlawful to repair or alter any such building or structure located within Fire Zone No. 1 if, in the opinion of the building official, such building or structure has been damaged or deteriorated from any cause to the extent of more than 50 percent of the value of a similar new building and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official. It shall be unlawful to repair or alter any building or structure located in Fire Zone No. 3 if, in the opinion of the building official, such building or structure has been damaged or deteriorated from any cause to the extent of more than 60 percent of the value of a similar new building and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official;

(b) Orders for demolition and assessment of costs. All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs to the same, shall be in writing, signed by the building official, and shall allow not less than 30 days in which to comply with said order. Should any such order not be complied

with within the time allowed therefor or the appeal provided for in Section 10-6 of this Chapter not be taken, the building official shall, in writing, communicate such information to the city council. The city council may direct the building official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the city council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to cause any or all of such costs to be assessed against the property from which such removal takes place. If the city council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the council, and such resolution shall state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in Subsection (c) of this Section below, except that it shall not be necessary to post such notice on the affected property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the county auditor of St. Louis County for collection in the same manner as other assessments, pursuant to Section 70 of the Duluth City Charter;

(c) Notice to owner. Except as otherwise provided for in Subsection (b) above, service of all orders provided for in this Section shall be made as follows:

(1) Upon an individual owner, residing within the city of Duluth, by delivering a copy to him personally or by leaving a copy at his usual place of abode with some person of suitable age and discretion then residing therein. If the owner does not reside within the city of Duluth, by sending a copy of such order by registered mail to his last known address, and in addition a copy of such order shall be posted in a conspicuous place in the building to which it relates. Such mailing and posting shall be deemed adequate service. If it should come to the attention of the building official that the owner, as shown by the land records of the register of deeds or the registrar of titles of the county of St. Louis, Minnesota, is deceased, such order shall be sent by registered mail to the known heirs of the deceased owner if the building official is reasonably able to ascertain such heirs. In addition, a copy of the said order shall be posted in a conspicuous place on the building to which it relates, and said order shall be published in the official newspaper of the city of Duluth for one day in each of two consecutive weeks during the period to which the order relates. Such mailing, posting and publication shall be deemed adequate service;

(2) If the owner is confined to a state institution, by serving also the chief executive officer of the institution;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(3) If the owner be an infant under the age of 14 years, by serving a resident guardian, and if he has none, then by serving the person having control of such infant or with whom he resides;

(4) If the owner be a partnership or association, by delivering the order to a member or the managing agent of the partnership or association;

(5) If the owner be a domestic or foreign corporation, by delivering the order to an officer or managing agent. If such corporation be a foreign corporation and has no such agent in the city of Duluth, then service may be made upon any such agent of the corporation within the state.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 8, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 26, 2001
Approved February 26, 2001
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 19, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Gilbert -- 1

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The minutes of the council meetings held on January 8, 16 and 29, 2001, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0319-01 Greg Knutsen, et al. (13 signatures), submitting petition to reclassify from R-1-b to R-3 the 1/2 of the NE 1/4 of NW 1/4, Section 20, Township 50 north of Range 14, west of the Fourth Principal Meridan, St. Louis County. -- Assessor

01-0319-02 Michael Lien, et al. (11 signatures), submitting petition to vacate the alley dividing Blocks 35 and 40, Hunter and Markells Grassy Point Addition to Duluth, from Thompson Street to the St. Louis River. -- Assessor

01-0319-03 St. Francis Health Services of Morris, by Neal Hessen, attorney, petitioning for vacation of a portion of Minnesota Avenue. -- Assessor

01-0319-31 Citizens Coalition of Gary-New Duluth, Inc., submitting communication regarding the proposed agreement with BRW, Inc., for the Skyline corridor management plan (01-0216R). -- Received

01-0319-32 H.E.R.E. Local 99, submitting communications regarding negotiations at the Holiday Inn and Radisson Hotel (01-0226R). -- Received

01-0319-04 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from: (a) Jessica F. Nelson and Mike Stegmann on April 7, 2001; (b) Josie Newton and Paul Johnson on July 14, 2001. -- Received

01-0319-33 The following submitting communications regarding the proposed construction of a 9,000 square foot two-story retail and office building with 67 parking spaces (01-0220R): (a) Low Income Housing Consortium; (b) Stacey E. Achterhoff Truckey. -- Received

01-0319-34 The following submitting communications regarding amendment to smoking ban exemptions (01-0209R): (a) Linda Crumpton; (b) Elizabeth Sylte. -- Received

01-0319-35 The following submitting communications regarding the Spirit Mountain golf course (01-0175R, 01-0176R and 01-0177R): (a) Cindy Hale; (b) Jeff Janacek; (c) Ken Nebel; (d) John Pastor; (e) Carin K. Skoog; (f) Gary B. Walton. -- Received

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REPORTS OF OFFICERS

01-0319-05 Assessor submitting:

(a) Affidavit of mailing of notice of informational meetings on April 4, 2001, at 4:30 and 7:00 p.m. and a city council public hearing on April 9, 2001, at 7:30 p.m. regarding the 2002 street improvement program. -- Clerk

(b) Letters of sufficiency to:

(1) Construct a permanent design alley for Spear Avenue (an alley easement) between Glenwood Street and Park Street;

(2) Reclassify from S Suburban District to M-2 manufacturing district the SE 1/4 of NE 1/4 except the Ely 153 feet and the Sly 125 feet of Section 6, Township 40, Range 14;

(3) Vacate the alley dividing Blocks 35 and 40, Hunter and Markells Grassy Point Addition to Duluth, from Thompson Street to the St. Louis River;

(4) Vacate easement to provide legal ownership of said easement to Duluth Keystone LLC;

(5) Vacate portion of Minnesota Avenue. -- Received

01-0319-16 Building official submitting appeal of the BZA approval of a request to construct a 9,000 square foot retail/office building on the east side of Sixth Avenue East between Fifth and Sixth Streets (CHUM/Habitat for Humanity appealing). -- Committee 2 (Physical development)

01-0319-06 Clerk submitting applications to Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from St. James School on: (a) July 1; (b) October 1, 2001; (c) January 1; (d) April 1, 2002. -- Received

01-0319-07 Community development and housing division submitting HRA housing rehabilitation report for January 2001. -- Received

01-0319-08 Engineering division submitting monthly project status report of March 1, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0319-09 Board of zoning appeals minutes of January 23, 2001, meeting. -- Received

01-0319-10 Building appeal board minutes of February 14, 2001, meeting. -- Received

01-0319-11 Duluth airport authority: (a) Minutes of: (1) January 16; (2) February 2, 2001, meetings; (b) Balance sheets for December 31, 2000. -- Received

01-0319-12 Housing and redevelopment authority of Duluth minutes of: (a) Annual; (b) Regular January 30, 2001, meetings. -- Received

01-0319-13 Parking commission minutes of January 16, 2001, meeting. -- Received

01-0319-14 Seaway Port authority of Duluth minutes of: (a) December 13, 2000; (b) January 10; (c) January 24, 2001, meetings. -- Received

01-0319-15 Special assessment board: (a) Minutes of February 13, 2001, meeting; (b) Public hearing, report, findings and recommendations for the proposed reassessment on Parkwood Lot - Plat 3752 Parcel 660. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jeff Jackson, chairperson of the planning commission, commented on his plans that he will be making in his role as chairperson of this commission.

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Kay L. Lewis suggested that: houses scheduled for demolition should be moved and used for Habitat for Humanity or sold; local tourism attractions should be advertized in foreign newspapers; the city should consider participating in any complaints against the natural gas companies; and if the Norshor Theater and Bridgeman buildings are purchased, that those proposals be reviewed closely.

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INTRODUCTION AND CONSIDERATION OF ORDINANCE ORDINANCE TABLED

BY COUNCILOR ECKENBERG

01-004 (9482) - AN ORDINANCE PERTAINING TO THE PROCUREMENT OF NATURAL GAS BY THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES, ADDING AN ARTICLE XVI TO CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Eckenberg moved to suspend the rules to remove from the table and to consider the ordinance at this time, which motion was seconded and unanimously carried.

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RESOLUTION TABLED

Councilor Eckenberg moved to remove Resolution 01-0095, authorizing the department of public works and utilities to exercise the powers set forth in Minnesota statutes 453a.01 to 453a.12 in conjunction with the operation of the gas utility, from the table, which motion was seconded and unanimously carried.

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

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Resolution 01-0095 was adopted as follows:

BY COUNCILOR ECKENBERG:

RESOLVED, that pursuant to the provisions of Minnesota Statutes Section 453A.08, Subdivision 2, the department of public works and utilities is authorized to exercise the powers enumerated in Minnesota Statutes Sections 453A.01 through 453A.12 in the operation of the city's gas utility.

Resolution 01-0095 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

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

(a) Contract Nos. 5315, 1199031, 1199032, Creekside Circle (assessable - \$225,874.30);

(b) Contract Nos. 3188, 1199021, 1199022, Como Avenue in Maple Ridge (assessable - \$480,965.78);

(c) Contract Nos. 5331, 1100051, 1100052, Featherstone Drive and Featherstone Lane (assessable - \$312,527.63);

(d) Contract No. 5329, sidewalk repair for 2000 (assessable - \$42,459.74); are hereby confirmed.

Resolution 01-0171 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Arctech, Inc., for the sum of not to exceed \$35,000, from Grant Fund 0210, Ag. 030, Org. 2102, Obj. 5319, for providing certain master planning services to the city of Duluth in connection with the Lake Superior Zoological Gardens master plan update, 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. 01-0319-17.

Resolution 01-0184 was unanimously adopted.
Approved March 19, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Vine Body Shop be and hereby is awarded a contract for furnishing annual contract auto body repairs for all city cars, vans and pickups during the year 2001 for all city departments and divisions in accordance with specifications on its low specification bid of \$18,000, terms 30, FOB destination, \$6,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5404 and \$12,000 payable out of Fleet Fund 0660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 01-0199 was unanimously adopted.
Approved March 19, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a street sweeper, three-wheel Elgin, Model Pelican SE2000 for the street maintenance division in accordance with specifications on its low specification bid of \$114,673.88, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS01, Object V103.

Resolution 01-0201 was unanimously adopted.
Approved March 19, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

WHEREAS, the Duluth Girls Hockey Association has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

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

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

Resolution 01-0227 was unanimously adopted.
Approved March 19, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

TREE COMMISSION

Therese Vaughn for a term expiring August 31, 2003, replacing Timothy Bates who resigned.

Resolution 01-0187 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ENVIRONMENTAL ADVISORY COUNCIL

Kenneth Norenberg (environmental) for a term expiring January 5, 2002, replacing Virginia Borden who resigned.

Resolution 01-0191 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

MILLER CREEK JOINT POWERS BOARD

Patricia Sobczak for a term expiring January 31, 2004, replacing Edward Thamm.

Resolution 01-0192 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Edwin Haller for a term expiring March 30, 2004, replacing Martin DeWitt who resigned.

Resolution 01-0193 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classifications of planning aide and planning technician, including a title change to planner I, which were approved by the civil service board on March 6, 2001, and which are filed with the city clerk as Public Document No. 01-0319-18, are approved. This classification remains represented by the basic unit and compensated at Pay Range 127, \$2,475 to \$2,919 per month. The proper city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 01-0206 was unanimously adopted.
Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of assistant planner, including a title change to planner II, which were approved by the civil service board on March 6, 2001, and which are filed with the city clerk as Public Document No. 01-0319-19, are approved. This classification remains represented by the basic unit and compensated at Pay Range 131, \$2,919 to \$3,451 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 01-0207 was unanimously adopted.
Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that proper city officials are hereby authorized to modify city Contract No. 18323 with Independent School District No. 709 for the supportive employment for disabled youth project through the community resource program funds by modifying budget titled CRP and replacing it with modified budget bearing budget modification date March 5, 2001, No. 2. Total contract amount is increased by \$13,021 to a total not to exceed \$43,021 and contract end date is extended through June 30, 2001, payable from Fund 275, Budget Item 6000. A copy of this modification shall be on file in the city clerk's office as Public Document No. 01-0319-20.

Resolution 01-0194 was unanimously adopted.
Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that proper city officials are hereby authorized to extend Agreement 18617 for year of the city/community resource program monies totaling \$59,436 from the state of Minnesota, department of trade and economic development and to re-program the funds to complete four community service projects as follows:

Original Plan	Re-Programmed	
\$ 4,000	\$ 8,000	Duluth police department intern program
\$ 20,000	\$ 25,000	Older workers program supplement
\$ 15,000	\$ 4,500	CRP self-sufficiency fund
\$ 11,521	\$ 13,021	Disabled youth supported work experience
<u>\$ 8,915</u>	<u>\$ 8,915</u>	<u>Administrative costs</u>
\$ 59,436	\$ 59,436	Total

Said agreement to run from January 12, 2000 through June 30, 2001. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 01-0319-21.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

275, Budget Item 6000.

Resolution 01-0195 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Bachman's, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 355 trees and shrubs for the Lincoln Park habitat enhancement project for the community development division in accordance with specifications on its low specification bid of \$21,737.95, terms net 30, FOB destination, \$20,000 payable out of Community Development Fund 262, Dept./Agency 623, Object 6309 and \$1,737.95 payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 01-0214 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that, pursuant to Resolution No. 99-0239, the reimbursement by Duluth economic development authority's (DEDA) of the city of Duluth for Baywalk construction expenses related to Buildings D & N in the amount of \$365,000, as approved by the DEDA board at its meeting of February 27, 2001, pursuant to DEDA Resolution No. 01D-16, a copy of which is on file in the office of the city clerk as Public Document No. 01-0319-22, is hereby approved upon the conditions of DEDA Resolution No. 01D-16 being met.

Resolution 01-0181 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for the development of trails, bridges and wildlife observation decks in the Grassy Point area of west Duluth.

File No.	Applicant Name	Legal Description	Location
01015	City of Duluth	Outlots N,O, and R Arrangement of West Duluth (10-130-340, way 380,330)	between BN tracks and Lesure Street (Old High 2) along the west bank of St. Louis River

Resolution 01-0190 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, Resolution 01-0041, which vacated an unimproved half cul-de-sac, was unanimously adopted by the city council on January 29, 2001, and Resolution 01-0041 contained an incorrect legal description; and

WHEREAS, the description of the unimproved half cul-de-sac on Wahlstrom Division is

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

legally described as: commencing at the most northerly corner of Lot 3, Block 1, Wahlstrom Division; thence along the northwesterly line of said Wahlstrom Division on an assumed bearing of north 44 degrees 30 minutes 55 seconds east 50 feet to the point of beginning of the land to be described; thence south 45 degrees 29 minutes 05 seconds east 130 feet; thence northwesterly a distance of 204.20 feet along a tangential curve concave to the southeast having a radius of 65 feet and a central angle of 180 degrees 00 minutes 00 seconds to the point of beginning and there terminating; and

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

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the half cul-de-sac described above, and as more particularly described on Public Document No. 01-0129-18.

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

Resolution 01-0210 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 01-0319-23, with BRW, Inc., relating to the Skyline Parkway corridor management plan in an amount not to exceed \$77,470, payable from Fund 0450, Agency 015, Organization 2000, Object C014.

Resolution 01-0216 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

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. 01-0319-24 to the agreement for forgivable loan of Minnesota investment fund (MIF) with United HealthCare Services, Inc. (UHS).

Resolution 01-0065 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are authorized to execute Supplemental Agreement No. 3 to department of the Army License No. DACW22-3-85-3007, said agreement filed as Public Document No. 01-0319-25, granting the city a license for the placement of a transformer pad between the piers of the Duluth Aerial Lift Bridge on army corps of engineers' property.

Resolution 01-0189 was unanimously adopted.

Approved March 19, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Duluth Superior Blacktop be and hereby is awarded a contract for furnishing and delivering bituminous materials for the street maintenance division in accordance with specifications on its low specification bid of \$147,000, terms net 30, FOB picked up, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, and Object 5232.

Resolution 01-0125 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, by Resolution of Intent Numbered 01-0103 the council did request the administration to prepare plans and specifications for the construction of 120 feet of sanitary sewer main in a ten foot utility easement between 60th Avenue West and 60th Avenue West Alley, between Polk Street and Raleigh Street to serve Lots 1, 2, 3 and the northerly 15 feet of Lot 4, Block 92, West Duluth Fourth Division (City Job No. 9298SA01) at an estimated cost of \$18,750; and

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$18,750, to be paid by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 01-0165 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, the proper city officers are hereby authorized to execute an agreement with the Salvation Army, under which the Salvation Army would administer an emergency energy assistance program using \$16,086 in funds that the city will receive from the Ordean Foundation for such purpose, which agreement is on file in the office of the city clerk as Public Document No. 01-0319-26; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020, Object MS14.

Resolution 01-0185 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that The Uniform Connection be and hereby is awarded a contract for furnishing and delivering uniforms for the utility operations division in accordance with specifications on its low specification bid of \$18,800, terms net 30, FOB destination, \$3,900 payable out of Water Fund 0510, Dept./Agency 500, Organization 2410, Object 5218; \$5,900 payable out of Gas Fund 0520, Dept./Agency 500, Organization 2410, Object 5218; \$4,500 payable out of Water Fund 0510, Dept./Agency 500, Organization 1945, Object 5218; \$4,500 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1945, Object 5218.

Resolution 01-0186 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of street improvement at 12th Avenue East between Superior Street and Fourth Street for the engineering division in accordance with specifications on its low specification bid of \$668,549.06, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2141, Object 5530; to be reimbursed by municipal state aid turnback funds.

Resolution 01-0200 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 01-0048 to Eggebrecht Chevrolet for furnishing a Chevrolet construction van with compressor, generator, crane and rail lift gate be amended to increase the amount by \$41,157.17 for a new total of \$105,809.06, \$16,462.86 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580 and \$24,694.31 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 01-0203 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Candy Chumich the amount of \$21,028.63 in full settlement of all claims for damage to her property at 3814 Grand Avenue resulting from a watermain break which occurred on January 12, 2001; payment to be made from the self insurance fund.

Resolution 01-0204 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to settle claims arising out of the design of certain improvements for the Tioga Street project and accept payment to the city as full payment and satisfaction of all claims of the city against Salo Engineering, Inc., and its liability insurers, and to execute and implement a release of all claims relating to the project, for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

payment in the amount of \$109,784, said amount to be deposited in Street Improvement Project Fund 0440, Agency 038, Organization 0001, Revenue Source 4697.

Resolution 01-0205 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide site mapping on Arrowhead Road between Dodge Avenue, West Kenwood and Woodland Avenue; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey and mapping from aerial photography and field data; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$23,500, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2112, Object 5303; to be reimbursed by municipal state aid.

Resolution 01-0211 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide a permanent traffic signal system at 59th Avenue West and Grand Avenue; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design traffic signal system and replacement of controllers and cabinets; and

WHEREAS, S.R.F. Consulting Group, Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with S.R.F. Consulting Group, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$6,500, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2228, Object 5530; to be reimbursed by municipal state aid.

Resolution 01-0212 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Northwestern Power Equipment be and hereby is awarded a contract for furnishing and delivering hot water supply and return lines equipment for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$42,016, terms net 30, FOB job site, payable out of Steam District #1 Fund 0540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 01-0213 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution No. 00-0528, passed August 14, 2000, which authorized an agreement between the city of Duluth and St. Louis County for the reconstruction of Piedmont Avenue between Haines Road and Hutchinson Road, said agreement filed as Public Document No. 00-0814-27, is amended to reflect an increase of \$45,000 in city costs, for a total of \$160,646.74, payable from Fund 0535, Agency 500, Organization 1905, Object 5533.

Resolution 01-0215 was unanimously adopted.

Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for sanitary sewer work to be done in conjunction with the reconstruction of Piedmont Avenue between Haines Road and Hutchinson Road, said agreement filed as Public Document No. 01-0319-27. The city's cost for this portion of this project, which is estimated to be \$50,000, is payable from Fund 0531, Agency 500, Object 5532.

Resolution 01-0217 was unanimously adopted.

Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is established:

on the west side of Arlington Avenue (CSAH) from a point 100 feet south of the entrance of the Arlington soccer complex to a point 100 feet north of the entrance of the Arlington soccer complex.

Resolution 01-0164 was unanimously adopted.

Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the city is hereby authorized to accept grant monies up to \$269,500 from the Minnesota department of public safety to reimburse expenditures related to the grant to expand local capacity to combat gangs.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in Police Grant Fund 0215-200-2463-4230.

Resolution 01-0166 was unanimously adopted.

Approved March 19, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that the city is hereby authorized to accept grant monies up to \$392,100 from the Minnesota department of public safety for expenditures related to the criminal gang strike force member replacement grant. The St. Louis County sheriff's department as a partner agency is also authorized reimbursements related to this grant.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in Police Grant Fund 0215-200-2462-4230.

Resolution 01-0167 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the police chief is hereby authorized to execute an addendum to an agreement with the St. Louis County sheriff and Arrowhead Regional Corrections, designated Public Document No. 99-0524-27, providing for reimbursement of the sheriff for certain identification services, which addendum is on file in the office of the city clerk as Public Document No. 01-0319-28, at a cost to the city of \$12,000 in 2001, which shall be payable from the General Fund 0100-200-1610-5319.

Resolution 01-0179 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Duluth area family services collaborative to receive a time study grant in the amount of \$24,186.55. The grant shall be used to pay for part-time recreation staff and supplies in West Duluth neighborhoods for the period of January 1, 2001, through December 31, 2001. Such funds shall be deposited into Parks and Recreation Account 0100-400-1812.

Resolution 01-0208 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the U.S. department of transportation and the Minnesota department of transportation have made capital and operating funds available to the Duluth transit authority; and

WHEREAS, the Duluth transit authority has requested the city of Duluth to accept state and federal operating and capital grants on behalf of the Duluth transit authority; and

WHEREAS, the Duluth transit authority has completed the necessary state and federal requirements for the above mentioned grants;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the Duluth transit authority request to accept operating grants and capital grants from the state of Minnesota and the federal government as per grants submitted for the years 2000 and 2001 with the understanding that a list of these grants and the dollar amounts involved will be provided to councilors when finalized.

Resolution 01-0222 was unanimously adopted.

Approved March 19, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0178, by President Edwards, authorizing a consultant agreement with Melander, Melander & Schilling/Damon Farber Associates, for providing certain design services to the city of Duluth in connection with the Downtown streetscape revitalization, Phase I, in an amount not to exceed \$40,000, was introduced for discussion.

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

Kristi Stokes, executive director of the Greater Downtown Council, expressed support for the resolution, which would partner the city with the Downtown community to provide a positive revitalization to the Downtown.

Resolution 01-0178 was adopted as follows:

BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Melander, Melander & Schilling/Damon Farber Associates, for the sum of not to exceed \$40,000, as follows: \$20,000 from Capital Fund 450, Ag. 015, Org. 2000, Obj. C003 and \$20,000 from General Fund 100, Ag. 015, Org. 2020, Obj. MS07, for providing certain design services to the city of Duluth in connection with Downtown streetscape revitalization, Phase I, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 01-0319-29.

Resolution 01-0178 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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Resolution 01-0223, approving, and Resolution 01-0228, denying, respectively, a business loss exemption from the provisions of the public smoking ordinance for Country Kitchen of Duluth, Inc., 1810 Miller Trunk Highway, by President Edwards, were introduced for discussion.

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

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Resolution 01-0229, appointing a new member to citizens advisory committee for comprehensive planning replacing Peggy Marrin; and Resolution 01-0240, amending Resolution 00-0369 to provide for up to 15 members on the citizens advisory committee for comprehensive planning, by Councilor Stewart, were introduced for discussion.

Councilors discussed the merits of tabling both resolutions versus only tabling Resolution 01-0240, and at the same time signaling the community that the council wishes to expand the committee to allow for the minorities of color representation on the this committee.

Councilor Stewart moved to table Resolution 01-0229 for a committee meeting, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stewart, Stover and President Edwards -- 7

Nays: Councilor Stenberg -- 1

Absent: Councilor Gilbert -- 1

- - -

Councilor Stewart moved to table Resolution 01-0240 for a committee meeting and at the same time inform the community that the council is accepting applications, which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stewart, Stover and President Edwards -- 7

Nays: Councilor Stenberg -- 1

Absent: Councilor Gilbert -- 1

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BY COUNCILOR STEWART:

WHEREAS, the Duluth City Council passed Resolution 00-0333(a) on May 22, 2000, which was amended by Resolution 00-0522 on July 31, 2000, and by Resolution No. 00-0731 on October 23, 2000, adopting criteria that apply to a business that requests a business subsidy from the city of \$25,000 or more (Resolution 00-0333(a), Resolution 00-0522 and Resolution 00-0731 herein after referred to as the business subsidy resolution); and

WHEREAS, the Duluth City Council desires to further amend the business subsidy resolution in order to exempt certain federal and state housing program assistance from said resolution.

NOW, THEREFORE, BE IT RESOLVED, that the business subsidy resolution is amended to read as follows:

BE IT RESOLVED, that the Duluth City Council adopts, effective May 22, 2000, the following mandatory and preferential criteria for businesses receiving assistance from the city of \$25,000 or more. The following assistance shall be exempt from the requirements of this resolution:

- (a) Federal community development block grant program assistance until the assistance has been repaid to, and reinvested by, the city;
- (b) Federal emergency shelter grant (ESG) and HOME investment partnership program assistance until the assistance has been repaid to, and reinvested by, the city;
- (c) Minnesota housing finance agency - community revitalization fund and innovative housing loan program;
- (d) Assistance for housing in the form of a loan at an interest rate not generally available to the borrower in the commercial lending market for the extension of streets and utilities received by the borrower pursuant to authorization under Chapter IX of the Duluth City Charter.

Mandatory criteria. All projects receiving assistance of \$25,000, or more, must satisfy the following seven criteria:

- (a) Public purpose criteria. The project must meet two of the following five public purpose criteria:
 - (1) High quality jobs. If the project results in the creation of new jobs, then the jobs must be predominantly full-time jobs that pay at least a living wage (as defined by Duluth 's living wage ordinance) and provide health insurance and other benefits;
 - (2) Job retention. If the recipient can demonstrate that job loss is imminent without a business subsidy, then the recipient must present a plan which shows that a significant number of the existing jobs will be retained for at least five years after completion of the subsidy;
 - (3) Economic diversity. The project must contribute to the economic diversity of the city by reducing dependency upon declining industries, participating in fast growing industries, or supporting existing industries of manufacturing, education, health care, retail sales, tourism and service and technology;
 - (4) Quality of life. The project must enhance the quality of life of the city's residents by investing in neglected neighborhoods or business areas, utilizing in-fill areas rather than contributing to urban sprawl, benefitting the environment, or redeveloping blighted or polluted areas;

(5) Tax base. The city must realize a reasonable rate of return on its public investment in the project in the form of an increase in tax base or other monetary return;

(b) Specific goals. The project will have measurable, specific and tangible goals as they relate to the stated public purpose;

(c) Equal opportunity. The recipient will abide by all local, state and federal laws prohibiting discriminatory hiring and employment practices and agree to affirmatively seek out participation in the project by members of protected classes;

(d) Project feasibility and disclosure. The recipient must demonstrate to the satisfaction of the city that it has adequate financing for the project and that the project will be completed in a timely fashion;

(e) Wage policy. If the project results in the creation of any job, the wage for each part-time and full-time job created must be in compliance with Duluth's living wage ordinance and at least equal to the prevailing wage for like or similar projects within the area or such greater amount as required by the city for a specific project;

(f) Report to the council. At the time the city council reviews a project development agreement calling for assistance of \$25,000 or more, a report shall be submitted to councilors summarizing the information necessary for them to exercise their due diligence, as determined by the city council;

(g) Applicable laws. The recipient will agree to satisfy all requirements of Minnesota's business subsidy law as defined in Minnesota Statutes §116J.993-§116J.995 and Duluth's living wage ordinance, as amended, in Article 26, Chapter 2 of the Duluth City Code.

Preferential criteria. Businesses that meet any or all of the following criteria shall be given preference for receiving assistance over other businesses that meet the mandatory criteria but not any of the preferential criteria.

(a) Locally owned businesses. Preference shall be given to locally owned businesses or to projects that make extensive use of local businesses for support;

(b) Hiring low-income people. Preference shall be given to businesses with a commitment and plan to hire people earning at or below 200 percent of the poverty line;

(c) Protected class business owners. Preference shall be given to businesses owned in whole or in part by members of protected classes;

(d) Quality of life businesses. Preference shall be given to businesses that are environmentally responsible and enhance the overall quality of live in the city."

Resolution 01-0241 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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At this time, Councilor Eckenberg moved to remove Resolution 01-0163, of intent to construct a permanent residential street named Lover's Lane in Lakeview Division, First Addition and sanitary sewer, water and gas to serve Lots 1, 2, 3 and 4 in Block 2, Lakeview Division, First Addition, from the table, which motion was seconded and unanimously carried.

Councilor Fena noted that this resolution only states to the developer that if this street is built the city would be willing to reimburse the developer, but this resolution does not actually allow the street to be built.

Resolution 01-0163 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, it appears that it may be necessary to construct a permanent residential street name Lover's Lane in Lakeview Division, First Addition and sanitary sewer, water and gas to serve

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Lots 1, 2, 3, and 4 in Block 2, Lakeview Division, First Addition.

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

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 01-0163 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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Resolution 01-0180, approving DEDA agreement with Northspan Group, Inc., for its ABC program pursuant to DEDA Resolution 01D-14, by Councilor Stenberg, was introduced for discussion.

Councilor Stewart moved to table the resolution until the information previously requested is received, which motion was seconded and unanimously carried.

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Resolution 01-0182, approving DEDA's reimbursement to the city of Duluth pursuant to DEDA Resolution 01D-17, by Councilor Stenberg, was introduced for discussion.

Councilor Stewart moved to table the resolution until the information previously requested is received, which motion was seconded and unanimously carried.

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Resolution 01-0220, affirming, and Resolution 01-0221, reversing, respectively, a decision of the board of zoning appeals to approve the construction of a 9,000 square foot two-story retail and office building with 67 parking spaces by extending a building 50 feet into more restrictive district; to extend a parking lot into a residential district, including three spaces on the rear of lot of 613-15 East Fifth Street and to allow a parking lot to be located across a platted alley from the principal building, as per plans submitted by the applicant and subject to specified conditions, by Councilor Stenberg, were introduced for discussion.

Councilors discussed the aspects of: the project, in and of itself, is a good project that would be a great asset to the community; the project takes out about nine housing units that are severely needed; the council and the administration needs to have a plan to have adequate housing for low income individuals; the neighborhood supports the project and the issue of inadequate numbers of housing units for low income individuals has been going on for sometime and is so large that the problem should be attributed to this one developer.

Councilor Ness felt his concern that this housing issue is at a crisis status and that the impact of displacing these tenants has not been resolved and would not support Resolution 01-0220.

Resolution 01-0220 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Reasor Properties applied to the board of zoning appeals for a variance to construct a 9,000 square foot two story retail and office building with 67 parking spaces, by extending the proposed building 50 feet into a more restrictive district, extending the parking lot into a residential district and relaxing the requirements for parking spaces to be located on the same lot as the building being served on property located at 520 N. Sixth Avenue East, and legally described as Lots 97, 99 and 101, Duluth Proper 1st Division East Fifth Street, Lots 98, 100 and 102, Duluth Proper First Division East Sixth Street, and Lots 14 & 15, Block 1, Norton's Division;

and

WHEREAS, the board of zoning appeals granted the variance to extend a building 50 feet into more restrictive district; to extend a parking lot into a residential district, including three spaces on the rear of lot of 613-15 E. Fifth St. and to allow a parking lot to be located across a platted alley from the principal building, as per plans submitted by the applicant, with the following conditions:

- (a) That a landscaping/fencing plan which provides a buffer between the residential properties and the subject property be submitted by the applicant and approved by the city;
- (b) An agreement to prevent severing any portion of the property from the remainder be filed with St. Louis County recorder;
- (c) An easement for three parking spaces on Lot 103 be filed with St. Louis County Recorder; and

WHEREAS, Jim Soderberg, executive director of CHUM and John W. Hawley, executive director of Habitat for Humanity have appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and hereby makes the following determinations pursuant to sections 50-47 (b) and (c) of the Code:

(a) That the extension of the proposed building into the more restrictive adjacent district (being an R3 district) should be permitted because the extension into said district will not exceed 50 feet and that the aforesaid conditions for making such extension will safeguard the character of the adjacent R3 district;

(b) That the extension of the proposed parking lot for the development into the more restrictive adjacent district (being an R3 district) should be permitted because the aforesaid conditions for making such extension will safeguard the character of the adjacent R3 district;

(c) That the development of a low density commercial buffer between the residential area to the east of the subject property and the high traffic corridor of Sixth Avenue East fronting on the property is beneficial to the neighborhood;

(d) That the building design with one story off East Sixth Avenue East and one story off the alley level is a beneficial design to the neighborhood;

(e) That the existence of a substantial change in elevation between Fifth and Sixth Streets, when taken in combination with the existence of the developed alley right-of-way dividing the upper and lower lots and the traffic density and commercial development along Sixth Avenue East, result in exceptional topographical conditions unique to the property in question such that the strict application of the Code provisions requiring that parking for the proposed development occur on the same parcel would result in undue hardship to the owner thereof and that:

(1) The aforesaid conditions, in combination, do not apply equally to other land or buildings in the area;

(2) That, because of the aforesaid topographical factors, granting of the variance for parking is necessary to preserve a substantial property right of the owner of the property.

(3) That, given the topography of the property in questions and the developed nature of the Sixth Avenue East corridor adjacent thereto, the granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth affirms the board of zoning appeals' decision of February 27, 2001.

Resolution 01-0220 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Stenberg, Stewart, Stover and President Edwards -- 7

Nays: Councilor Ness -- 1

Absent: Councilor Gilbert -- 1

Approved March 19, 2001

GARY L. DOTY, Mayor

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Resolution 01-0221 failed unanimously (Public Document No. 01-0319-30).

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BY COUNCILOR FENA:

WHEREAS, the League of Minnesota Cities (LMC) holds its annual conference (June 18-22, 2001) in its member cities on a rotating basis and for the year 2001 has chosen Duluth as its host city and the Duluth Entertainment Convention Center as its host facility; and

WHEREAS, it is customary for the host city to pay for the event's convention facility cost plus the costs to host an opening night reception estimated to cost approximately \$15,000; and

WHEREAS, the LMC is contributing \$5,000 towards the annual conference facility rental costs and the Duluth Entertainment Convention Center (DECC) has agreed to reduce its normal facility rental charge from \$13,000 to \$5,000 to reflect such rent contribution;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to enter into an agreement with the Duluth Entertainment Convention Center in the amount of \$20,000 to pay for facility rental costs and the opening night reception catering costs in conjunction with the League of Minnesota Cities annual conference June 18-21, 2001, payable out of Fund 0100, Agency 015, Org. 2030, Object 5441. The resolution further authorizes the appropriate city officials to accept a \$5,000 contribution from the LMC to help defray the conference costs of the host city.

Resolution 01-0173 was unanimously adopted.

Approved March 19, 2001

GARY L. DOTY, Mayor

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Resolution 01-0218, expressing the intent of the Duluth City Council to enter into an agreement with the Minnesota department of transportation for the rental of road maintenance facilities, by Councilor Fena, was introduced for discussion.

Councilor Stenberg stated that, due his employment, he would be abstaining from discussing and voting on this resolution.

Resolution 01-0218 was adopted as follows:

BY COUNCILOR FENA:

WHEREAS, the deteriorated condition of the old National Guard armory is forcing city to abandon it as a road maintenance facility; and

WHEREAS, MnDot is negotiating with St. Louis County to lease space in a maintenance facility the county is planning to build at Pike Lake; and

WHEREAS, after completion of construction, MnDot will move some operations from its Duluth headquarters building to the Pike Lake facility; and

WHEREAS, the city desires to lease the space in MnDot Duluth facility that will be vacated when MnDot moves some operations to the Pike Lake facility. This space will consist of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

approximately 17,700 square feet of truck storage and a small office space contiguous to the truck storage area and 14,000 square feet of cold storage and salt/sand storage; and

WHEREAS, MnDot desires to lease such space to city, on mutually agreeable terms; and

WHEREAS, MnDot and city will meet to discuss rental rates and other terms and conditions of the lease. Should the parties reach agreement, then the final lease terms and conditions will be contained in a lease contract to be entered into by the parties and executed by city, MnDot, and state officials as required by law.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its intent to proceed with the lease of MnDot road maintenance facilities if MnDot reaches an agreement with St. Louis County for the development of the county's Pike Lake facility and if the city and MnDot can reach mutually acceptable terms for the lease of MnDot's facility by the city.

Resolution 01-0218 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stewart, Stover and President Edwards -- 7

Nays: None -- 0

Absent: Councilor Gilbert -- 1

Abstention: Councilor Stenberg -- 1

Approved March 19, 2001

GARY L. DOTY, Mayor

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Resolution 01-0209, amending resolutions 01-0120, 01-0159 and 01-0160 by deleting a provision, by Councilor Eckenberg, was introduced for discussion.

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

Judy Thomas, representing 21st Delight; C.J. Bird; Kay L. Lewis and Ken Steil supported the resolution for some of the following reasons: for restaurants that have received the exemption, the under 18 year old restriction has created a new hardship of losing all family business; if there has to be an 18 year old restriction, it should only be for those not accompanied by an adult; step back and with honor say, "we never intended this to work this way"; nationwide there are more who are nonsmoker registered voters; no one has the right to expose this smoke on another; figures have shown that restaurant sales overall in Duluth are up five percent this past January from one year ago.

Jim VanDell, representing Northland Smokers Coalition, opposed the restrictions that have been put on businesses relative to smoking because: it has been proven that there was no association between lung cancer risks and the environmental tobacco smoke exposure during childhood; smokers pay more taxes than nonsmokers and government has no right to intrude into businesses and people's individual choices.

Tony Salls, representing Chi-Chi's Restaurant, felt that: there needs to be a reasonable balance between the two opposing views; the Minnesota department of health has submitted a proposal to change the Clean Indoor Air Act to use air flow, ventilation and exhaust in restaurants and bars and by doing it this statewide, it will allow for everyone to be on a level playing field and there should be a focus on the behavior of the youth, where the smoking starts.

Councilor Stenberg stated that while he would support this resolution, he commented at length on his perspective and that of a restaurant owner as the to problems that this ordinance has created and how it is unfair and should be repealed. He felt that either smoking should be banned in all establishments or allowed under the restrictions of the Minnesota Clean Indoor Act.

Other councilors supporting the resolution noted that more information needs to be distributed regarding the harmful affects of second hand smoke and there have been inconsistencies from the beginning, with the exclusion of bowling alleys from the ordinance.

Councilor Eckenberg stated that, specific to the resolution, an "exemption" should leave the business as it was before the restriction. He noted that this specific reference to 18 year olds prevents a restaurant from achieving the status they previously had.

Councilor Hogg opposed the resolution for the following reasons: the primary goal of the ordinance was to protect those under 18 from tobacco smoke; if the council wanted to be consistent, the 18 year old provision needed to be a part of the ordinance relative to the exemption section; it was not the intent that if a restaurant was given an exemption, they could have smoking without an age restriction and, therefore, the exempted restaurants would be seen as having more privileges than anyone else and this is unfair.

Resolution 01-0209 was adopted as follows:

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that pursuant to the motion to amend, of which correct notice was given, Resolutions 01-0120, 01-0159 and 01-0160 are amended by removing from them a clause (c) of the conditions of the exemption, which reads as follows:

No persons under 18 years of age may be allowed on the premises during times when smoking is permitted.

Resolution 01-0209 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Stenberg, Stewart, Stover and President Edwards -- 5

Nays: Councilors Fena, Hogg and Ness -- 3

Absent: Councilor Gilbert -- 1

Approved March 19, 2001

GARY L. DOTY, Mayor

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Resolution 01-0226, encouraging good faith contract negotiations at the Holiday Inn Duluth and Radisson Hotel Duluth, by councilors Ness and Stewart, was introduced for discussion.

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

Rainbow Hirsh, representing H.E.R.E. Local 99, presented materials (Public Document No. 01-319-32) and expressed support for the resolution.

Councilor Stenberg and President Edwards felt that: while this is a very important issue to the community, good government does not need to step in until there is an issue; city government does not belong here; and that there might be some posturing with this resolution.

Councilors supporting the resolution noted that because the council is not favoring one side over the other, it is proper for the council to support the issue as specifically stated in the resolution.

Resolution 01-0226 was adopted as follows:

BY COUNCILORS NESS AND STEWART:

WHEREAS, the Holiday Inn Duluth and the Radisson Hotel Duluth employ in excess of 230 workers in the city of Duluth; and

WHEREAS, the bargaining agreements for these two hotels are set to expire before and into the height of Duluth's tourist season; and

WHEREAS, under similar conditions last year, the city of Minneapolis suffered through the worst hotel strike in the city's history when nine hotels and 1,200 workers could not reach a timely agreement; and

WHEREAS, contentious labor conditions in Duluth would not well serve the employers, the workers, their labor unions, the citizens nor the visitors to our area; and

WHEREAS, there is ample opportunity to forego a labor dispute if all parties meet with the intention to address their mutual needs and bargain in good faith.

RESOLVED, that the Duluth City Council encourages the Holiday Inn Duluth, the Radisson Hotel Duluth and the members of the Hotel Employees and Restaurant Employees Union Local 99 to bargain in good faith and make every effort to reach an agreement that is fair and just to all parties.

Resolution 01-0226 was adopted upon the following vote:

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

Nays: Councilor Stenberg and President Edwards -- 2

Absent: Councilor Gilbert -- 1

Approved March 19, 2001

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR ECKENBERG

01-007 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN FOND DU LAC TO DAVID AUBREY ANDERSON.

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9482

BY COUNCILOR ECKENBERG:

AN ORDINANCE PERTAINING TO THE PROCUREMENT OF NATURAL GAS BY THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES, ADDING AN ARTICLE XVI TO CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article XVI entitled Natural Gas Procurement be added to Chapter 48 of Duluth City Code, 1959, as amended, to read as follows:

Article XVI. Natural Gas Procurement.

Sec. 48-240. Procurement of natural gas.

(a) Notwithstanding the provisions of Chapter 41 or any other provisions of this Code, the department may procure and purchase natural gas by exercising powers enumerated in Minnesota Statutes Sections 453A.01 through 453A.12 as authorized by the provisions of Minnesota Statutes Section 453A.08, Subdivision 2. The department may enter into cooperative agreements with other gas purchasing entities and exercise any and all of the powers granted in Minnesota Statutes Sections 453A.01 through 453A.12 in its utility operations;

(b) This Article shall not be construed in any manner to limit or diminish any existing legal right or power the department now has.

Sec. 48-241. Finance director to oversee natural gas purchases.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

The finance director shall oversee the procurement and purchase of natural gas by the department and may conduct audits and make recommendations consistent with good accounting and purchasing practices. The finance director may appoint a committee to assist in performing duties set forth in this Section.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 29, 2001)

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

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

Nays: None -- 0

Absent: Councilor Gilbert -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 19, 2001
Approved March 19, 2001
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, March 22, 2001, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0322-01 Evensen Dodge, Inc., submitting: (a) Bid results; (b) Official statement regarding sale of \$1,405,000 G.O. improvement bonds, Series 2001A, \$3,135,000 G. O. Bayfront Festival Park improvement bonds, Series 2001B, \$7,040,000 G.O. refunding revenue bonds (Duluth Entertainment Convention Center/IMAX dome theater project), Series 2001C. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 01-0232, providing for the issuance, sale and delivery of \$3,135,000 general obligation Bayfront Festival Park improvement bonds, Series 2001b, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 01-0238, providing for the issuance, sale and delivery of \$1,405,000 general obligation improvement bonds, Series 2001a, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a debt service account therefor; and awarding the sale thereof; and Resolution 01-0244, providing for the issuance, sale and delivery of \$6,970,000 general obligation refunding revenue bonds (Duluth Entertainment Convention Center/Imax® dome theater project), Series 2001c, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

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

Katherine Kardell was present on behalf of Evensen Dodge, Inc., financial consultants, and stated that the city still has A1 and A+ ratings with Moody's Investors Service and Standard & Poor Ratings Group, respectively.

Resolutions 01-0232, 01-0238 and 01-0244 were adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

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

B. The city council has, by Ordinance No. 9458 adopted on September 11, 2000, authorized the issuance and sale of General Obligation Bayfront Festival Park Improvement Bonds in an amount not to exceed \$4,300,000 for the purpose of providing the local match of grant funds from private donations to pay part of the costs associated with the development and improvement of Bayfront Festival Park (the "Project").

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

C. The City has entered into three grant agreements, each dated August 14, 2000, as amended, providing private grants to the City for the Project in the aggregate amount of \$2,950,000 (the "Grants") payable in installments through January 15, 2009.

D. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$3,135,000 General Obligation Bayfront Festival Park Improvement Bonds, Series 2001B, to be dated April 1, 2001, as the date of original issue (the "Bonds") to provide the City's match for the Grants.

E. Evensen Dodge, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Evensen Dodge, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$3.109.920.00, plus accrued interest on the total principal amount from April 1, 2001, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated April 1, 2001, 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
2002	\$210,000	3.500%
2003	265,000	3.500
2004	275,000	4.000
2005	325,000	4.000
2006	180,000	4.000
2007	260,000	4.000
2008	350,000	4.000
2009	445,000	4.000
2010	365,000	4.125
2011	460,000	4.250

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

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

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

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

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

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

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION BAYFRONT FESTIVAL PARK IMPROVEMENT BOND
SERIES 2001B

R-____ \$_____

<u>Interest</u>	<u>Maturity Date</u>	<u>Date of</u>	<u>CUSIP</u>
<u>Rate</u>		<u>Original Issue</u>	
	February 1, ____	April 1, 2001	

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 April 1, 2001, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2002. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,135,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, and is issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, Ordinance No. 9458, and a resolution adopted by the governing body of the City on March 22, 2001 (the "Resolution"), for the purpose of financing a portion of the costs associated with development and improvement of Bayfront Festival Park located in the City, which obligations and interest thereon are payable from sales tax revenue and grant proceeds as described in the Resolution. The Bonds are not subject to redemption and prepayment before maturity.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
4/_/01	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate construction account within its Capital Improvement Project Fund 450, Agency 015, Org. 1999, to which there shall be credited the proceeds of the Bonds, less discount, together with any additional funds, including monies from the Grants received by the City prior to the date of this resolution, which may be available and are appropriated for the Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Project.

3.02 A. The City imposes certain sales taxes pursuant to Minnesota Laws 1980, Chapter 511, Section 1, Subdivision 2 and Sections 2 and 3, as amended, and Sections 42A-2(b) and 42A-49 of the Duluth City Code (the "Sales Tax Act") on certain sales of food and beverages and lodging within the City (the "Sales Tax"). The Sales Tax on certain sales of food and beverages is 1½% on gross receipts described in such sections and the Sales Tax on certain lodging is 2½% on gross receipts described in such sections. (Revenues received from ½% of the tax authorized by the Sales Tax Act are herein referred to as the "½% Sales Tax.") Sums generated from time to time from the ½% Sales Tax are not pledged to pay the principal of and interest on the Bonds. The Council hereby determines that the Project is a "tourism facility" within the meaning of the Sales Tax Act.

B. Sales Tax revenues, other than revenues received from the ½% Sales Tax (the "Pledged Sales Tax"), are hereby pledged and appropriated to pay the principal of and interest on the Bonds when due.

3.03 A separate debt service account is hereby created and designated as the "2001 Bayfront Festival Park Improvement Bonds Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. There is hereby appropriated all of the monies received by the City from the Grants on or after the date of this resolution. There shall be transferred from revenues of the Pledged Sales Tax, in amounts sufficient for the payment of all interest and principal then due on the Bonds and all charges due to the Bond Registrar; such transfers shall be made at the times and in the amounts determined by the city treasurer, in accordance with policies established by the city council. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the Pledged Sales Tax revenues. Into the Debt Service Fund shall be credited the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

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

3.05 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, in accordance with the terms set forth in this Resolution.

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

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 A. Pursuant to Section 148(f)(4)(B), relating to the 6-month spending exception from rebate, the City expects that the gross proceeds of the Bonds will be expended for the

Project no later than the date which is 6 months after the date of issuance of the Bonds, not considering accrued interest from the Bonds being gross proceeds for this test, and thus the City expects the Bonds to be exempt from Section 148(f) rebate requirements.

B. The City shall comply with all federal rebate requirements which may apply if such spending test is not met.

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

Section 6. Certificate of Proceedings.

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

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

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

Resolution 01-0232 was unanimously adopted.

Approved March 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 A. Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said Statutes and the home rule charter of the City, the City is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

B. The city council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the city clerk by the Special Assessment Board pursuant to and in accordance with Chapter IX of the City Charter (the "Public Improvements"); and the Council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
99-0816	12/06/99	\$370,479	Maple Ridge Phase 2
99-0871	12/20/99	21,028	Greysolon Road-2" grinder pump system
00-0253	04/10/00	392,900	Woodlawn Street-water, gas, sanitary sewer from 48½ Avenue East to 52nd Avenue East
00-0199	04/10/00	42,220	Sidewalks 2000 and pavement restoration
00-0503	07/24/00	239,800	Featherstone Drive and Lane in Woodcrest Drive
00-0539	08/14/00	3,000	48th Avenue East from Peabody to 140 feet north
00-0810	12/04/00	225,000	Fond du Lac sanitary sewer system construction
00-0808	12/04/00	21,500	Sanitary sewer in 41st Avenue East from Regent Street to alley
00-0830	12/18/00	30,000	Sanitary sewer on 38th Avenue West from Fourth-Fifth alley
00-0673	10/10/00	21,500	Sanitary sewer on Seventh Avenue West from Second alley to 75' north

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$1,405,000 General Obligation Improvement Bonds, Series 2001A, to be dated April 1, 2001, as the date of original issue (the "Bonds").

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

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Dain Rauscher, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,388,140.00, plus accrued interest on the total principal amount from April 1, 2001, to the date of delivery of the Bonds and upon

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 April 1, 2001, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2002	\$80,000	3.300%	2010	\$ 95,000	4.200%
2003	70,000	3.400	2011	100,000	4.300%
2004	75,000	3.500	2012	105,000	4.450%
2005	75,000	3.625	2013	105,000	4.550%
2006	80,000	3.750	2014	115,000	4.650%
2007	85,000	3.875	2015	120,000	4.750%
2008	85,000	4.000	2016	125,000	4.850%
2009	90,000	4.100			

2.02 The Bonds maturing in the years 2002 through 2009 shall not be subject to redemption and prepayment before maturity, but those maturing or subject to mandatory redemption, pursuant to Section 2.01B, in the year 2010 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2009, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2001. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check

or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

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

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

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

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

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

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

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

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

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

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

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

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

CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT BOND
SERIES 2001A

R-____ \$_____

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
	February 1, ____	April 1, 2001	

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 April 1, 2001, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as

an "Interest Payment Date") commencing on August 1, 2001. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,405,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes and a resolution adopted by the governing body of the City on March 22, 2001 (the "Resolution"), for the purpose of financing local public improvements, which obligations and interest thereon will be payable from special assessments levied or to be levied against property specially benefitted by local improvements.

The Bonds of this series maturing in the years 2002 through 2009 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2010 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2009, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

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

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to

limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
4/_/01	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will assess against benefitted property the cost of the improvements to the City for the Public Improvements in an amount which is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the Public Improvements. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.02 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds to a separate construction account (the "2001 Projects Account") within the Special Assessment Capital Projects Fund for the Public Improvements. The proper City officers are authorized and directed to pay out of such construction account from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements described in Section 1.01 and the costs of issuance of the Bonds.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "2001 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 2001

Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, if any, capitalized interest in the amount of \$-0-, plus the amount of accrued interest on the Bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied, if any, pursuant to Section 3.04 hereof.

3.04 It is estimated that the special assessments levied and appropriated to the 2001 Improvement Bond Account will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

3.05 Proceeds of the Bonds on deposit in the 2001 Projects Account and the 2001 Improvement Bond Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

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

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

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the

Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

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

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

Section 6. Certificate of Proceedings.

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

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

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

Resolution 01-0238 was unanimously adopted.

Approved March 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Pursuant to Minnesota Statutes, Chapter 475 and Section 471.191, the City previously issued \$8,755,000 Gross Revenue Recreation Facility Bonds (Duluth Entertainment

Convention Center/IMAX® Dome Theater Project), Series 1994, dated December 1, 1994 (the "1994 Bonds"). The 1994 Bonds were issued under and pursuant to an Indenture of Trust dated as of December 1, 1994 (the "Refunded Bonds Indenture"), between the City and Norwest Bank Minnesota, National Association (now Wells Fargo Bank Minnesota, National Association) as trustee (the "Refunded Bonds Trustee"). The proceeds of the 1994 Bonds were used to finance construction and equipping of a dome theater and IMAX® projection system (the "Project"). As of the date of this resolution, \$6,930,000 of the original aggregate principal amount of the 1994 Bonds remain outstanding and matures, or are subject to mandatory sinking fund redemption, on and after December 1, 2001 (the "Refunded Bonds").

1.02 Under and pursuant to Laws of Minnesota 1999, Chapter 248, Section 21, and the provisions of Minnesota Statutes, Chapter 475 (the "Act"), and specifically, Section 475.67, Subdivisions 1 through 10 of the Act, the City is authorized to issue and sell its general obligation bonds to refund the outstanding maturities of the 1994 Bonds in advance of their scheduled maturity dates, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The city council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$6,970,000 General Obligation Refunding Revenue Bonds (Duluth Entertainment Convention Center/IMAX® Dome Theater Project), Series 2001C (the "Bonds"), to refund in advance of their maturities the Refunded Bonds pursuant to the Escrow Agreement provided for in Section 3.02 hereof. The Escrow Agreement shall provide for payment of principal of and interest on the 1994 Bonds maturing, or subject to mandatory sinking fund redemption, from June 1, 2001 through December 1, 2004, at their stated maturities or sinking fund redemption dates, and shall provide for redemption and prepayment of the 1994 Bonds maturing on or after December 1, 2005, of which \$5,005,000 is prepayable on December 1, 2004, at a price equal to par, plus a premium of two percent (2%), plus accrued interest to December 1, 2004, the date of redemption. (December 1, 2004, is herein referred to as the "Redemption Date.")

1.04. Evensen Dodge, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Evensen Dodge, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$6,921,182.78, plus accrued interest on the total principal amount from April 1, 2001, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated April 1, 2001, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on December 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2001	\$480,000	3.500%
2002	545,000	3.500
2003	560,000	3.500
2004	585,000	3.750
2005	605,000	4.000
2006	630,000	4.000
2007	655,000	4.000
2008	685,000	4.000
2009	710,000	4.000
2010	740,000	4.125
2011	775,000	4.200

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

2.03 Interest on the Bonds shall be payable semiannually on June 1 and December 1 in each year (each referred to herein as an "Interest Payment Date"), commencing December 1, 2001. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

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

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

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

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

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

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

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

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 REFUNDING REVENUE BONDS
(DULUTH ENTERTAINMENT CONVENTION CENTER/IMAX® DOME
THEATER PROJECT)
SERIES 2001C

R-____ \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	December 1, ____	April 1, 2001	

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 April 1, 2001, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on June 1 and December 1 of each year (each referred to herein as an "Interest Payment Date") commencing on December 1, 2001. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond

to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$6,970,000, all of like original issue date and tenor, except as to number, maturity date, redemption privilege, denomination and interest rate, pursuant to: (i) Laws of Minnesota 1999, Chapter 248, Section 21; (ii) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 10 and all other laws thereunto enabling; and (iii) Ordinance No. 9477 approved January 29, 2001, and an authorizing resolution adopted by the governing body of the City on March 22, 2001 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of the City's Gross Revenue Recreation Facility Bonds (Duluth Entertainment Convention Center/IMAX® Dome Theater Project), Series 1994, dated December 1, 1994. The Bonds are payable from net revenues of the Duluth Entertainment and Convention Center Authority facilities, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. The Bonds are not subject to redemption and prepayment before maturity.

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

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

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date

Registered Owner

Signature of
Bond Registrar

4/_/01

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

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

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

3.03 A. The City hereby pledges and irrevocably appropriates and there shall be credited to the debt service fund under the Refunded Bonds Indenture and the Escrow Agreement: (a) the proceeds of the Bonds received from the Purchaser which are not appropriated to the Debt Service Account; (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 held pursuant to the Refunding Bonds Indenture (the "Funds"); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of (i) interest due on the Refunded Bonds through the Redemption Date; (ii) principal of the Refunded Bonds, at their stated maturities or mandatory sinking fund payment dates, through the Redemption Date; and (iii) the principal of and the premium on the Refunded Bonds called for prepayment and redemption on the Redemption Date.

B. The escrowed monies shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this resolution. The escrowed monies shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8 of the Act or in an investment contract or similar agreement with a bank or insurance company meeting the requirements of Minnesota Statutes, Section 118A.05, Subdivision 5, which investments will provide sufficient funds, together with any cash or other funds retained under the Escrow Agreement, for the payment of (i) interest due on the Refunded Bonds through the Redemption Date; (ii) principal of the Refunded Bonds, at their stated maturities or mandatory sinking fund payment dates, through the Redemption Date; and (iii) the principal of and the premium on the Refunded Bonds called for prepayment and redemption on the Redemption Date.

C. From the Escrow Agreement there shall be paid: (i) interest due on the Refunded Bonds through the Redemption Date; (ii) principal of the Refunded Bonds, at their stated maturities or mandatory sinking fund payment dates, through the Redemption Date; and (iii) the principal of and the premium on the Refunded Bonds called for prepayment and redemption on the Redemption Date.

D. The monies held under the Escrow Agreement are irrevocably appropriated to the payment of (i) interest due on the Refunded Bonds through the Redemption Date; (ii) principal of the Refunded Bonds, at their stated maturities or mandatory sinking fund payment dates, through the Redemption Date; and (iii) the principal of and the premium on the Refunded Bonds called for prepayment and redemption on the Redemption Date. The monies under the Escrow Agreement shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus under the Escrow Agreement may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Account.

E. Securities purchased under the Escrow Agreement 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 Project has been completed and all funds in the construction fund under the Refunded Bonds Indenture have been fully expended.

Section 4. Covenants, Revenues, Accounts and Tax Levies.

4.01 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 a pledge agreement (the "Pledge Agreement") with the Duluth Entertainment and Convention Center Authority (the "Authority") in substantially the form now on file with the clerk. The execution and delivery of the Pledge 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 Pledge Agreement, including the Authority's pledge of its net revenues for payment of principal of and interest on the Bonds when due, are hereby approved and adopted and made a part of this resolution. The Bonds are issued for the refinancing of the Project which is a part of a public convenience from which revenues are derived, within the meaning of Minnesota Statutes, Section 475.51, Subd. 4(5).

4.02 A. Debt Service Fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds, there is hereby created a special account to be designated the 2001 DECC Refunding Bonds Debt Service Account ("Debt Service Account") within the City's Debt Service Fund created by Section 54(a) of the City Charter to be administered and maintained as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Debt Service Account shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid.

B. Debt Service Account. To the Debt Service Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement; (ii) all the net revenues received from the Authority pursuant to the Pledge Agreement; (iii) any collections of ad valorem taxes hereafter levied for the payment of the Bonds and interest thereon; (iv) all investment earnings on funds in the Debt Service Account; (v) accrued interest, if any, received from the Purchaser upon delivery of the Bonds to the extent not required to fund the Escrow Agreement (the "Accrued Interest"); (vi) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser (the "Additional Interest"), to the extent not required to fund the Escrow Agreement; and (vii) any and all other monies which are properly available and are appropriated by the City to the Debt Service Account.

The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

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

Section 5. Refunding; Findings; Redemption of Refunded Bonds.

5.01 A. It is hereby found and determined that the refunding of the Refunded Bonds pursuant to the Escrow Agreement is consistent with the Refunding Bonds Indenture and covenants and agreements, contained therein, with the holders of the Refunded Bonds.

B. No referendum is required to issue the Bonds, as general obligations of the City, pursuant to Laws of Minnesota 1999, Chapter 248, Section 21.

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

D. It is hereby found and determined that the Proceeds and Funds available and appropriated to the Escrow Agreement will be sufficient, together with the permitted earnings on the investment under the Escrow Agreement, to pay (i) interest due on the Refunded Bonds through the Redemption Date; (ii) principal of the Refunded Bonds, at their stated maturities or mandatory sinking fund payment dates, through the Redemption Date; and (iii) the principal of and the premium on the Refunded Bonds called for prepayment and redemption on the Redemption Date the principal of and interest due on the Refunded Bonds through the Redemption Date and the principal of and premium on the Refunded Bonds called for prepayment on the Redemption Date.

5.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption on file with the city clerk, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or the designee thereof is hereby authorized and directed to publish the notice of call for redemption in a publication qualified under Section 475.54 of the Act and to send written notice of the call for redemption to the Refunded Bonds Trustee in accordance with the terms of the Refunded Bonds Indenture within 30 days of the issuance of the Bonds.

Section 6. Defeasance.

6.01 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the holders of the

Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of the Act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 7. Certificate of Proceedings.

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

7.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City 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.

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

Section 8. Tax Covenants.

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

8.02 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 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 or minor portion made available under the federal arbitrage regulations.

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

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

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

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

(2) make, or cause to be made as of the end of each Bond Year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States by the City (hereinafter, the "Rebate Amount");

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

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

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

(6) in order to comply with the foregoing paragraph, the City shall determine the Rebate Amount within 30 days after the close of each Bond Year and upon payment in full of the Bonds; upon each such determination, the City shall deposit in the Rebate Fund the Rebate Amount so determined; the City shall separately account for the earnings from the investment of the Rebate Amount and such earnings shall become part of the Rebate Amount.

B. For purposes of this section, "Bond Year" shall mean the 12-month period beginning on the date of issuance of the Bonds or such other 12-month period designated by the Board which is permitted by the Code or any Treasury Regulation promulgated thereunder.

Section 9. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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.

Resolution 01-0244 was unanimously adopted.

Approved March 22, 2001

GARY L. DOTY, Mayor

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 26, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meetings held February 8 and 12, 2001, were approved upon a unanimous vote.

- - -

REPORTS OF PETITIONS AND OTHER COMMUNICATIONS

01-0326-24 KL Lewis submitting communication regarding the proposed purchase of Downtown buildings by DEDA (01-0183R and 01-0252R). -- Received

01-0326-05 The following submitting communications regarding the Country Kitchen of Duluth, Inc., application for a business loss exemption from the provisions of the public smoking ordinance (01-0223R): (a) Country Kitchen of Duluth, Inc.; (b) KL Lewis. -- Received

01-0326-06 The following submitting communications regarding Spirit Mountain golf course (01-0175R, 01-0176R, 01-0177R): (a) Rick Abrahamson; (b) John Brazner; (c) Wendi Carlson; (d) Duluth Area Chamber of Commerce (supported by 68 signatures); (e) Angela Halgren; (f) Shaun Johnson; (g) Mark Machacek; (h) Richard Mills; (i) National Wildlife Federation; (j) Stacey Stark; (k) Tim Sundquist. -- Received

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REPORTS OF OFFICERS

01-0326-01 Assessor submitting letter of insufficiency of petition to reclassify from R-1-b to R-3 the 1/2 of the NE 1/4 of NW 1/4, Section 20, Township 50 North, Range 14 West of the Fourth Principal Meridan, St. Louis County. -- Received

01-0326-02 Parks and recreation director submitting the following from the Lake Superior zoological society: (a) Financial statements for November/December 2000; (b) Minutes of: (1) December 13, 2000; (2) January 24, 2001, meetings; (c) January 4, 2001, priority list for state funds. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-0326-03 Alcohol, gambling and tobacco commission minutes of February 13, 2001, meeting. -- Received

01-0326-04 Duluth transit authority: (a) Minutes of January 24, 2001, meeting; (b) Financial statement summary for January, 2001. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price urged the council to support the restoration of Skyline Parkway, repair the roadway and return it to its original route.

- - -

Alberta Fairbanks, representing the Anishinabi people, urged care of the Earth by purifying the water before we drink the water and eat the wildlife.

- - -

KL Lewis stated that the Spirit Ridge golf course would cause more harm to the land than good and the developer should find another site in the area.

- - -

At this time, 7:30 p.m., President Edwards called the public hearing regarding the housing tax credit qualified allocation plan to order (Public Document No. 01-0326-22).

- - -

At this time, 7:45 p.m., the public hearing was closed and the regular order of business was resumed.

- - -

RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 01-0223, approving, and Resolution 01-0228, denying, respectively, a business loss exemption from the provisions of the public smoking ordinance for Country Kitchen of Duluth, Inc., 1810 Miller Trunk Highway, by President Edwards, from the table, which motion was seconded and unanimously carried.

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

Tony Salls urged support of the smoking exemption as it is causing hardship for all businesses no matter what the size and whether or not they have a liquor license.

KL Lewis urged the council to consider putting the smoking ordinance before the citizens of Duluth on the ballot in the next election (Public Document No. 01-0326-05(b)).

Resolution 01-0223 was adopted as follows:

BY PRESIDENT EDWARDS:

WHEREAS, on March 13, 2001, the city clerk received a request from Paul Seckinger, manager of a restaurant known as Country Kitchen of Duluth, Inc., located at 1810 Miller Trunk Highway, for a business loss exemption from the provisions of Duluth's public smoking ordinance as authorized by Section 28-66 of the Duluth City Code; and

WHEREAS, said request (Public Document No. 01-0326-07) indicates that January monthly sales for Country Kitchen of Duluth, Inc., were \$98,565.78 in the year 2000 and \$71,540.46 in the year 2001, representing a business decline of approximately 27 percent; and

WHEREAS, the city sales tax administrator has verified that this information is consistent with sales tax returns submitted by Country Kitchen of Duluth, Inc., for those months; and

WHEREAS, the owner of Country Kitchen of Duluth, Inc., has submitted in writing on the application form (Public Document No. 01-0326-07) reasons why he believes his business loss was caused by enforcing the smoking ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby grants Country Kitchen of Duluth, Inc., located at 1810 Miller Trunk Highway a business loss exemption from the provisions of Article VII of Chapter 28 of the Duluth City Code because:

(a) Substantial evidence has been presented showing that Country Kitchen of Duluth, Inc., has suffered a decline in business of over 27 percent in the month of January, 2001, as compared to January, 2000;

(b) Substantial evidence has been presented showing that this business loss resulted from enforcement of the smoking ordinance as shown by the following documents and facts:

BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

(a) The exemption is transferable to the new owner if the business is sold;

(b) The exemption is subject to any future council action affecting the operation of exemptions;

(c) No persons under 18 years of age may be allowed on the premises during times when smoking is permitted.

Resolution 01-0223 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved March 26, 2001
GARY L. DOTY, Mayor

- - -

Resolution 01-0228 failed unanimously (Public Document No. 01-0226-08).

- - -

Councilor Stewart moved to remove Resolution 01-0240, amending Resolution 00-0369 to provide for up to 15 members on the citizens advisory committee for comprehensive planning, from the table, which motion was seconded and unanimously carried.

Resolution 01-0240 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that Resolution 00-0369, which established the citizens advisory committee for comprehensive planning, be amended as follows:

On Page 2 of the resolution, the sentence immediately following the word "membership:" shall be amended to read:

"The committee will consist of 9 to 15 members to be selected by the city council."

Resolution 01-0240 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0180, approving DEDA agreement with Northspan Group, Inc., for its ABC program pursuant to DEDA Resolution 01D-14; and Resolution 01-0182, approving DEDA'S reimbursement to the city of Duluth pursuant to DEDA Resolution 01D-17, from the table, which motion was seconded and unanimously carried.

Resolution 01-0180 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Northspan Group, Inc., for its ABC program in the amount of \$25,000, as approved by the DEDA board at its meeting of February 27, 2001, pursuant to DEDA Resolution No. 01D-14, a copy of which is on file in the office of the city clerk as Public Document No. 01-0326-09, is hereby approved.

Resolution 01-0180 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0182 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that, pursuant to Resolution No. 99-0239, the reimbursement by Duluth economic development authority's (DEDA) of the city of Duluth for skywalk construction expenses related to the Tech Village building in the amount of \$454,667.27, as approved by the DEDA board at its meeting of February 27, 2001, pursuant to DEDA Resolution No. 01D-17, a copy of which is on file in the office of the city clerk as Public Document No. 01-0326-10, is hereby approved upon the conditions of DEDA Resolution No. 01D-17 being met.

Resolution 01-0182 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

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

- (a) Contract No. 7042, Lakeside East Central (assessable - \$335,569.26);
- (b) Contract No. 7043, Denfeld West (assessable - \$208,689.16);
- (c) Contract No. 7044, Congdon Lower East (assessable - \$449,575.90);
- (d) Contract No. 7046, Woodland West (assessable - \$109,495.12);
- (e) Contract No. 7047, Cody Southwest (assessable - \$16,403.08);

are hereby confirmed.

Resolution 01-0172 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

Section 1. Under and pursuant to Minnesota Statutes, Sections 471.191 and Chapter 475, the city previously issued its \$4,700,000 gross revenue recreation facility bonds (Spirit Mountain recreation area), Series 1992, dated August 1, 1992 (the 1992 bonds).

Section 2. In order to reduce debt service costs to the city and the Spirit Mountain recreation area authority, the Spirit Mountain recreation area authority has previously requested that the city redeem the outstanding 1992 bonds. The authority has solicited proposals for the provision of refunding the 1992 bonds through a primary lease and lease-purchase agreement (the leases), and an offer has been received from Wells Fargo Bank Minnesota, N.A. (the lessor) to enter into the leases and provide such financing in the amount of \$1,979,893.09 at an annual interest rate of 4.85 percent with installments on each February 1 and August 1, commencing February 1, 2002, through February 1, 2006.

Section 3. Pursuant to the Recreation Area Act, Laws of Minnesota 1973, Chapter 327, as amended, city council approval is required before the authority enters into the leases.

Section 4. The form of the leases between the authority and the lessor on file with the clerk as Public Document No. 01-0326-11 are hereby approved and the authority is authorized to proceed with such financing.

Section 5. In connection with the issuance of the 1992 bonds, the city, the authority and First Trust National Association (now U.S. Bank Trust National Association) entered into a use and management agreement and an indenture of trust. Upon redemption and prepayment of the 1992 bonds, the mayor and the clerk shall execute and deliver instruments terminating such agreement and indenture.

Resolution 01-0239 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the liquor control commissioner issuing the following bottle club license renewal for the 2001-2002 license period, subject to departmental approvals and the payment of sales and property taxes:

Order of Owls, Nest #1200, 118 East First Street.

Resolution 01-0231 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that North Star Garage, Inc., be and hereby is awarded a contract for furnishing and delivering a Dodge Durango, four-wheel drive for the fire department in accordance with specifications on its low specification bid of \$25,883.20, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS00, Object V019.

Resolution 01-0233 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering one 128 inch rear discharge mower, John Deere Model 1600 for the street/park maintenance division in accordance with specifications on its low specification bid of \$33,646.55, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS00, Object V012.

Resolution 01-0246 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

Duluth Curling Club, Inc. (Duluth Curling Club), 327 Harbor Drive, for March 28 through March 31, 2001, with Tim Wright, manager.

Resolution 01-0249 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior engineering specialist, which were approved by the civil service board on February 6, 2001, and which are filed with the city clerk as Public Document No. 01-0326-12, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 34, \$3,478 to \$4,122 per month.

Resolution 01-0129 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of master electrician, which were approved by the civil service board on March 6, 2001, and which are filed with the city clerk as Public Document No. 01-0326-13, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31, \$3,162 to \$3,759 per month.

Resolution 01-0225 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

ALCOHOL, GAMBLING AND TOBACCO COMMISSION

Edwin S. Levey, David A. Nyquist and Allen Willman for terms expiring March 20, 2004.

Resolution 01-0242 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

DEFERRED COMPENSATION PLAN COMMISSION

James Anderson (basic group) for a term expiring December 31, 2002, replacing James Kroll who resigned.

Resolution 01-0243 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that proper city officials are hereby authorized to enter into a modification of City Contract No. 18202 with the Minnesota department of economic security for the federal welfare to work program by extending the contract through March 9, 2003. Funds continue to be deposited into Fund 268, Budget Item 6222. A copy of this modification shall be on file in the city clerk's office as Public Document No. 01-0326-14.

Resolution 01-0197 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that proper city officials are hereby authorized to enter into a modification of City Contract No. 18541 with the Minnesota department of economic security for the federal welfare to work program by extending the contract through June 30, 2004, for the federal funds. Funds continue to be deposited in Fund 268, Budget Item 6236. A copy of this modification shall be on file in the city clerk's office as Public Document No. 01-0326-15.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0198 was unanimously adopted.
Approved March 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an unnamed half street right-of-way (33 feet) legally described as: street easement adjacent to Lot 1, Auditor's Plat No. 24; and

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

WHEREAS, the city planning commission approved unanimously the unnamed half street easement vacation petition at its March 13, 2001, meeting.

NOW THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of unnamed half street easement described above, and as more particularly described on Public Document No. 01-0326-16.

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

Resolution 01-0237 was unanimously adopted.
Approved March 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that Richard A. Nelson, attorney, be and hereby is awarded a contract for professional legal and title related services for registration of Lot 2, Block 3, Plat of Spirit Valley for Duluth economic development authority (DEDA) in accordance with proposal of February 9, 2001, in the amount not to exceed \$9,500, payable out of City Fund 0255 to be reimbursed by DEDA.

BE IT FURTHER RESOLVED, that this resolution authorizes the city to accept the reimbursement by DEDA in the amount of \$9,500 to be deposited into City Fund 0255.

Resolution 01-0245 was unanimously adopted.
Approved March 26, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that R.M. Cotton Company be and hereby is awarded a contract for furnishing and delivering heat exchangers, pumps, tanks for extension of hot water supply lines for the Duluth Steam District No. 1 in accordance with specifications on its low specification bid of \$32,475.05, terms net 30, FOB job site, payable out of Steam District No. 1 Fund 0540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 01-0235 was unanimously adopted.
Approved March 26, 2001
GARY L. DOTY, Mayor

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The following resolutions were also considered:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY PRESIDENT EDWARDS:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for the construction of the Bayfront Festival Park/Phase II - site improvements and music house for the city architect division in accordance with specifications on its low specification bid of \$2,646,000, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 1999, Object C921.

Resolution 01-0247 was unanimously adopted.
Approved March 26, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Four Star Construction, Inc., be and hereby is awarded a contract for the construction of the Bayfront Festival Park/Phase III - toilet building for the city architect division in accordance with specifications on its low specification bid of \$139,409, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 1999, Object C921.

Resolution 01-0248 was unanimously adopted.
Approved March 26, 2001
GARY L. DOTY, Mayor

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Resolution 01-0230, by Councilor Gilbert, approving 2002 low-income housing tax credit qualified allocation plan, was introduced for discussion.

Councilor Gilbert moved to table the resolution for a committee meeting on April 5, which motion was seconded and unanimously carried.

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At this time, 8:00 p.m., President Edwards called the public hearing regarding DNR grant application projects: Grassy Point development, Hovland parcel acquisition, Bayfront Park development, to order (Public Document No. 01-0326-23).

- - -

At this time, 8:10 p.m., the public hearing was closed and the regular order of business was resumed.

- - -

Resolution 01-0183, by Councilor Stenberg, approving DEDA's purchase agreement with U.S. Bank National Association pursuant to DEDA Resolution 01D-18, was introduced for discussion.

Councilor Stenberg moved to consider Resolution 01-0252 also at this time so that both of them could be considered together, which motion was seconded and unanimously carried.

Resolution 01-0252, by Councilor Stenberg, approving DEDA agreement with Elliot Bayley for the purchase of the Bridgeman-Russell/Bayley building, pursuant to DEDA Resolution 01D-19, was introduced for discussion.

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

KL Lewis urged support of the resolutions because of the historical value of the structures and the value to the Downtown area (Public Document No. 01-0326-24).

Councilor Gilbert expressed the concern that by the Duluth economic development authority (DEDA) buying buildings in Downtown Duluth, it places other people who are buying buildings Downtown and pay fair market value at a disadvantage, especially when they pay for extensive renovation costs on the building while through DEDA a developer is buying a building at a much

lower cost. He also expressed concern on the lack of information on this acquisition, as only DEDA commissioners have the information and there was no supporting documentation attached to the resolutions. Councilor Gilbert questioned why DEDA does not use the money to retire the tax increment financing (TIF) district debt sooner so the property goes back on the tax rolls quicker. He reviewed that the DEDA partnership in the Duluth Tech Village has not proven to be successful, as the building is over half empty. Councilor Gilbert stated that the city should not penalize private businessmen by issuing government subsidies.

Councilor Stewart stated there is a legitimate, public good with a subsidy for historic preservation, but not necessarily in this case.

Councilor Hogg stated it would have been good to have some other alternatives rather than just this one plan so that DEDA and the council could have had choices on where to spend the money.

Councilor Fena reviewed that DEDA has had several meetings on this project knowing that there is a deadline of April 1 to use the money or otherwise it is the money is to be used to retire the debt service of the district. She went on to say that this project will extend the life of the debt service of this district by only a few months. Councilor Fena stated that this is a good use of the money which will help to try and bring in a developer to continue some of the development on First Street where it is needed and keep the Downtown area vital, which is a purpose of DEDA.

Resolution 01-0183 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the purchase agreement between the Duluth economic development authority (DEDA) and U.S. Bank National Association as personal representative for the estate of Harry R. Davis in the amount of \$95,000, as approved by the DEDA board at its meeting of February 27, 2001, pursuant to DEDA Resolution No. 01D-18, a copy of which is on file in the office of the city clerk as Public Document No. 01-0326-17, is hereby approved.

Resolution 01-0183 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart and President Edwards -- 7

Nays: Councilors Gilbert and Stover -- 2

Approved March 26, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0252 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Elliot Bayley for the purchase of the Bridgeman-Russell/Bayley building in the amount of \$235,000, payable from DEDA Fund 0865, District No. 2, as approved by the DEDA board at its meeting of March 23, 2001, pursuant to DEDA Resolution No. 01D-19, a copy of which is on file in the office of the city clerk as Public Document No. 01-0326-19, is hereby approved.

Resolution 01-0252 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart and President Edwards -- 7

Nays: Councilors Gilbert and Stover -- 2

Approved March 26, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0236, by Councilor Stenberg, vacating a portion of Minnesota Avenue for expansion of Franciscan Health Center located at 3910 Minnesota Avenue (St. Francis Health Services), was introduced for discussion.

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

Peter Pauley voiced opposition to the resolution, as this vacation will lead to an expansion by the nursing home that will end up blocking the view of the lake from his house.

Ann Price stated that there has been no information given to the neighbors from the nursing home about the plans and with the facility growing in size.

Neal Hessen, attorney representing the nursing home, reviewed that this proposed vacation of an unused street will provide front yard parking at this facility and better access for the seniors and the visitors to the nursing home. He continued by saying they need to define the property lines before they have the final plans and are able to communicate with the neighbors on the expansion. Mr. Hessen reviewed that the resident population will not increase, but the expansion will give the residents more modern and updated rooms.

Councilors urged Mr. Hessen to have the nursing home communicate and work with the neighbors on the plans for the expansion.

Resolution 01-0236 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 6,200 square feet portion of Minnesota Avenue legally described as: commencing at the south-westerly corner of Lot 13, Block 1, OATKA BEACH ADDITION: thence north along the west line of said Lot 13 a distance of 20.00 feet; thence deflecting 89 degrees 54 minutes 31 seconds right 5.00 feet to the POINT OF BEGINNING; thence deflecting 89 degrees 54 minutes 31 seconds left 127.32 feet; thence deflecting 13 degrees 42 minutes 19 seconds left 83.04 feet; thence deflecting 72 degrees 19 minutes 58 seconds left 19.30 feet; thence deflecting 96 degrees 52 minutes 39 seconds left 209.23 feet; thence deflecting 87 degrees 10 minutes 33 seconds left 28.26 feet to the POINT OF BEGINNING and there terminating; subject to easements for utility purposes and containing 0.14 acres more or less; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its March 13, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of Minnesota Avenue described above, and as more particularly described on Public Document No. 01-0326-18.

BE IT FURTHER RESOLVED, that all of that portion of Minnesota Avenue described above be retained as a utility easement.

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

Resolution 01-0236 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- - -

BY COUNCILOR STENBERG:

WHEREAS, Grassy Point Trail project is a continuation of a project recommended in the 1988 plan developed for the West Duluth area which has the support of the Irving neighborhood; and

WHEREAS, construction of the Keene Creek Trail in 1999 from the Irving Recreation Center brought access to the edge of the Grassy Bay area waterfront parking lot; and

WHEREAS, funds from the sale of the Mariner's Wharf area to WLSSD for their composting site are available for investment in this project; and

WHEREAS, other funding from the beneficiaries trust fund set up by the Interlake Superfund site responsible parties is a good prospect for soliciting an amount of about \$150,000 for the project; and

WHEREAS, a smaller amount of funding has been offered to cover costs of informational and interpretive signage from the St. Louis River Citizens Action Committee.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth act as the legal sponsor for the Grassy Point Trail project contained in the outdoor recreation grant program application submitted on March 30, 2001, and that proper city officials are hereby authorized to apply to the department of natural resources for \$150,000 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 construction, operation, maintenance and replacement of the proposed project for its design life.

BE IT FURTHER RESOLVED, that the city of Duluth has not incurred any costs described on Item 4 and has not entered into any written agreements to purchase property described on Item 3.

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

BE IT RESOLVED, that proper city officials are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 01-0251 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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Resolution 01-0253, by Councilor Stenberg, approving DEDA agreement with Eric and Debbie Ringsred and Theater in the State, Inc., for the purchase of the Temple Opera Block buildings, pursuant to DEDA Resolution 01D-25, was introduced for discussion.

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

- - -

Resolution 01-0254, by Councilor Stenberg, authorizing proper city officials to submit a regional park grant request to the department of natural resources for the acquisition of Hovland property located along Kenwood Avenue adjacent to Chester Park in the amount of \$165,000, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Councilor Hogg moved to amend the resolution as follows:

(a) In the title, delete the words "OF \$165,000" and add the words "NOT TO EXCEED \$187,500";

(b) In the fifth paragraph, after the words "department of natural resources for funding" insert the words "in an amount not to exceed \$187,500," which motion was seconded and unanimously carried.

Resolution 01-0254, as amended, was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life; and

WHEREAS, the city of Duluth has not incurred any costs, and has not entered into any written agreements to purchase property proposed by this project; and

WHEREAS, that 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; and

WHEREAS, that upon approval of its application by the state, city of Duluth may enter into an agreement with the state of Minnesota for the above referenced project, and that city of Duluth certifies that it will comply with all applicable laws and regulations as stated in the grant agreement.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth act as legal sponsor for the project contained in the regional park grant program application to be submitted on March 31, 2001, and that Bill Majewski is hereby authorized to apply to the department of natural resources for funding in an amount not to exceed \$187,500 of this project on behalf of city of Duluth.

BE IT FURTHER RESOLVED, that Bill Majewski, business developer, is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 01-0254, as amended, was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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Resolution 01-0255, by Councilor Stenberg, authorizing proper city officials to submit a natural and scenic area grant request to the department of natural resources for the acquisition of Hovland property located along Kenwood Avenue adjacent to Chester Park in the amount of \$137,500, was introduced for discussion.

Councilor Hogg moved to amend the resolution as follows:

(a) In the title, delete the words "OF \$137,500" and add the words "NOT TO EXCEED \$156,250";

(b) In the fifth paragraph, after the words "department of natural resources for funding" insert the words "in an amount not to exceed \$156,250," which motion was seconded and unanimously carried.

Resolution 01-0255, as amended, was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, the city of Duluth has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate acquisition, maintenance and protection of the proposed project; and

WHEREAS, the city of Duluth has not incurred any costs, and has not entered into any written agreements to purchase property proposed by this project; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, 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; and

WHEREAS, that upon approval of its application by the state, city of Duluth may enter into an agreement with the state of Minnesota for the above referenced project, and that city of Duluth certifies that it will comply with all applicable laws and regulations as stated in the contract agreement and described in the compliance section of the natural and scenic area grant program application.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth act as legal sponsor for the project contained in the natural and scenic area grant program application to be submitted on March 31, 2001, and that Bill Majewski, business developer, is hereby authorized to apply to the department of natural resources for funding in an amount not to exceed \$156,250 of this project on behalf of city of Duluth.

BE IT FURTHER RESOLVED, that Bill Majewski, business developer, is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 01-0255, as amended, was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED that the proper city officials are hereby authorized to execute an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 01-0326-20, with Tech Village L.L.C. for the extension of the downtown skywalk system through the Tech Village project in the amount of \$454,667.27, payable from Fund 0425.

Resolution 01-0188 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

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

1. Findings.

1.01 In connection with the \$12,000,000 grant received from the state of Minnesota for the purpose of planning, designing, constructing and equipping capital improvements to the Duluth entertainment convention center and the \$8,000,000 general obligation DECC improvement bonds, Series 1999A, issued by the city (the bonds), the city and the Duluth entertainment convention center authority (the authority) entered into a DECC improvement agreement dated as of February 1, 1999 (the DECC improvement agreement), a copy of which is on file with the clerk as Public Document No. 01-0326-21.

1.02 The DECC improvement agreement provided that commencing January 1, 2002, \$10,000 per month of the sales and excise tax revenues to be disbursed to the authority for support and maintenance of the DECC were to be pledged and appropriated to pay a portion of the principal of and interest on the bonds.

1.03 As part of the improvements to be constructed for UMD locker room facilities at the DECC, the authority now requires use of the \$10,000 monthly sales and excise tax revenues to pay for a portion of the financing costs for these improvements.

1.04 The council and the authority believe the DECC improvement agreement should be terminated, and the sales and excise tax revenues should be made available for the UMD locker room improvements.

2. Authorization and approval.

2.01 The mayor and the clerk are authorized to execute an agreement which terminates the DECC improvement agreement.

Resolution 01-0196 was unanimously adopted.

Approved March 26, 2001

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR ECKENBERG

01-003 (9483) - AN ORDINANCE PERTAINING TO SANITARY SEWERS IN THE FOND DU LAC AREA OF DULUTH; ADDING A NEW ARTICLE XII TO CHAPTER 43, DULUTH CITY CODE, 1959, AS AMENDED.

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

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

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

01-008 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 12 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE WEST HALF OF BLOCK 40, HUNTER AND MARKELLS GRASSY POINT ADDITION TO DULUTH, FROM W-1 WATERFRONT TO R-1-C SINGLE FAMILY RESIDENTIAL.

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BY COUNCILOR STENBERG

01-009 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 32 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF 32 ACRES OF LAND FROM S SUBURBAN TO M-1 MANUFACTURING.

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BY COUNCILOR ECKENBERG

01-010 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN CENTRAL HILLSIDE TO THE NORTHERN COMMUNITIES LAND TRUST.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR ECKENBERG

01-007 (9484) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN FOND DU LAC TO DAVID AUBREY ANDERSON.

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

- - -

The meeting was adjourned at 9:45 p.m.

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

- - -

ORDINANCE NO. 9483

BY COUNCILOR ECKENBERG:

AN ORDINANCE PERTAINING TO SANITARY SEWERS IN THE
FOND DU LAC AREA OF DULUTH; ADDING A NEW ARTICLE XII
TO CHAPTER 43, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article XII entitled "Fond du Lac Area Sanitary Sewers" be added to Chapter 43 of the Duluth City Code, 1959, as amended, to read as follows:

Article XII. Fond du Lac Area Sanitary Sewers.

Sec. 43-68. Fond du Lac area sanitary sewer regulations; purpose; scope; applicability; area defined.

(a) Public health, safety, welfare and convenience have made it necessary to construct a sanitary sewer system in the Fond du Lac area which will replace numerous marginal and failing septic systems located near an established floodplain of the St. Louis River. Because of the length of the system, lack of development density in the area, method of financing the system and methods required to discharge sewage from residences to sewer mains in the area, it is necessary to have some special wastewater facilities regulations that apply only to the Fond du Lac area;

(b) The regulations contained in this Article shall apply to wastewater facilities within the Fond du Lac area. The provisions of the remainder of Chapter 43 shall also apply to wastewater facilities within the Fond du Lac area to the extent that they are not inconsistent with the provisions of this Article;

(c) For the purposes of this Article, the Fond du Lac sanitary sewer area shall encompass the following area: the area bounded by the St. Louis River to the south; Sargent Creek to the northeast; and the Duluth city limits boundaries on the north and west from its intersection with Sargent Creek to its intersection with the St. Louis River.

Sec. 43-69. Building sewers.

(a) Building sewers in the Fond du Lac sanitary sewer area shall either be of a traditional gravity flow design or of a sump and grinder pump design, depending on the elevation of the building and sewer main. Building sewers shall conform to all city regulations and specifications and to applicable provisions of the state plumbing code;

(b) Buildings in existence in the Fond du Lac sanitary sewer area on December 31, 2000, which require sump and grinder pump building sewers shall be eligible for the installation of a publicly owned and maintained sump and grinder pump located in the public right-of-way if the sump and grinder pump are installed in the year 2001. It shall be the responsibility of the building owner to secure a proper sewer connection from the building to the sump, to secure a proper electrical connection from the building to the grinder pump electrical control panel, and to dedicate any right-of-way necessary for the installation. The city shall provide ordinary maintenance for the grinder pumps and shall replace grinder pumps that

have worn out because of ordinary wear and tear. Building owners shall be responsible for cost of replacing grinder pumps damaged by their negligence or improper substances contained in the sewage;

(c) Buildings in the Fond du Lac sanitary sewer area that do not have a publicly owned sump and grinder pump installed in the year 2001 but that require a grinder pump shall be served only by a grinder pump approved by the city engineer as being compatible with wastewater collection facilities in the area. The building owner shall be responsible for installing and maintaining these grinder pumps;

(d) Gravity flow building sewers in the Fond du Lac sanitary sewer area shall be subject to the same regulations as other gravity flow building sewers in the city;

(e) Building sewers that serve three or more residential units or a commercial establishment in the Fond du Lac sanitary sewer area which require a sump and grinder pump system shall be serviced only by a duplex type grinder pump approved by the city engineer and shall be equipped with a meter which measures sewage flow from the grinder pump. If the building is eligible for the installation of a publicly owned grinder pump, the city shall contribute the cost of a typical one family residential grinder pump installation and the building owner shall be responsible for the remainder of the costs. The city will maintain the grinder pump as provided in paragraph (b) above.

Sec. 43-70. Maintenance fees and user charges.

(a) User charges for wastewater facility users in the Fond du Lac sanitary sewer area shall be those established pursuant to Article II of this Chapter, except that residences without water meters shall pay a wastewater user charge based on a water consumption of 800 cubic feet of water per month;

(b) In addition to the wastewater user fee, buildings serviced by publicly owned grinder pumps shall be subject to a grinder pump maintenance fee established by city council resolution, which shall be billed and collected with the wastewater user fee.

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, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 26, 2001
Approved March 26, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9484

BY COUNCILOR ECKENBERG:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN FOND DU LAC TO DAVID AUBREY ANDERSON.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to David Aubrey Anderson for \$2,700 and to execute all documents necessary with regard to said conveyance:

Lots 34 and 36, FOND DU LAC 4th Street, excepting, however, all minerals and mineral rights.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: May 6, 2001)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 26, 2001
Approved March 26, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 9, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meetings held on February 15, 26 and March 19, 2001, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0409-01 John D. Baumgarten, et al. (nine signatures), submitting petition to reclassify from S to R-1-b that part of SW $\frac{1}{4}$ of SW $\frac{1}{4}$ lying SE'ly of the centerline of Summit Street (now called Glenwood Street), Section 6, Township 50, RG13. -- Assessor

01-0409-02 Greg Knutsen, et al. (17 signatures), resubmitting petition to reclassify from R-1-b to R-3 the W $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 20, Township 50 North, Range 14 West of the Fourth Principal Meridian, St. Louis County. -- Assessor

01-0409-03 Charter Communications submitting 2000 performance review, pursuant to Ordinance No. 8778. -- Received

01-0409-25 Eric Dings submitting communication regarding the intent to approve the creation of an economic development tax increment financing district (01-0275R). -- Received

01-0409-04 Jim Gruba and Shirley Reiersen submitting appeal of the planning commission denial of a variance for the property at 2525 Minnesota Avenue. -- Committee 2 (Physical development)

01-0409-26 Kate Whittaker submitting communication regarding 2001 street improvement program for Congdon Park Central (01-0271R). -- Received

01-0409-24 The following submitting communications regarding the smoking ban ordinance (01-011-O): (a) Brenda and Jerry Bonk; (b) Matthew B. Johnson; (c) Douglas and Meredith Kuehl; (d) Edward Leonard; (e) Norm Mayer; (f) Dennis Padora; (g) Mrs. L. Pelzel; (h) Jim Van Dell; (i) Sara Ward. -- Received

01-0409-14 The following submitting communications regarding the Spirit Mountain golf course (01-0175R, 01-0176R and 01-0177R): (a) Brian Allen; (b) Zandra Bail-LaLonde; (c) Timothy Bates; (d) CJ Bird; (e) Janet Blixt; (f) Joyce M. Blodgett; (g) Jenny Boelter; (h) Chris Braaten; (i) Terry Brown; (j) Jim Caesar; (k) Tom Cartier; (l) Steve T. Christensen; (m) Edna Ciurleo; (n) Van Conrad; (o) Elizabeth Dahl; (p) Eric Dings; (q) Duluth Area Chamber of Commerce (supported by 848 signatures); (r) William G. Edwards; (s) Bo Ekmark; (t) Greg Eliason; (u) Suzanne French; (v) Gitchee Gume Chapter of Trout Unlimited; (w) Goodwill Industries; (x) Stephanie Goshey; (y) John Hunt; (z) Jennifer Jensen; (aa) Bradley C. Jenson; (bb) Keith A. Johnson; (cc) Robert Johnson; (dd) Courtney Kern; (ee) Molly Kern; (ff) Don Kienholz; (gg) Reghann LaFrance; (hh) Bob Olsgard; (ii) Arthur W. Olstead; (jj) John Pastor; (kk) Karen Ruona; (ll) Gladys Schulte; (mm) Katie Schulte; (nn) Brandon Seitz; (oo) Dara Sjolund; (pp) Linda Toepke; (qq) Larry and Liisa Varhalla; (rr) Jacob T. Voit; (ss) Debbie L.P. Waters; (tt) Rondi J. Watson; (uu) Jane Watrus; (vv) Kate Whittaker; (ww) Peter T. Wolter. -- Received

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REPORTS OF OFFICERS

01-0409-05 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing of the special assessment board on April 17, 2001, at 4:30 p.m. in Room 106A, City Hall, regarding:

(1) Proposed improvement of a permanent street for Fourth Street from Wallace Avenue to Tischer Creek;

(2) Proposed improvement of a permanent street for Kent Road from Chester Parkway to 19th Avenue East;

(3) Reassessment of costs for development in Parkwood;

(b) Affidavit of mailing of notice of public hearing of the special assessment board on April 18, 2001, at 4:00 p.m. in Room 106A, City Hall, regarding the proposed revisions to the street improvement program for 2002: Cody - remove Petre Street; Congdon - add 28th Avenue East from Greysolon Road to Jefferson Street. -- Clerk

(c) Letters of sufficiency to:

(1) Reclassify from R-1-b to R-3 the W½ of NE¼ of NW¼, Section 20, Township 50 North, Range 14 West;

(2) Reclassify from S to R-1-b, Section 6, Township 50, Range 13, that part of SW¼ of SW¼ lying SE'ly of centerline of Summit Street (now called Glenwood Street). -- Received

01-0409-06 Clerk submitting applications to Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Lincoln Park Business Group on June 21, 2001; (b) Great Lakes Aquarium on July 27, 2001. -- Received

01-0409-07 Community development and housing division manager submitting HRA housing rehabilitation report for February 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0409-08 Board of zoning appeals minutes of February 27, 2001, meeting. -- Received

01-0409-09 Duluth airport authority: (a) Minutes of: (1) February 20; (2) March 20, 2001, meetings; (b) Unaudited balance sheets of: (1) January 31; (2) February 28, 2001. -- Received

01-0409-10 Environmental advisory council minutes of: (a) December 6, 2000; (b) January 3, 2001, meetings. -- Received

01-0409-11 Heritage preservation commission minutes of: (a) December 13, 2000; (b) January 17, 2001, meetings. -- Received

01-0409-12 Housing and redevelopment authority of Duluth: (a) Annual audit report for the year ending September 30, 2000; (b) Minutes of February 27, 2001, meeting. -- Received

01-0409-13 Parks and recreation commission minutes of February 14, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis stated the city needs to advertise in magazines to draw tourists into the city. She also voiced safety concerns on the new traffic lanes between K-mart and Target.

- - -

Peggy Marrin complemented the hard work of councilors Gilbert, Stover and Stewart for their work on protecting Spirit Mountain and their commitment to public service.

- - -

RESOLUTIONS TABLED

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Councilor Gilbert moved to remove Resolution 01-0230, approving 2002 low-income housing tax credit qualified allocation plan, from the table, which motion was seconded and unanimously carried.

Resolution 01-0230 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462.A221, et seq., the city of Duluth, Minnesota, is a suballocator of low-income housing tax credits (LIHTCs); and

WHEREAS, the city of Duluth as a suballocator is authorized to administer 2002 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 2002; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 2002 (the plan) setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the plan is available for review and written comments by the general public and a public hearing will be held on March 26, 2001.

WHEREAS, the Duluth housing commission met on March 8, 2001, and recommended approval of the plan to the city council.

NOW, THEREFORE, BE IT RESOLVED, that the 2002 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 01-0409-15, is hereby approved.

Resolution 01-0230 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

Councilor Gilbert moved to remove Resolution 01-0175, pertaining to the Spirit Mountain golf course; requesting additional information before work permits are issued; Resolution 01-0176, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain to take certain actions against the developer; and Resolution 01-0177, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain recreation area authority to ascertain whether the golf course project constitutes a conversion to private use under the Federal Land and Water Conservation Fund Act of 1965, from the table, which motion was seconded and unanimously carried.

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

KL Lewis stated that an environmental assessment worksheet needs to be done by an objective party for the golf course at Spirit Mountain.

CJ Bird stated that the city has failed to comply with federal law by authorizing construction or destruction of property at Spirit Mountain under Section 106. She continued by saying that Senator Wellstone has been informed of this project and will be investigating to see if the city is in compliance with federal law.

John Rathe urged councilors to turn things around and say yes and welcome a developer to Spirit Mountain, as the city needs to allow businesses to come into the city which will grow and create jobs.

Councilor Gilbert moved to retable the resolutions, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY COUNCILOR STENBERG

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

01-0290R - RESOLUTION AMENDING RULE 2 OF THE STANDING RULES OF THE CITY COUNCIL.

- - -

At this time, 7:30 p.m., President Edwards called the public hearing regarding the 2002 street improvement program to order (Public Document No. 01-0409-28).

- - -

At this time the public hearing was closed and the regular order of business was resumed.

- - -

CONSENT AGENDA

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

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

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals with any specific restrictions:

Grandma's Marathon Duluth, Inc., Morse Street and Canal Park Drive, for June 15, 16 and 17, 2001, with Dale Kusnierek, manager, with the music and serving ceasing at 12:30 a.m.

College of St. Scholastica, 1200 Kenwood Avenue, for April 25 and 27, 2001, with Betsy Kneepkens, manager.

Resolution 01-0256 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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

Marshall School, 1215 Rice Lake Road, for May 4, 2001, with Ann Hagen, manager.

Resolution 01-0257 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period beginning May 1, 2001, and ending April 30, 2002, subject to departmental approvals and the payment of sales and property taxes:

Dukes Baseball Club, LLC (Duluth Superior Dukes), Wade Stadium, with John A. Ehlert, owner and president.

Resolution 01-0258 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

bounded by Commerce Street, the Lakeshore, Canal Park Drive and Lake Avenue during the marathon on June 16, 2001, and confined to the fenced in parking lot at night on June 15-17, 2001, 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 01-0259 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that Resolution 01-0223 which approved a business loss exemption for Country Kitchen of Duluth, Inc., 1810 Miller Trunk Highway, is amended by deleting paragraph (c) of the conditions of the exemption, which reads as follows:

No persons under 18 years of age may be allowed on the premises during times when smoking is permitted.

Resolution 01-0260 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the proper city officials are authorized to purchase insurance from the Workers' Compensation Reinsurance Association for the year 2001 at an estimated cost of \$24,764.62, which shall be payable from the self-insurance fund.

Resolution 01-0261 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to renew its agreement with Minnesota Mutual Life to provide group term life insurance coverage for city employees and retirees during year 2001 at the amounts specified in various bargaining unit contracts, under which agreement the city will purchase such insurance at a rate of \$.32 per thousand per month, at an estimated cost of \$176,142, which shall be payable from various funds and agencies.

Resolution 01-0262 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that J.R. Jensen and Son, Inc., be and hereby is awarded a contract for construction of additions and renovations to Lakeside Fire Hall #6 for the architect division in accordance with specifications on its low specification bid of \$632,400, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2000, Object C004.

Resolution 01-0272 was unanimously adopted.

Approved April 9, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that White Bear Sales, Inc., be and hereby is awarded a contract for furnishing and delivering three GO-4 three-wheel vehicles to be used by the parking monitors for the fleet services division in accordance with specifications on its low specification bid of \$51,300, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 2020, Object MS07.

Resolution 01-0273 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES

Hollis M. Caldwell and Marilyn Norenberg for terms expiring November 1, 2003.

Resolution 01-0145 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES

Debra Anderson for a term expiring November 1, 2003 replacing Ann Flannagan.

Resolution 01-0263 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMUNITY DEVELOPMENT COMMITTEE

Anthony Yung (at large) for a term expiring March 1, 2004, replacing Roberta Dwyer.

C. J. Bird (at large) for a term expiring March 1, 2003, replacing Deede Westermann who resigned.

Resolution 01-0264 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH PUBLIC ARTS COMMISSION

Mark Haugen for a term expiring September 30, 2003, replacing James McManus.

Resolution 01-0265 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved April 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH TRANSIT AUTHORITY

Jean Wiseheart (District 3) for a term expiring June 30, 2004, replacing Donna Scorse who resigned.

Resolution 01-0266 was unanimously adopted.

Approved April 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

HUMAN RIGHTS COMMISSION

Kerry Gauthier for a term expiring March 1, 2004, replacing Donald Ness.

Resolution 01-0267 was unanimously adopted.

Approved April 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PARKING COMMISSION

Thomas Bennett (District 2) for a term expiring July 1, 2003, replacing Joan Flechsig.

Resolution 01-0268 was unanimously adopted.

Approved , 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Judith Hermans for a term expiring March 30, 2002, replacing Sandra Morgan who resigned.

Resolution 01-0269 was unanimously adopted.

Approved April 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley between 71st and 72nd Avenues West between Thompson Street, south across Milford Street, to the St. Louis River, legally described as: the alley in Blocks 35 and 40, Hunters & Markells Grassy Point Addition; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

WHEREAS, the city planning commission approved unanimously the alley vacation petition at its March 28, 2001, 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. 01-0409-16.

BE IT FURTHER RESOLVED, that the city retain a utility easement in that portion of the alley adjoining Lots 11, 12, 13 and Lots 20, 21, 22, Block 35.

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

Resolution 01-0277 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and the Greater Downtown Council (GDC) in the amount of \$81,526, payable from DEDA Fund 860, as approved by the DEDA board at its meeting of October 20, 2001, pursuant to DEDA Resolution No. 01D-24, a copy of which is on file in the office of the city clerk as Public Document No. 01-0409-17, is hereby approved.

Resolution 01-0289 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 01-0409-18, the Minnesota department of economic security to provide services under title I of the workforce investment act as defined in the local workforce investment plan. Contract dates run from April 1, 2001, through March 31, 2004. Program funds will be accepted upon receipt of notices of funds available and shall be deposited in Fund 268.

Resolution 01-0250 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized to execute a subordination of mortgage, substantially of the form of the copy on file in the office of the city clerk as Public Document No. 01-0409-19, subordinating a mortgage under a HOME program grant agreement with Lifehouse aka Lifehouse, Inc., to a mortgage of DEDA and North Shore.

Resolution 01-0280 was unanimously adopted.

Approved April 9, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement with the city of Hermantown authorizing the reimbursement to Hermantown of a portion of the sewer user charges collected by the city of Duluth from the Pine Grove and Gramercy Park apartment complexes; said agreement filed as Public Document No. 01-0409-20.

Resolution 01-0282 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 98-0889 to Stout Mechanical, Inc., for installation of a high pressure steam line conduit system to the new Lake Superior Center, be amended to increase the amount by \$30,866.29 for a new total of \$117,194.29, payable out of Steam District #1 Fund 0540, Dept./Agency 920, Organization 1490, Object 5980.

Resolution 01-0270 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0416 to R.L.K.-Kuusisto, Ltd., for engineering services of year 2001 Congdon Park Central, be amended to increase the amount by \$56,330 for a new total of \$215,740, payable out of payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0103, Object 5530.

Resolution 01-0271 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Minnesota Limited, Inc., be and hereby is awarded a contract for construction of ten inch steel high pressure gas main and related work in Rice Lake Road from Airport Road to Martin Road for the utility operations division in accordance with specifications on its low specification bid of \$284,371, terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 01-0276 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Wagner Construction, Inc., be and hereby is awarded a contract for construction of year 2001 street improvement project at Cody Street North for the engineering division in accordance with specifications on its low specification bid of \$346,984.69, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0102, Object 5530.

Resolution 01-0279 was unanimously adopted.

Approved April 9, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Housing and Redevelopment Authority for the acquisition of street and utility easements necessary for the extension of sanitary sewer and water mains to Fond du Lac for a consideration of not to exceed \$15,000, payable from Fund 0531, Agency 500, Object 5532; said agreement to be substantially in the form of the agreement on file in the office of the city clerk as Public Document No. 01-0409-21.

Resolution 01-0281 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that A.W. Kuettel and Sons, Inc., be and hereby is awarded a contract for installation of hot water supply and return lines for between Duluth steam plant and Inn on Lake Superior for the Duluth steam district #1 in accordance with specifications on its low specification bid of \$256,000, terms net 30, FOB job site, payable out of Steam District #1 Fund 0540, Dept./Agency 920, Organization 1490, Object 5580.

Resolution 01-0287 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Metro Fire, Inc., be and hereby is awarded a contract for furnishing and delivering seven hand held thermal imaging camera systems for the fire department in accordance with specifications on its low specification bid of \$106,922.20, terms net 30, FOB destination, \$101,870 payable out of Special Projects Fund 0210, Dept./Agency 030, Organization 2180, Object 5580 and \$5,052.20 payable out of General Fund 0100, Dept./Agency 100, Organization 1502, Object 5580.

Resolution 01-0274 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering the annual fertilizer requirements during year 2001 for the Lester and Enger golf courses in accordance with specifications on its low specification bid of \$28,195.66, terms net 30, FOB destination, payable out of Golf Fund 0503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 01-0285 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth (the City) has applied for and expects to receive a grant from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

the economic development administration (EDA) in the amount of approximately \$3,450,185 for the development of an airplane manufacturing industry incubator project (the Project) at the Duluth International Airport; and

WHEREAS, the project would consist of constructing an approximately 63,000 square foot manufacturing building and associated parking; and

WHEREAS, the city will be required to provide matching funds necessary to complete the project, in an estimated amount of \$2,700,000, which would provide for a portion of the project costs, costs of issuance of the bonds and capitalized interest; and

WHEREAS, the city would intend to lease the manufacturing building to Cirrus Industries, Inc., (the Company) pursuant to a lease; and

WHEREAS, the city anticipates financing its portion of the projects costs by issuing general obligation tax increment revenue bonds payable in part from tax increment to be derived from such manufacturing faculty through a new tax increment district to be created on the project site and in part from lease rental payments from the company; and

WHEREAS, the city is authorized to issue general obligation tax increment revenue bonds pursuant to Minnesota Statutes, §§ 469.174-469.179 (the Act) and § 469.178.

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

Section 1. The city council hereby declares its intent to proceed with the grant from the EDA and the project.

Section 2. The city council hereby declares its intent to proceed, according to the act, to consider establishing a tax increment district for the project and declares its intent to issue general obligation tax increment revenue bonds pursuant to the act in the amount of approximately \$2,700,000 to provide its portion of the construction costs of the project and to pay the costs of issuance of the bonds and to provide capitalized interest.

Section 3. The city council hereby authorizes the city staff to proceed with the project and to work with the city's financial adviser and bond counsel to begin the process to create a tax increment district. Final terms of the development of the project and the issuance of the bonds shall be set forth in resolutions of the city council.

Section 4. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to reimburse expenditures with respect to the project being financed.

Resolution 01-0286 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Edwards -- 1

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stewart moved to consider Resolution 01-0275 at this time, which motion was seconded and unanimously carried.

Resolution 01-0275, by Councilor Stenberg, of intent to approve the creation of a tax increment financing district, was introduced for discussion.

Councilors Stewart and Gilbert stated that this is a good project that will have a small tax increment financing (TIF) district that is manageable, along with good paying jobs.

Resolution 01-0275 was adopted as follows:

BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BE IT RESOLVED, that the city council of the city of Duluth hereby expresses its intent to approve the creation by the Duluth economic development authority of a tax increment financing district to be located in the plat of Airport Division, St. Louis County, MN.

Resolution 01-0275 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Edwards -- 1

Approved April 9, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0283, approving, and Resolution 01-0284, denying, respectively, a business loss exemption from the provisions of the public smoking ordinance for Perkins Family Restaurant, 4005 West Michigan Street, were introduced for discussion.

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

Tony Salls spoke in favor of Resolution 01-0283, but stated that the inequality in the ordinance does not allow bars to apply for exemptions which are suffering also from the smoking ban. He also voiced concern that the employees at the bars are losing money because of loss of hours working.

Jim Stuhr, director of operations for D&S Development which owns Perkins Restaurants, reviewed that before the smoking ordinance their restaurant had an enclosed area for smokers and also had the restaurant smoke free on Saturdays and Sundays through 4:00 p.m. Mr. Stuhr continued by saying that there are only a couple of restaurants that are open 24 hours which cater to the swing shift employees and the people that come in after the bars close. He stated that if Perkins receives the exemption, they are going to put together a plan on what they ideally want to do, deciding on what will be the best service for as many different kinds of customers as possible. Mr. Stuhr voiced concern that the no smoking ordinance will cause tourists, along with the local customers, to go to neighboring cities – which will be bad for Duluth.

Councilor Eckenberg expressed appreciation and thanks for Perkins' past initiative and leadership in the movement of voluntarily not allowing smoking in their restaurant on Saturday and Sunday.

Resolution 01-0283 was adopted as follows:

BY PRESIDENT EDWARDS:

WHEREAS, on March 28, 2001, the city clerk received a request from Sean M. Flaherty, owner of a restaurant known as Perkins Family Restaurant, located at 4005 West Michigan Street, for a business loss exemption from the provisions of Duluth's public smoking ordinance as authorized by Section 28-66 of the Duluth City Code; and

WHEREAS, said request (Public Document No. 01-0409-22) indicates that February monthly sales for Perkins Family Restaurant were \$137,806 in the year 2000 and \$116,141.34 in the year 2001, representing a business decline of approximately 16 percent; and

WHEREAS, the city sales tax administrator has verified that this information is consistent with sales tax returns submitted by Perkins Family Restaurant for those months; and

WHEREAS, the owner of Perkins Family Restaurant has submitted in writing on the application form (Public Document No. 01-0409-22) reasons why he believes his business loss was caused by enforcing the smoking ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby grants Perkins Family Restaurant, located at 4005 West Michigan Street, a business loss exemption from the provisions of Article VII of Chapter 28 of the Duluth City Code because:

(a) Substantial evidence has been presented showing that Perkins Family Restaurant has suffered a decline in business of over 16 percent in the month of February, 2001, as compared to February, 2000;

(b) Substantial evidence has been presented showing that this business loss resulted from enforcement of the smoking ordinance as shown by the following documents and facts:

BE IT FURTHER RESOLVED, that the exemption hereby granted is subject to the following conditions:

(a) The exemption is transferable to the new owner if the business is sold;

(b) The exemption is subject to any future council action affecting the operation of exemptions.

Resolution 01-0283 was unanimously adopted.

Approved April 9, 2001

GARY L. DOTY, Mayor

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Resolution 01-0284 failed unanimously (Public Document No. 01-0409-27).

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Resolution 01-0219, by Councilor Eckenberg, ordering the improvement of the 2002 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$5,762,940, was introduced for discussion.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILORS STENBERG, STEWART AND PRESIDENT EDWARDS

01-011 - AN ORDINANCE REPEALING ARTICLE VII OF CHAPTER 28 OF THE CITY CODE.

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

KL Lewis, Steve O'Neil, Jenny Peterson, Jim Skoog, Pat McKone, voiced support of retaining the no smoking ordinance for the following reasons: there are more people that do not smoke that do smoke and for the health of minors and the majority of the people we need to keep the no smoking ordinance; local level ordinances need to be passed in order for there to be a state wide law; the new proposed rule changes from the Minnesota Clean Indoor Air Act are still based upon the fact that you can separate smokers and nonsmokers and protect nonsmokers and are not strict enough for public health; the American Lung Association does not endorse ventilation systems in restaurants; the commissioner of the health department has encouraged localities to go stronger than the state law and pass local ordinances that will further protect the people in their communities; refine the ordinance or add some enforcement provisions to ordinance; there should be a good faith effort by all parties in making this ordinance work; the need to protect restaurant employees who have significant exposure to the smoke; and do not create a social standard that it is okay to smoke for adults but not for youth.

CJ Bird stated that whether the council repeals the ordinance or not, make it fair and equal for everyone.

Brian Daugherty stated that the ordinance has been difficult to implement and has had more impact than expected and his business has tried to make it work without significant financial investment because the law could be changing. He went on to say that while there have been some positive comments from the customers, there have been more negative comments than positive comments. Mr. Daugherty stated they have worked hard to enforce the rule and dealing

with the customers and trying to retain those who are not happy with the rule so they will come back. He continued by saying that the exemption amendment is very well intentioned and not meant to put people out of business, but for every exemption that happens, it continues to erode other businesses and uphold the ordinance. Mr. Daugherty stated that their recommendation is to repeal the ordinance, watch what happens, and follow the state's lead on their proposed rules for changes of the Minnesota Clean Indoor Air Act.

Paul Goeb, Jim Van Dell, John Rathe, Tony Salls, Blair Wletzin, Doug Biggin, spoke for repealing the ordinance for the following reasons: Duluth businesses and the Duluth Entertainment Convention Center (DECC) are bidding against cities that allow smoking; private businesses will listen to their customers and run their business as their customers dictate; it would help the hospitality industry by repealing the ordinance; let the people make their own choices as there is a referendum every day by where the people spend their dollars; this ordinance has divided, disrupted, destroyed and put businesses at odds with each other; tourists want to expect the same options that they get from other cities; we will realize how big the mistake was in about 4-5 years as the tourism declines steadily; we are punishing the businesses and not focusing on the behavior of the youth who are smoking; statistically families are not in restaurants long enough for the smoke to have a negative effect on them; and councilors have stated they are for business and should be attracting businesses to Duluth.

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The following entitled ordinances were read for the second time:

BY COUNCILOR STENBERG

01-008 (9485) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 12 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE WEST HALF OF BLOCK 40, HUNTER AND MARKELLS GRASSY POINT ADDITION TO DULUTH, FROM W-1 WATERFRONT TO R-1-C SINGLE FAMILY RESIDENTIAL.

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

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BY COUNCILOR STENBERG

01-009 (9486) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 32 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF 32 ACRES OF LAND FROM S SUBURBAN TO M-1 MANUFACTURING.

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

- - -

BY COUNCILOR ECKENBERG

01-010 (9487) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN CENTRAL HILLSIDE TO THE NORTHERN COMMUNITIES LAND TRUST.

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

- - -

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

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

- - -

ORDINANCE NO. 9485

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 12 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF THE WEST HALF OF BLOCK 40, HUNTER AND MARKELLS GRASSY POINT ADDITION TO DULUTH, FROM W-1 WATERFRONT TO R-1-C SINGLE FAMILY RESIDENTIAL.

The city of Duluth does ordain:

Section 1. That Plat No. 12 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth city code, 1959, is amended to read as follows:

[MAP]
[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 20, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 9, 2001
Approved April 9, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9486

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 32 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF 32 ACRES OF LAND FROM S SUBURBAN TO M-1 MANUFACTURING.

The city of Duluth does ordain:

Section 1. That plat No. 32 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth city code, 1959, is amended to read as follows:

[MAP]
[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 20, 2001)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 9, 2001
Approved April 9, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9487

BY COUNCILOR ECKENBERG:

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

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into a development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 01-0409-23, with the Northern Communities Land Trust pursuant to which the city will convey by quit claim deed the below-described property in St. Louis County, Minnesota, to the trust who will develop the property for low and moderate income housing and to execute all documents necessary with regard to said conveyance:

Lots 7 and 8, West Fifth Street, DULUTH PROPER First Division.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: May 20, 2001)

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

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 9, 2001
Approved April 9, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, April 24, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meetings held on March 22 and 26, 2001, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0424-01 Nancy Anderson, et al. (three signatures) submitting petition to vacate a portion of 14th Street between Minnesota Avenue and St. Louis Avenue. -- Assessor

01-0424-02 Joseph H. Klieman, et al. (six signatures) submitting petition to reclassify 6600 Grand Avenue from R-2 to C-2.-- Assessor

01-0424-03 Minnesota state auditor submitting Duluth transit authority audit report for the years ended December 31, 2000 and 1999. -- Received

01-0424-28 The following submitting communications regarding the proposed changes to the smoking ban ordinance (01-011-O, 01-016-O and 01-017-O): (a) Peter Ackerman; (b) John Anderson; (c) Nickoel Anderson; (d) Sue Bosell; (e) Amy Bubacz; (f) Al Farmer; (g) Joe Gallian; (h) Joseph T. Herbst; (i) Hospitality Members of Duluth; (j) Kurt Kamper; (k) Diane C. Lings; (l) Dana Litman; (m) Minnesota department of health; (n) Dennis, Lisa and Rosemarie Mitchell; (o) Ken Nebel; (p) Ian O'Connell; (q) Gary and Theresa Salsberry; (r) Tiffany Snider; (s) Robert Spehar; (t) Luke Sydow; (u) Jane Worley. -- Received

01-0424-29 The following submitting communications regarding the Spirit Mountain golf course (01-0175R, 01-0176R and 01-0177R): (a) Mark R. Brown; (b) Duluth Area Chamber of Commerce (supported by 25 signatures); (c) Jack Grams; (d) Michelle Kindschi; (e) Debra L. Taylor. -- Received

- - -

REPORTS OF OFFICERS

01-0424-04 Assessor submitting affidavits of mailing of notice of public hearings of the special assessment board on April 25, 2001, in Room 106A, City Hall, at:

(a) 4:30 p.m. regarding the proposed bituminous surfacing of Commonwealth Avenue, 483 feet to 658 feet south of Hibbing Avenue;

(b) 4:45 p.m. regarding the proposed permanent design alley of Spear Avenue between Glenwood Street and Park Street. -- Clerk

01-0424-05 Community development and housing division manager submitting HRA housing rehabilitation report for March 2001. -- Received

01-0424-06 Engineering division submitting monthly project status report of April 2001. -- Received

01-0424-07 Parks and recreation department director submitting Lake Superior zoological society minutes of March 28, 2001, meeting. -- Received

01-0424-08 Public works and utilities department director submitting 2000 annual report. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

- 01-0424-09 Alcohol, gambling and tobacco commission minutes of March 13, 2001, - meeting. -- Received
- 01-0424-10 Building appeal board minutes of March 14, 2001, meeting. -- Received
- 01-0424-11 Civil service board minutes of: (a) January 9; (b) February 6, 2001, meetings. -- Received
- 01-0424-12 Duluth transit authority: (a) Financial statement summary of February 2001; (b) Minutes of February 21, 2001, meeting. -- Received
- 01-0424-13 Parking commission minutes of March 6, 2001, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commended all the individuals that helped in any way after the recent ice storm.

- - -

Phil Berkheimer, representing the Katie Poirier Abduction Task Force, presented materials relative to a legislative bill that is being proposed, that would give those working in convenience stores more protection and requested the city of Duluth's support (Public Document No. 01-0424-26).

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RESOLUTIONS TABLED

Councilor Gilbert moved to remove Resolution 01-0175, pertaining to the Spirit Mountain golf course; requesting additional information before work permits are issued; Resolution 01-0176, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain to take certain actions against the developer; and Resolution 01-0177, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain recreation area authority to ascertain whether the golf course project constitutes a conversion to private use under the Federal Land and Water Conservation Fund Act of 1965, from the table, which motion was seconded and unanimously carried.

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

Kay L. Lewis questioned why there cannot be another location that could be used for this development and asked what steps can be taken toward organic landscaping and maintenance for the golf course and other city property.

Councilor Gilbert moved to retable the resolutions, which motion was seconded and unanimously carried.

- - -

Councilor Stenberg moved to remove Resolution 01-0082, approving DEDA agreement with BRW, Inc., pursuant to DEDA Resolution 01D-08, from the table, which motion was seconded and unanimously carried.

After some discussion relative to the public presentation and comment process on the Bayfront development plan, Councilor Stenberg moved that the resolution be approved, which motion was seconded and carried upon a unanimous vote.

Resolution 01-0082 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and BRW, Inc., in the amount of \$75,000, payable from DEDA Fund 0865, District No. 17, as approved by the DEDA board at its meeting of January 16,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

2001, pursuant to DEDA Resolution No. 01D-08, a copy of which is on file in the office of the city clerk as Public Document No. 01-0424-14, is hereby approved.

Resolution 01-0082 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

Councilor Eckenberg moved to remove Resolution 01-0219, ordering the improvement of the 2002 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$5,762,940, from the table, which motion was seconded and unanimously carried.

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

Siegrun Horst, speaking on behalf of some neighbors and herself, expressed opposition to the part of the 2002 improvement project that is referred to as Cody-Upper. She noted that: there was only a month's notice for this improvement; with installing the utilities for a new development, there has been substantial erosion to many properties; with this assessment she would be paying a total property tax bill of \$750 for 15 years; there has not been any previous water problems; and while this is scheduled for the 2002 street improvement program, with a month's notice she was informed that the storm sewer is being replaced this summer.

Administrative Assistant Winson noted that factors of: storm sewers are rebuilt to handle future improvements farther up the line; this is a process that allows the city to do design work and it is not necessarily the final decision; that this street has no curb or gutters and is structurally deficient and the assessment is based on the total cost of the whole project, assessed by front footage, which is less than 1/4 of the total actual cost.

Councilors commented that this is the time for projects to be dropped if there might be problems and if a street has no apparent need for this work, other than a convenience for some other streets, the city should not proceed.

After extensive discussion, Councilor Hogg moved to separate the resolution to vote on the Cody-Upper project separately from the balance of the project, which motion was seconded and unanimously carried.

Councilor Hogg called for the vote on Resolution 01-0219(a), the Cody-Upper project, which was seconded and unanimously failed (Public Document No. 01-0424-25).

- - -

Resolution 01-0219(b), the balance of the 2002 street improvement program, was adopted as follows:

BY COUNCILOR ECKENBERG:

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. 01-0424-24 on file with the office of the city clerk; that the costs of said improvement estimated at \$5,335,260 shall be paid from the Street Improvement Fund 0440 and that ¼ or less of said costs be levied against the property specifically benefitted by said improvements.

RESOLVED, that whenever residents who live in the vicinity of one of the street improvements projects desires to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and city staff will be established to permit early involvement and public input on various street design elements

including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 01-0219(b) was unanimously adopted.
Approved April 24, 2001
GARY L. DOTY, Mayor

- - -

UNFINISHED BUSINESS

Resolution 01-0290, by Councilor Stenberg, amending Rule 2 of the standing rules of the city council, was introduced for discussion.

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

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the budget for the fiscal year May 1, 2001, to April 30, 2002, in the amount of \$3,542,671 as set out in the budget on file with the city clerk as Public Document No. 01-0424-27, for the Spirit Mountain recreation area authority is hereby approved.

Resolution 01-0294 was unanimously adopted.
Approved April 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to make a loan of \$85,000 to the St. Louis County Heritage and Arts Center to be used for the Depot's historic roof and window project.

RESOLVED FURTHER, that said loan shall be for a term of five years at an annual interest rate of 5.5 percent and shall be drawn from Tourism Tax Fund 0258.

Resolution 01-0317 was unanimously adopted.
Approved April 24, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architects IV, for the sum of not to exceed \$7,700, from Capital Fund 450, Object C116, for providing certain architectural services to the city of Duluth in connection with 2001 modifications to Wade Stadium, 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. 01-0424-15.

Resolution 01-0297 was unanimously adopted.
Approved April 24, 2001
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

St. Michael's Church/School, 4901 East Superior Street, for May 19, 2001, with Amy Flaig, manager.

Slugfest Tournament, Wheeler Field, for May 19 and 20, 2001, with Pat Nieman, manager.

Resolution 01-0299 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale nonintoxicating malt liquor licenses, for the period ending April 30, 2001, subject to departmental approvals and the payment of sales and property taxes:

Best Oil Company (The Little Store), 231 North Central Avenue, with John McKinney, president and 33 percent stockholder; Chris McKinney, 31 percent stockholder; Mike McKinney, 31 percent stockholder; and Bruce Larson, five percent stockholder.

Best Oil Company (The Little Store), 7002 Grand Avenue, with John McKinney, president and 33 percent stockholder; Chris McKinney, 31 percent stockholder; Mike McKinney, 31 percent stockholder; and Bruce Larson, five percent stockholder.

Resolution 01-0300 was unanimously adopted.

Approved April 24, 20

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the on sale intoxicating liquor license, on sale Sunday license and dancing license for the period ending August 31, 2001, subject to departmental approvals and the payment of sales and property taxes:

Minnesota Nights, Inc. (Tap Room), 600 East Superior Street, with Andrew Gamache, 100 percent stockholder, transferred from MCS Acquisition, Inc. (Tap Room), same address.

Resolution 01-0301 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the on sale intoxicating liquor license and on sale Sunday license, for the period ending August 31, 2001, subject to departmental approvals and the payment of sales and property taxes:

Pizza Luce III, Inc. (Pizza Luce), 11 East Superior Street, with Joseph B. Baier, director/president and 45 percent stockholder; Scott Nelson, vice president/secretary and 35

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

percent stockholder; and Donald Selmer, vice president/treasurer and 20 percent stockholder, transferred from A&L Partnership, LLP, same address.

Resolution 01-0302 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following an on sale nonintoxicating malt liquor license and approving the issuance of an on sale wine license for the period beginning May 1, 2001 and ending April 30, 2002, and the period ending August 31, 2001, respectively, subject to departmental approvals and approval of the liquor control commissioner:

Grandma's Garage, LLC (Willys Garage), 355 Lake Avenue South, with Andy Borg, CEO; Donald Bleau, president; and Grandma's Restaurant Company, 100 percent stockholder.

Resolution 01-0303 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby issues on sale nonintoxicating malt liquor license renewals for the period beginning May 1, 2001, and ending April 30, 2002, 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. 01-0424-16.

Resolution 01-0304 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the city council of the city of Duluth hereby issues off sale nonintoxicating malt liquor license renewals for the period beginning May 1, 2001, and ending April 30, 2002, 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. 01-0424-17.

Resolution 01-0305 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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 beginning July 31, 2001, and ending August 31, 2001, subject to departmental approvals, the payment of sales and property taxes, and further subject to the approval of the liquor control commissioner:

Coborn's, Inc. (Cash Wise Liquor), 625 West Central Entrance, with Don Wetter, CEO; and Christopher Coborn, president, transferred from Buckeye Gifts, Limited (Belliosio's Wine Warehouse), 525 Lake Avenue South.

Resolution 01-0306 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- - -

BY PRESIDENT EDWARDS:

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

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

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

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

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

Licensee	Gambling site	Date application filed
Northland Vietnam Veterans Owls Club	Western Tavern 118 East Second Street	April 3, 2001 March 26, 2001

Resolution 01-0307 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

WHEREAS, the Lincoln Park Business Group has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

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

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

Resolution 01-0308 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute a two-year agreement with the Oneida Realty Company, Inc., relating to the operation of the pedestrian draw bridge over Minnesota Slip; payments thereunder, in the estimated amount of \$27,900 per year, to be paid from General Fund 0100, Dept./Agency 500, Organization 1925, Object 5455.

Resolution 01-0315 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of wastewater compliance officer, including a title change to water quality specialist, which were approved by the civil service board on March 6, 2001, and which are filed with the city clerk as Public Document No. 01-0424-18, are approved. This classification remains represented by the basic unit and compensated at Pay Range 30, \$3,027 to \$3,618 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 01-0224 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Lois Maine for a term expiring March 30, 2002, replacing Timothy Wicklund who resigned.

Resolution 01-0291 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed specifications for the new civil service classification of utility operations supervisor, which were approved by the civil service board on February 6, 2001, and which are filed with the city clerk as Public Document No. 01-0424-19, are approved; that said classification shall be subject to the city's collective bargaining unit with its supervisory unit employees; and that pay range for said classification shall be Range 1080, \$3,899 to \$5,106 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 01-0295 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the city of Duluth does hereby accept a public right-of-way easement substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0424-20 from Lake Superior Center authority (LSCA) contingent upon conveyance of said easement by LSCA to the city, said easement being for the construction and extension of pathways on property in St. Louis County legally described in Exhibit A.

Resolution 01-0309 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that Markhurd be and hereby is awarded a contract for furnishing aerial photography mapping services for the planning and development department in accordance with specifications on its low specification bid of \$132,121, terms net 30, FOB Duluth, \$100,329.75 payable out of General Fund 0100, Dept./Agency 020, Organization 1202, Object 5310; \$5,738.63 payable out of Water Fund 0510, Dept./Agency 500, Organization 1930, Object 5441; \$5,738.63 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1930, Object 5441; \$5,738.63 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1930, Object 5441; \$5,738.63 payable out of Stormwater Fund 0535, Dept./Agency 500, Organization 1930, Object 5441; \$8,926.75 payable out of Community Development and Housing Fund 0265, Dept./Agency 020, Organization 0093, Object 5441.

FURTHERMORE, this resolution authorizes the proper city officials to accept \$25,000 from the Metropolitan interstate committee in connection with this project.

Resolution 01-0321 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Oneida Realty Company in the amount of \$27,000, as approved by the DEDA board at its meeting of April 17, 2001, pursuant to DEDA Resolution No. 01D-28, a copy of which is on file in the office of the city clerk as Public Document No. 01-0424-21, is hereby approved.

Resolution 01-0322 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the Miller Creek watershed is an important resource that is deserving of protection and restoration; and

WHEREAS, the cities of Duluth and Hermantown are cooperating in the restoration and enhancement of Miller Creek and to that end have formed the Miller Creek joint powers board; and

WHEREAS, the Miller Creek joint powers board is continuing in its efforts to restore and protect the watershed by involving citizens in restoration efforts that include monitoring the stream and securing funding for stream improvement projects;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby recognizes a continued partnership with the Miller Creek joint powers board and supports the efforts of the board to promote intergovernmental cooperation in restoring the watershed, protecting Miller Creek, promoting citizen involvement in watershed rehabilitation, engaging in stream monitoring and securing funding and implementation of stream improvement projects.

Resolution 01-0318 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0372 to Billman Construction, Inc., for construction of year 2000 street improvement project at Lower Congdon East, be amended to increase the amount by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

\$360,821.21 for a new total of \$1,432,067.01, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0004, Object 5530.

Resolution 01-0311 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Ferrellgas Company be and hereby is awarded a contract for furnishing and delivering 150,000 gallons of liquid propane for the utility and maintenance operations division in accordance with specifications on its low specification bid of \$116,750, terms net, FOB destination, \$112,850 payable out of Water Fund 0510, Dept./Agency 500, Organization 1955, Object 5390; \$3,900 payable out of General Fund 0100, various depts./agencies, various organizations, various objects.

Resolution 01-0314 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that D.C. Enterprises of Northern Minnesota, Inc., be and hereby is awarded a contract for construction of foundation pad and erection of new fly ash storage silo for the Duluth Steam District #1 in accordance with specifications on its low specification bid of \$28,436, terms net 30, FOB job site, payable out of Steam District #1 Fund 0540, Dept./Agency 920, Organization 1490, Object 5580.

Resolution 01-0316 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction of gas mains at various locations throughout the city for the utility operations division in accordance with specifications on its low specification bid of \$127,925, terms net 30, FOB job site, payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0319 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the city of Duluth accepts a grant of not to exceed \$10,000 from the Minnesota department of public safety pursuant to Minnesota Statutes Section 299C.065, Subdivision 1, for partial reimbursement of the city's costs in the Eric Schrieffer homicide investigation; said funds to be deposited in Fund 0100, Agency 200, Org. 1620, Revenue Source 4230.

RESOLVED FURTHER, that the chief of police is authorized to file any reports or execute any agreements necessary for said grant.

Resolution 01-0288 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established on both sides of the following streets:

West St. Andrews Street between Dunedin Avenue and Harvard Avenue;
30th Avenue East between Greysolon Road and Superior Street.

Resolution 01-0292 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established on both sides of the following street:

Kent Road between Chester Park Drive and Chester Park Drive Alley.

Resolution 01-0293 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of economic security, work force services branch, of not to exceed \$15,000 to reimburse the police department's police purchase of laptop computers and related equipment used in the police/probation partnership segment of the juvenile accountability incentive block grant; all revenue to be deposited into General Fund 0100, Dept. 200, Org. 1620, Revenue Source 4230.

BE IT FURTHER RESOLVED, that Scott Lyons, chief of Duluth police, is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the Duluth police department.

Resolution 01-0296 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute a drug elimination grant with the Duluth housing and redevelopment authority for an amount not to exceed \$110,000 relating to implementation of a federal drug elimination grant program, which documents are on file in the office of the city clerk as Public Document No. 01-0424-22. Grant monies shall be deposited in Fund 0215, Agency 200, Org. 2437, Revenue Source 4255.

Resolution 01-0298 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that which is on file in the office of the city clerk as Public Document No. 01-0424-23, with Building D, Inc., and Bananaz Limited Partnership for the extension of the Baywalk facility across their property adjacent to Minnesota Slip in the amount of \$161,198, payable from Fund 0255.

Resolution 01-0320 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that Watertronics, Inc., be and hereby is awarded a contract for upgrading two pump stations at Enger Park golf course for the parks and recreation department in accordance with specifications on its low specification bid of \$25,865.66, terms net 30, FOB job site, payable out of Golf Fund 0503, Dept./Agency 400, Organization 0500, Object 5580.

Resolution 01-0312 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 01-0323, by Councilor Hogg, urging city administration and staff to take prompt action to provide support for grant requests on behalf of a proposed living water garden for the Bayfront Festival Park area, was introduced for discussion.

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

Kay L. Lewis expressed support for the project and encouraging the use of organic materials.

Tom Allnew felt the maintenance costs for this project will be an ongoing burden on taxpayers and not a public necessity.

Resolution 01-0323 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth has supported development of a feasibility study for the creation of a living water garden in the Bayfront Festival Park area; and

WHEREAS, funds to undertake that study were secured and the feasibility study has been successfully completed; and

WHEREAS, development of a living water garden in the Bayfront Festival Park area has received statements of interest and support from such groups as the University of Minnesota-Duluth's Natural Resources Research Institute, the Nancy H. Gray Foundation for Arts in the Environment, the Minnesota pollution control agency, the Minnesota department of transportation, the Western Lake Superior Sanitary District, the Bush Foundation and the Minnesota department of natural resources's Lake Superior coastal program; and

WHEREAS, the Lake Superior coastal council has funds available and has expressed great interest in providing funding for design of the proposed living water garden; and

WHEREAS, needed funds to satisfy match requirements may be available from the Bush foundation if a Lake Superior coastal program grant is awarded; and

WHEREAS, action allocating such coastal program funding cannot be undertaken until the city of Duluth designates site alternatives for the living water garden and agrees to serve as fiscal agent for such funds; and

WHEREAS, available coastal program funds may be totally expended prior to June 1, 2001;

NOW, THEREFORE, BE IT RESOLVED, that the council strongly urges city staff and administration to quickly assign the highest priority to meeting coastal program requirements for a funding decision so that this opportunity is not lost through delay or failure to follow through.

Resolution 01-0323 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0310, by Councilor Stewart, confirming appointment of Barbara Hanson to planning commission replacing Alan Billington, was introduced for discussion.

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

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of Duluth declares the following policy for evaluation of applicants for service on a city board or commission:

Before deliberating upon the appointment of a citizen to a city of Duluth board or commission, the council shall be informed of the residency of the citizen-applicant. The council shall confirm the appointment of only citizen-applicants who are residents of the city, unless special exception from this policy be made by the council. Should the administration propose to appoint a nonresident, the reason for the proposal, and the special circumstances that justify an exception from the council's policy, should be communicated to the council so that it can deliberate about the matter.

Resolution 01-0324 was unanimously adopted.

Approved April 24, 2001

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

01-012 - AN ORDINANCE EXTENDING THE NORTH SHORE DEVELOPMENT MORATORIUM ESTABLISHED IN ORDINANCE NO. 9439 AND AMENDED IN ORDINANCE NO. 9450 UNTIL SEPTEMBER 19, 2002.

- - -

BY COUNCILOR STENBERG

01-013 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 27 AND 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF MAPLE GROVE ROAD AND EAST OF EKLUND AVENUE (PRIMROSE & THARES).

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BY COUNCILOR STENBERG

01-016 - AN ORDINANCE ESTABLISHING ARTICLE VII OF CHAPTER 28 OF THE CITY CODE ENTITLED "SMOKING IN PUBLIC PLACES."

- - -

BY COUNCILOR ECKENBERG

01-017 - AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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The following entitled ordinance was read for the second time:
BY COUNCILORS STENBERG, STEWART AND PRESIDENT EDWARDS
01-011 - AN ORDINANCE REPEALING ARTICLE VII OF CHAPTER 28 OF THE CITY CODE.

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

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The meeting was adjourned at 8:30 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 14, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Stenberg -- 1

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The minutes of council meetings held on April 9 and 24, 2001, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0514-22 Scott Greaves, et al. (ten signatures), submitting petition to construct a permanent alley in Seventh Street Alley between 40th and 41st Avenues West. -- Assessor

01-0514-01 Thomas E. Hayes submitting petition for a permanent street improvement of Harding Street from Central Entrance to Palm Street. -- Assessor

01-0514-20 Bruce R. Johnson, et al. (seven signatures), submitting petition to vacate the alley easement that goes through the middle of Block 17, Duluth Heights Fifth Division. -- Assessor

01-0514-02 Duane McCauley submitting application for a concurrent use permit to construct a detached garage on the water line easement across Lots 18, 19 and 20, Block 2, Brighton Gardens, First Division of Duluth. -- Planning commission

01-0514-16 Kay Biga submitting letter regarding the proposed business loss exemption from the provisions of the public smoking ordinance for the Duluth Grill (01-0384R, 01-0385R). -- Received

01-0514-03 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from: (a) Duluth YesterDays Event on May 5, 2001; (b) Kelly Hiukka and Jim Lord on May 19, 2001. -- Received

01-0514-18 The following submitting communications regarding the proposed amendment of a special use permit granted to Demolition Landfill Services, LLC, for a demolition and construction debris land disposal facility for property located at 1100 West Gary Street (01-0336R): (a) Jim Bartl; (b) Citizens Coalition of Gary-New Duluth; (c) Vern Kresky; (d) Rick and Stella Stoyanoff. -- Received

01-0514-17 The following submitting communications regarding the cities for climate protection campaign (01-0350R): (a) Environmental advisory council; (b) Carin Skoog. -- Received

01-0514-19 The following submitting communications regarding the McQuade Road safe harbor project (01-0360R): (a) Cheryl Erickson; (b) Don Monroe; (c) Kate Whittaker; (d) Grant Peterson. -- Received

01-0514-04 The following submitting letters regarding the previous removal of Lexington Street from 65th Avenue West to 66th Avenue West from the 2002 street improvement program (01-0219R): (a) Mary Nelson and Frances Fox; (b) Jeanne Tondryk. -- Received

01-0514-05 The following submitting communications regarding proposed changes to the smoking ban ordinance (01-011-O, 01-016-O and 01-017-O): (a) Barb Beichler; (b) Steve Johnson and Carol Kondrath; (c) Lincoln Park Business Group; (d) Dan Meister; (e) Cameron Merritt; (f) Michelle Mertes; (g) Sara Ostman; (h) Donald Poe; (i) St. Mary's/Duluth Clinic Health System; (j) Audrey Silk; (k) Steven J. Squillace; (l) Carol Thompson; (m) Jane Worley. -- Received

01-0514-21 The following submitting communications regarding Spirit Mountain golf course (01-0175R, 01-0176R and 01-0177R): (a) Janet Blixt; (b) Duluth Chamber of Commerce (supported by 29 signatures); (c) Martha Firling; (d) Edward Kale; (e) Donald O. Kienholz; (f) Craig Minowa; (g) Anett Trebitz. -- Received

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REPORTS OF OFFICERS

01-0514-06 Assessor submitting:

(a) For confirmation the assessment roll levied to defray the assessable portion of the proposed construction of street, sanitary sewer and watermain in 33rd Avenue West from Michigan Street to Superior Street, Contract 5324 (assessable - \$126,949.68);

(b) Letter of sufficiency of petition to vacate a portion of 14th Street between Minnesota Avenue and St. Louis Avenue;

(c) Letter of insufficiency of petition to reclassify 6600 Grand Avenue from R-2 to C-2;

(d) Affidavit of mailing of notice of public hearing of the special assessment board on May 21, 2001, at 3:00 p.m. in Room 106A, City Hall, regarding the proposed improvement of a permanent street on Harding Avenue from Central Entrance to Palm Street. -- Received

01-0514-07 Public works and utilities director submitting summary report of the WLSSD/ city of Duluth overflow reduction plan dated April 11, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0514-08 Board of zoning appeals minutes of March 27, 2001, meeting. -- Received

01-0514-09 Civil service board minutes of March 6, 2001, meeting. -- Received

01-0514-10 Duluth airport authority minutes of March 29, 2001, meeting. -- Received

01-0514-11 Duluth/North Shore sanitary district board minutes of: (a) April 3; (b) May 1, 2001, meetings. -- Received

01-0514-12 Parks and recreation commission minutes of: (a) January 10; (b) February 14; (c) March 14, 2001, meetings. -- Received

01-0514-13 Seaway Port authority of Duluth minutes of: (a) February 14; (b) March 28, 2001, meetings. -- Received

01-0514-14 Spirit Mountain recreation area authority minutes of: (a) October 25; (b) November 10; (c) November 29; (d) December 27, 2000; (e) January 24; (f) February 7; (g) March 8; (h) March 19, 2001, meetings. -- Received

01-0514-15 Tree commission minutes of: (a) February 13; (b) March 19, 2001, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Sam Lincoln voiced concern about the underage college drinking and parties that are going on in his neighborhood and the lack of the city enforcing the law for underage drinking. He requested the law be changed to stop the houses being rented to students.

Several councilors agreed that there is a problem in the city and the need to investigate a nuisance abatement ordinance that would cover this issue.

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Peggy Marrin urged councilors to remain firm to their convictions and be willing to take the heat from the legislature and public over various issues.

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William Dols explained that the water pressure in his house and the neighborhood is getting very low and he needs to have a pressure pump installed in the house. A watermain broke on London Road and after it was finally repaired, the sand destroyed his pump. He said that the city should reimburse him for the pump breaking; but now the city is denying his claim. Mr. Dols added that the water supply to residences should be at the standard that is set by the city engineering division and, if the standard cannot be met, the city should assist the homeowner to meet that water pressure standard.

- - -

KL Lewis questioned why advertisements promoting Duluth and Duluth sports are nearly invisible in magazines. She also voiced concern over several safety issues in the city including: underage drinking, a pedestrian crossing at the Home Depot intersection and skateboarders intimidating the pedestrians on sidewalks.

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At this time, 7:45 p.m., the public hearing regarding DTA summer teen passes was called to order (Public Document No. 01-0514-39).

- - -

At this time, 7:50 p.m., the public hearing was closed and the regular order of business was resumed.

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CJ Bird stated that the smoking ordinance is an example of discrimination, even though the council passed the ordinance under the best of intention. She questioned how the human rights commission could pass an ordinance trying to protect rights when the council cannot stop discrimination against businesses and citizens.

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RESOLUTIONS TABLED

At this time, Councilor Stewart moved to consider Resolution 01-0388, which motion was seconded and carried upon a unanimous vote.

Resolution 01-0388, by Councilor Stewart, establishing criteria for council approval of appointees to boards, commissions and authorities and requesting that the administration consider these criteria when making recommendations for such appointments, was introduced for discussion.

Resolution 01-0388 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, the majority of appointments to boards, commissions and authorities are made by the administration with the approval of the council; and

WHEREAS, the city council wishes to establish general criteria to be used when considering such appointments; and

WHEREAS, the city council wishes to inform the administration of said criteria in order to facilitate the approval of recommendations for appointments to boards, commissions and authorities;

NOW, THEREFORE, BE IT RESOLVED, that the city council establishes the following general criteria for confirming appointments to boards, commissions and authorities:

(a) Geographic representation of all areas of Duluth: to the greatest extent possible, the council desires that board, commission and authority appointees be representative of all areas of Duluth, from eastern, central and western parts of the city;

(b) Diversity of ethnicity, age and income: to the greatest extent possible, the council desires that board, commission and authority appointees be representative of diverse ethnicities, ages, and income levels;

(c) Gender balance: to the greatest extent possible, the council desires that boards, commissions and authorities consist of relatively equal numbers of men and women;

(d) Diversity of thought and expertise: to the greatest extent possible, the council desires that board, commission and authority appointees be representative of a variety of ideological perspectives and a variety of areas of expertise.

BE IT FURTHER RESOLVED, that the council requests that the administration consider these criteria when recommending appointees for council approval, and that the administration attempt to fill all vacancies in a timely manner, and that all applicants be promptly informed of the receipt of their applications and that they be regularly apprized of the status of their applications.

Resolution 01-0388 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stewart moved to remove Resolution 01-0310, confirming appointment of Barbara Hanson to planning commission replacing Alan Billington, from the table, which motion was seconded and carried upon a unanimous vote.

Councilor Stewart reviewed that there are already four commission members in the real estate field, and that the council has made it clear with their new policy that it would like to see more diversity on the commission in areas of scientific expertise and environmental knowledge.

Councilor Hogg stated that the new policy Councilor Stewart referred to had just been adopted at the meeting and would not be appropriate to change policy now, especially when someone has just been interviewed for the position.

Resolution 01-0310 failed upon the following vote (Public Document No. 01-0514-23):

Yeas: Councilors Eckenberg, Hogg and President Edwards -- 3

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

Absent: Councilor Stenberg -- 1

[Editor's Note: Resolution 01-0310 was reconsidered at the May 29, 2001, council meeting and again failed to pass.]

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

WHEREAS, the city and Arrowhead Youth Soccer Association (AYSA) have previously recognized that youth soccer in Duluth has experienced explosive growth in recent years and both parties have worked together to address the city's lack of "regulation" soccer fields; and

WHEREAS, the city and AYSA have previously entered into an agreement in which the city and AYSA agreed to work toward the development and eventual completion of a soccer field complex consisting of five regulation soccer fields (the complex) located on city property at the Jean Duluth and Riley Roads; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, in 1997 AYSA paid in excess of \$80,000 to have the complex designed and substantially constructed, except for the grass playing surface; and

WHEREAS, in order to complete the field in 1997 for play in 1998, the city agreed to loan \$55,000 to AYSA at an annual rate of interest of four percent as evidenced by a note (the note), to install sod in the fall of 1997; and

WHEREAS, since then the AYSA have made interest only payments on the loan; and

WHEREAS, for 2001, the city has budgeted \$20,000 in its capital improvement plan to be used to complete perimeter fencing at the complex; and

WHEREAS, the AYSA was able to secure a grant for the fencing from the Duluth Rotary which eliminated the need for the city to pay for said fencing; and

WHEREAS, the council believes that it is important to the community to assist with providing recreational infrastructure facilities for youth and adult sports in Duluth, including soccer facilities.

RESOLVED, that the Duluth City Council hereby authorizes the appropriate city officials to re-allocate \$20,000 from the 2001 capital improvement plan budget (0450-015-2001-C114) from paying for fencing for the complex to reducing the outstanding balance on the aforesaid AYSA note, as partial reimbursement for the costs of sod at the complex and to modify the note to reflect said reduction in outstanding principal amount.

FURTHER RESOLVED, that said officials are hereby authorized to further modify the terms of the note to to be deemed to have been non-interest bearing from its date of inception and applying all past AYSA interest payments to principal reduction.

FURTHER RESOLVED, that said city officials are hereby authorized to further modify the note, which after principal reduction as hereinbefore provided for, is deemed to be in the unpaid principal amount of \$30,000, to allow payment thereof over a term of five years with payments of \$6,000 per year.

Resolution 01-0330 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Waste Management of Northern Minnesota be and hereby is awarded a contract for garbage/refuse removal at various city of Duluth buildings and locations for various departments and divisions in accordance with specifications on its low specification bid of \$103,100, terms net 30, FOB job site, payable out of various funds, depts./agencies, organizations, objects.

Resolution 01-0348 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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

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

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

NOW, THEREFORE, BY IT RESOLVED, that the Duluth City Council approves of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Minnesota gambling control board issuing premise permits to the following organizations.

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

Licensee	Gambling site	Date application filed
Lake Superior Steelhead	Club Saratoga	May 4, 2001
Lake Superior Steelhead	Mr. D's Spirit Valley	May 4, 2001
Epilepsy Foundation of Northeast- ern Minnesota	Pioneer Bar	April 12, 2001
Epilepsy Foundation of Northeast- ern Minnesota	C W Chips	April 12, 2001
Climb Theater	Rustic Bar	April 9, 2001

Resolution 01-0362 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

WHEREAS, the Pheasants Forever, Arrowhead Chapter, has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Pheasants Forever, 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 01-0363 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Four-Star Construction, Inc., be and hereby is awarded a construction contract for Wade Stadium dugout improvements, in accordance with plans and specifications as prepared by Architects IV, on its low bid of \$85,677, payable out of Capital Fund 450.

Resolution 01-0373 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Chesley Freightliner-Duluth be and hereby is awarded a contract for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

furnishing and delivering one Freightliner Model FL80 cab and chassis for the fleet services divisions in accordance with specifications on its low specification bid of \$59,136.50, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS01, Object V104.

Resolution 01-0375 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Ruffridge Johnson Equipment Company be and hereby is awarded a contract for furnishing and delivering one street flusher for the fleet services divisions in accordance with specifications on its low specification bid of \$51,550.51, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS01, Object V104.

Resolution 01-0376 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the city council hereby reappoints Dennis E. Birchland to the civil service board for a term expiring May 1, 2007.

Resolution 01-0339 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH PUBLIC ARTS COMMISSION

Dorian Beaulieu for a term expiring September 30, 2004, replacing Catherine Ishino who resigned.

Resolution 01-0352 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a community development block grant (CDBG) program agreement in the amount of \$50,000, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 01-0514-24, with YWCA, payable from 2000 Federal Program 262, Agency 623, Obj. 6336.

Resolution 01-0326 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, May 13-19, 2001, is National Historic Preservation Week; and

WHEREAS, the theme of this year's preservation week is Restore * Renew * Rediscover Your Historic Neighborhood Schools; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, Duluth has an abundance of architecturally and historically significant structures and properties worthy of preservation; and

WHEREAS, many Duluthians have shown their personal commitment to preservation through investments of time and money in their properties; and

WHEREAS, preservation of the community's historic properties contributes to Duluth's uniqueness, attractiveness, livability and economic strength; and

WHEREAS, preservation of Duluth's heritage serves to enhance our community through connecting to the past and investing in irreplaceable community resource.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the week of May 13 through May 19, 2001, is hereby declared Duluth Historic Preservation Week.

Resolution 01-0331 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth, pursuant to Resolution 99-0746, established certain project accounts for the 2000 city of Duluth CDBG program (Fund 262); and

WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending reprogramming the amount of \$50,000 into a new program account.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to amend Resolution 99-0746 to add a new project to the 2000 city of Duluth CDBG program (Fund 262), as follows:

<u>Account</u>	<u>Amount</u>	<u>Project</u>
6336	\$50,000	YWCA child care

Resolution 01-0335 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Independent Consulting Engineers, Inc. (I.C.E.), for the sum of not to exceed \$10,675, from Community Development Fund 262, Dept. 6221, Obj. 6118, for providing certain engineering services to the city of Duluth in connection with the design for an outdoor/seasonal ice rink at Lower Chester, 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. 01-0514-25.

Resolution 01-0372 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council under which the Greater Downtown Council will conduct certain activities in the Downtown area, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0514-26, at a cost to the city of \$87,194, payable from General Fund 0100-015-2030-SP05.

Resolution 01-0343 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of David and Michael Hudyma, d/b/a Brigham Upholstery, Inc.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of David and Michael Hudyma, d/b/a Brigham Upholstery, Inc.

Resolution 01-0361 was unanimously adopted.

Approved May 14, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the proper city officers are hereby authorized to enter into a lease agreement (Public Document No. 01-0514-27) 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, 2001, through September 30, 2001, at no cost to the authority.

Resolution 01-0333 was unanimously adopted.

Approved May 14, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Eggebrecht Chevrolet-Olds be and hereby is awarded a contract for furnishing and delivering four Chevrolet pickup trucks, eight foot wide side boxes, single rear wheels for the utility operations division in accordance with specifications on its low specification bid of \$122,426.01, terms net 30, FOB destination, payable out of \$36,727.80 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580; \$55,091.71 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580; \$30,606.50 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 01-0313 was unanimously adopted.

Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of Bridge No. 69639 over Keene Creek on Skyline Parkway, S.A.P. 118-113-12; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$201,301.76.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

grant and affirms that any reconstruction costs qualify for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for reconstruction costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

RESOLVED FURTHER, grant monies received hereunder shall be deposited into Permanent Improvement Fund 0411, Agency 035, Org. 2137.

Resolution 01-0327 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Douglas J. Blesener and Molly K. Blesener to petition for the permanent improvement of Tioga Street from Colorado Street northerly and easterly to the terminus of the Woodridge Division of Duluth plat and for the construction of a watermain across the front of Lot 1, Block 1, Woodridge Division of Duluth; said agreement filed as Public Document No. 01-0514-28.

Resolution 01-0329 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the department of transportation of the state of Minnesota has submitted to the city of Duluth an agreement for the maintenance of Trunk Highways No. 23, No. 39, No. 61 and No. 194 within the corporate limits of the city of Duluth;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute Mn/DOT Agreement No. 81553 (Public Document No. 01-0514-29), with the state of Minnesota, department of transportation for the following purposes:

to provide for routine maintenance by the city within the corporate city limits upon, along and adjacent to Trunk Highways No. 23, No. 39, No. 61 and No. 194, the limits of which are defined in said agreement.

RESOLVED FURTHER, that monies received under this agreement, which are estimated to be \$357,559.84 during state fiscal years 2002 and 2003, shall be deposited in the General Fund 100-500-1920-5234.

Resolution 01-0332 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Ohio Casualty Group, as subrogee of Robert Olson, the amount of \$10,555.80 in full settlement of all claims for damage to their insured's property at 109 South 15th Avenue East resulting from a watermain break which occurred on January 30, 2000; payment to be made from the self insurance fund.

Resolution 01-0334 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the department of transportation of the state of Minnesota has submitted to the city of Duluth an agreement for the maintenance of vegetation, landscaping and sidewalks along Trunk Highway No. 53, within the corporate limits of the city of Duluth;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute Mn/DOT Agreement No. 81554, filed as Public Document No. 01-0514-30, with the state of Minnesota, department of transportation.

RESOLVED FURTHER, that monies received under this agreement, which are estimated to be \$20,000 during state fiscal years 2002 and 2003, shall be deposited in the General Fund 0100-500-1920-4654.

Resolution 01-0338 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Redstone Construction Company be and hereby is awarded a contract for reconstruction of Bridge Number 69639 on Skyline Parkway over Keene Creek for the engineering division in accordance with specifications on its low specification bid of \$296,055.86, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2137, Object 5530; to be reimbursed \$94,754.10 from municipal state aid and \$201,301.76 from State Transportation Fund 29.

Resolution 01-0344 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of year 2001 street improvement at Woodland Avenue Central West for the engineering division in accordance with specifications on its low specification bid of \$471,525.76, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0108, Object 5530.

Resolution 01-0345 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering cold water meters for the utility operations division in accordance with specifications on its low specification bid of \$81,301.61, terms net 30, FOB destination, payable out of Water Fund 0510, Dept./Agency 500, Organization 2410, Object 5227.

Resolution 01-0346 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Dresser Measurement be and hereby is awarded a contract for furnishing and delivering 53 Roots temperature compensated natural gas meters for the utility operations division in accordance with specifications on its low specification bid of \$42,980.21, terms net 30,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

FOB destination, payable out of Gas Fund 0520, Dept./Agency 500, Organization 2410, Object 5227.

Resolution 01-0354 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of the year 2001 street improvement project of Denney Drive for the engineering division in accordance with specifications on its low specification bid of \$162,879.10, terms net 30, FOB job site, payable out of Street Improvement Project Fund 0440, Dept./Agency 038, Organization 0105, Object 5530.

Resolution 01-0355 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction year 2001 street improvement project of Lakeside Central for the engineering division in accordance with specifications on its low specification bid of \$599,682.82, terms net 30, FOB job site, payable out of Street Improvement Project Fund 0440, Dept./Agency 038, Organization 0107, Object 5530.

Resolution 01-0356 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 500 electronic parking meters with plastic domes, post adapters and housings for the traffic operations division in accordance with specifications on its low specification bid of \$103,493.51, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 2020, Object MS07.

Resolution 01-0357 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute a limited use permit with the Minnesota department of transportation covering the use by the city for a period of ten years of the Lake Place parking lot which is within the right-of-way of Trunk Highway No. I-35 beneath and adjacent to Bridge No. 69816 at First Avenue East in Duluth; said limited use permit to be in the form of Public Document No. 01-0514-31 on file in the office of the city clerk, and shall include by reference the provisions of diagram "Exhibit A" attached to said permit.

Resolution 01-0358 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR ECKENBERG:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of Superior Street between 21st Avenue East and 26th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$744,608.45, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2147, Object 5530; to be reimbursed by municipal state aid turnback funds.

Resolution 01-0366 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction year 2001 street improvement project of Lower Congdon Park West for the engineering division in accordance with specifications on its low specification bid of \$597,718.68, terms net 30, FOB job site, payable out of Street Improvement Project Fund 0440, Dept./Agency 038, Organization 0104, Object 5530.

Resolution 01-0367 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide design of retaining wall on 13th street between Central Entrance to 655 feet westerly; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the design phase; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$6,626, will be payable from the Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0101, Object 5530.

Resolution 01-0368 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that St. Louis County department of communications be and hereby is awarded a contract for furnishing computer aided dispatch system access for the police department in accordance with specifications on its low specification bid of \$24,360, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5441.

Resolution 01-0349 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, the proper city officers are hereby authorized to accept a grant in the amount of \$27,500 from the Lincoln Park Youth Collaborative for youth recreational activities set forth in the communications on Exhibit A and filed as Public Document No. 01-0514-32. These monies shall be expended as provided in Exhibit A during the period of January 1, 2001, through December 31, 2001; such funds shall be deposited into Parks and Recreation Account No. 0100-400-1812.

Resolution 01-0328 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into a licensing agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 01-0514-33, with Canada Stained Glass Limited.

FURTHER RESOLVED, that all proceeds received from the above-referenced licensing agreement will be deposited in the municipal arts fund, Fund 0745.

Resolution 01-0359 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute agreements, copies of which are filed with the city clerk as Public Document No. 01-0514-34, with the state of Minnesota, department of natural resources, authorizing the city to perform certain maintenance at the Clyde Avenue (Munger access) and Rice's Point boat launch sites, in consideration of \$1,500 to be paid by the department of natural resources to the city. Reimbursements received shall be deposited into public works and utilities department, street and park maintenance division, General Fund 100, Department 500, Division 1920, Revenue Source 4230.

Resolution 01-0364 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0342, by Councilor Hogg, requesting the Charter commission to recommend adoption of an ordinance adding a new Section 53(a) to the City Charter which would authorize the city to accept payment by credit card or electronic transfer, was introduced for discussion.

Councilor Fena moved to amend the draft ordinance accompanying the resolution by removing the second sentence of Section 53(A), which motion was seconded and unanimously carried.

Resolution 01-0342, as amended, was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the city council hereby requests the Duluth Charter commission to recommend adoption of an ordinance adding a new Section 53(a) to the City Charter to authorize the city to accept payment by credit card or electronic transfer, which proposed amendment is on file in the office of the city clerk as Public Document No. 01-0514-35.

Resolution 01-0342, as amended, was unanimously adopted.

Approved May 14, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

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Resolution 01-0360, by councilors Hogg and Stewart, directing the city attorney to provide research, assistance and advice in support of the council's intent to defend the city against any administrative, legislative or judicial attempt to overturn or overrule the city's decision denying a state of Minnesota request to lease a portion of Duluth's Congdon charitable trust lands for the McQuade public access project, was introduced for discussion.

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

Eric Dings, KL Lewis, Clyde Ritchie, Glen Maxxim, John Green, Kate Whittaker, Tom Johnson, Christine Wagner, Julie Gregoire, John Sanford supported the resolution, stating that everyone should be concerned about the state taking land that the city wants for another public purpose.

Councilors agreed that it is an issue of local control, the city needs to defend its position against the state and it is outrageous that the legislators want to take control over this project.

President Edwards stated that the council should not have reversed their position on this project after it had moved forward for several years and stated support for Senator Solon taking the initiative to move this project forward as he is representing the majority of people.

Resolution 01-0360 was adopted as follows:

BY COUNCILORS HOGG AND STEWART:

WHEREAS, the Minnesota legislature is considering legislative action to force the city of Duluth to make a portion of the Congdon Charitable Trust property available for use as part of the proposed McQuade public access project; and

WHEREAS, the Duluth City Council has, by a majority vote of 6-3, denied the state of Minnesota's request to lease Congdon Charitable Trust property for that purpose; and

WHEREAS, it is inappropriate and may well be illegal for the state of Minnesota to overrule or overturn the city of Duluth's decision about this matter; and

WHEREAS, members of the city council have received information, set forth in Public Document No. 01-0514-37 (Exhibit A), indicating that the state has no power to condemn and take the property and that any special legislation to force the city to make the property available would require city council approval; and

WHEREAS, in accordance with Section 26 of the City Charter, the city attorney is required to perform such duties as the council may require;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby directs the city attorney to carefully research the proposed state legislative action, the issues raised in Exhibit A, pertinent state statutes, the Duluth City Charter and other appropriate sources for the purpose of preparing a strong legal defense against any administrative, legislative or judicial attempt to overturn or overrule the city of Duluth's decision in this matter.

Resolution 01-0360 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: President Edwards -- 1

Absent: Councilor Stenberg -- 1

Approved May 14, 2001, pursuant to Section 12 of the Duluth City Charter.

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At this time, 8:45 p.m., Councilor Stover left the meeting.

- - -

BY COUNCILOR HOGG:

RESOLVED, that the Duluth City Council hereby manifests its intent to enter into an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

agreement with the reservation business committee of the Fond du Lac Band of Lake Superior Chippewa to allow customers of the Fond-du-Luth Casino to have one hour of free parking in the adjacent, city owned parking ramp in exchange for the committee's commitment to expand slot machine gaming at the casino.

Resolution 01-0369 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED that the Duluth City Council hereby manifests its intent to create in the treasury of the city of Duluth a fund designated as the Old Downtown development fund for the purpose of funding the redevelopment of the Old Downtown district as designated in Resolution 99D-26 of the Duluth economic development authority.

Resolution 01-0370 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that commencing in the year 2002, a sum equal to the average, per-machine net revenues of the slot machines located at the casino, paid into the Community Investment Fund in any such year to said fund, times 200 machines shall be transferred to the following funds:

(a) To the general fund, up to an amount each year which is equal to the cost to the city of operating the one hour free parking program to be contained in the agreement referred to in Resolution No. 01-0369 for that year;

(b) Commencing in the year 2002 and until the end of the year 2006, all amounts in excess of those transferred pursuant to Paragraph (a). of this resolution above in any year, to the Old Downtown development fund.

RESOLVED FURTHER, that this resolution shall be deemed to be effective only in the event that the agreement described in Resolution No. 01-0369 between the reservation business committee of the Fond du Lac Band of Lake Superior Chippewa is entered into by the city prior to December 31, 2001, and if such agreement is not so entered into before that date, this resolution shall be deemed to null and void and of no further effect.

Resolution 01-0371 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

WHEREAS, the city of Duluth has sustained losses of a major proportion brought on by an ice storm, rain, winds and flooding during March and April 2001; and

WHEREAS, on April 27, 2001, Lynn Fena, acting mayor of the city of Duluth, declared a local emergency pursuant to the provisions of Chapter 12, Minnesota Statutes; and

WHEREAS, Minnesota Statutes Section 12.29, subdivision 1, provides that no declaration of local emergency shall be continued for a period longer than three days without the consent of the local governing body of the political subdivision;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the declaration of local emergency made by Acting Mayor Fena on April 27, 2001, and consents to the extension of this declaration until May 4, 2001.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0353 was unanimously adopted.
Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

Resolution 01-0384, approving, and Resolution 01-0385, denying, respectively, a business loss exemption from the provisions of the public smoking ordinance for Duluth Grill, 118 South 27th Avenue West, by President Edwards, were introduced for discussion.

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

Kay Biga, owner of the Duluth Grill, stated that the restaurant sustained more than a 15 percent loss in business, council has approved other exemptions, and she is leasing the property to another business which does not affect her ability to apply for the exemption. She added that restaurant being closed should not be a factor on why she cannot receive an exemption, and that she wants to be treated the same as the other restaurants that have obtained an exemption.

Councilor Hogg stated that there is no standard that the council must meet to deny a request and added that the council should not give an exemption to a restaurant that is closed.

Councilor Fena suggested that the resolutions should be tabled until the council deals with the smoking ordinance amendments on May 29.

CJ Bird stated that equal treatment is a protected right and the council needs to respect the law and treat all businesses as equal. She added that a new tenant would start on an unfair playing field with the rest of businesses, that Lincoln Park needs that restaurant and it is good for the neighborhood and the 30 people who will have their jobs back.

Councilor Fena moved to table the resolutions, which motion failed upon the following vote:

Yeas: Councilors Fena, Ness and Stewart -- 3

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

Absent: Councilors Stenberg and Stover -- 2

Resolution 01-0384 failed upon the following vote (Public Document No. 01-0514-36):

Yeas: Councilors Eckenberg, Ness and President Edwards -- 3

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

Absent: Councilors Stenberg and Stover -- 2

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Resolution 01-0385 was adopted upon the following vote:

Yeas: Councilors Fena, Gilbert, Hogg and Stewart -- 4

Nays: Councilors Eckenberg, Ness and President Edwards -- 3

Absent: Councilors Stenberg and Stover -- 2

[Editor's Note: Resolution 01-0385 was vetoed by Mayor Doty on May 22, 2001 (Public Document No. 01-0529-10), reconsidered at the May 29, 2001, council meeting and passed.]

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Resolution 01-0340, confirming reappointment of Robert Brooks to Duluth economic development authority; and Resolution 01-0341, appointing _____ to Seaway Port authority of Duluth replacing Thomas Grosser, by Councilor Stewart, were introduced for discussion.

Councilor Stewart moved to table both resolutions for committee meetings on May 24, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established a certain Duluth 1200 Fund CDBG account; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to reprogram and transfer \$200,000 from the Duluth 1200 Fund CDBG account to the following 2000 CDBG account for the FY2000 projects as follows:

Account	Project Name	Previous Budget	Revised Budget	Difference
6336	YWCA child care	-0-	\$50,000	\$50,000
6335	Contingency	\$33,000	\$150,000	\$183,000

BE IT FURTHER RESOLVED, that the proper city officials will reprogram and transfer the additional funds in the contingency account to other CDBG accounts at a later date, subject to city council approval.

Resolution 01-0325 was unanimously adopted.
 Approved May 14, 2001
 GARY L. DOTY, Mayor

- - -

Resolution 01-0336, by Councilor Ness, amending Resolution 00-0336 granting a special use permit to Demolition Landfill Services, LLC, for a demolition and construction debris land disposal facility for property located at 1100 West Gary Street, was introduced for discussion.

Councilor Ness moved to table the resolution for a June 4 committee meeting, which motion was seconded and unanimously carried.

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Resolution 01-0379, granting, and Resolution 01-0380, denying, respectively, Jim Gruba and Shirley Reiersen a variance from the impervious surface requirements of Section 51-29 of the Duluth City Code for property located at 2525 Minnesota Avenue, by Councilor Ness, were introduced for discussion.

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

Jim Gruba, one of the appellants, reviewed the aspects of their reasons for a variance and requested the council grant the variance.

Noel Knudson stated that this addition will provide a driveway for guests and this will upgrade the neighborhood.

Councilor Eckenberg stated that the planning commission and the council have two different roles – the planning commission needs to follow the letter of the law, while the council has the purview to look at the greater good served by the variance.

Jeff Jackson, planning commission chairperson, stated that this variance would set a new exception, since all other examples of a variance of this type results in a net reduction in impervious surface.

Resolution 01-0379 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, on May 7, 2001, the appeal of Jim Gruba and Shirley Reiersen to exceed the 30 percent impervious surface requirement of Section 51-29 of the Duluth City Code came before the city council in the city council chambers in Duluth, Minnesota, with Jim Mohn, Duluth planning staff; Jeff Jackson, planning commission; Jim Gruba, appellant; Noel Knutson, appellant's architect; and Shirley Reiersen, appellant; all submitting testimony on the matter;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, the Duluth City Council makes the following findings of fact in this matter:

(a) The city council adopts the testimony of Jim Gruba that the easement between the house he is buying and the duplex was in existence when the person he is purchasing the property from purchased the property so that the problem caused by the existing driveway was not created either by Mr. Gruba or the seller of the property;

(b) On street parking on Park Point and the lack of off street parking on Park Point are significant neighborhood problems;

(c) The house that the appellant is buying is set back from the street more than other surrounding dwellings so that the addition of the garage will not adversely affect the aesthetics of the neighborhood;

(d) Through the use of Geo Block, appellants are mitigating adverse runoff effects from the driveway to the garage;

(e) The increase in impervious surface from 43 percent to 50 percent in light of the Geo Block mitigation is not significant;

(f) The project as presented by the appellant constitutes a reasonable use of the property;

(g) Because of parking problems in the Park Point neighborhood, the narrow width of appellant's lot, and the existing driveway easement running through appellant's lot, not having a garage or off street parking constitutes a legitimate hardship in this case.

THEREFORE, the appellants have shown by substantial evidence that they have a hardship relating to the property at 2525 Minnesota Avenue in that they have no garage or off street parking and that this hardship was neither created by them or the seller of their property.

RESOLVED, that the appellants have met the standard set forth in Section 51-30 for a variance and their variance shall be approved and the decision of the planning commission in this matter shall be reversed.

Resolution 01-0379 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

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Resolution 01-0380 failed unanimously (Public Document No. 01-0514-38).

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BY COUNCILOR NESS:

WHEREAS, the Duluth transit authority in 1999 and 2000, with the cooperation of the Northland Foundation and its alliance with youth committee, offered a summer pass for teen riders; and

WHEREAS, the program was successful for the Duluth transit authority both in terms of revenue and ridership; and

WHEREAS, the Duluth transit authority desires to continue this program in the year 2001; and

WHEREAS, the Duluth City Council has held a public hearing on the summer teen pass program as required by Laws of Minnesota, 1969, Chapter 720, Section 6(g);

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request to sell a summer teen pass for a reduced price of \$30 for the summer or \$10 per month for the months of June, July and August, 2001.

Resolution 01-0365 was unanimously adopted.

Approved May 14, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0350, pledging cooperation of the city of Duluth to reduce greenhouse gas emissions, by councilors Ness and Stewart, was introduced for discussion.

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

Karin Skoog stated that this program focuses on assisting local governments with the issue of global warming; it encourages strategies for conserving energy and natural resources for local governments; it's an association for local governments, which is free and voluntarily, to network with other cities to promote thinking globally and acting locally.

Councilor Ness moved to table the resolution for a May 21 committee meeting, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT EDWARDS

01-014 - AN ORDINANCE ELIMINATING LIMOUSINE REGULATIONS; REPEALING ARTICLE V OF CHAPTER 47, DULUTH CITY CODE, 1959, AS AMENDED.

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BY PRESIDENT EDWARDS

01-015 - AN ORDINANCE PERTAINING TO THE LICENSING OF MASSAGE THERAPISTS; INCREASING THE EDUCATIONAL REQUIREMENTS; AMENDING SECTION 5-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STENBERG

01-018 - AN ORDINANCE REGULATING THE PLACEMENT OF PERSONAL WIRELESS COMMUNICATION SERVICE TOWERS WITHIN THE CITY; AMENDING SECTION 50-35 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR STENBERG

01-019 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO R-1-B SINGLE FAMILY RESIDENTIAL PROPERTY LOCATED SOUTH OF GLENWOOD STREET BETWEEN SOUTH RIDGE ROAD AND WOODCREST DRIVE (BAUMGARTEN).

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BY COUNCILOR ECKENBERG

01-020 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH TO CARL J. AND BERNADINE F. LUNDBERG.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART (introduced by Councilor Stenberg)

01-012 (9488) - AN ORDINANCE EXTENDING THE NORTH SHORE DEVELOPMENT MORATORIUM ESTABLISHED IN ORDINANCE NO. 9439 AND AMENDED IN ORDINANCE NO. 9450 UNTIL SEPTEMBER 19, 2002.

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

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BY COUNCILOR STEWART (introduced by Councilor Stenberg)

01-013 (9489) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 27 AND 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF MAPLE GROVE ROAD AND EAST OF EKLUND AVENUE (PRIMROSE & THARES).

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

Jim Thares urged support of the ordinance.

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

- - -

BY COUNCILOR STEWART (introduced by Councilor Stenberg)

01-016 - AN ORDINANCE ESTABLISHING ARTICLE VII OF CHAPTER 28 OF THE CITY CODE ENTITLED "SMOKING IN PUBLIC PLACES."

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

- - -

BY COUNCILOR ECKENBERG

01-017 - AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 10:20 p.m.

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

- - -

ORDINANCE NO. 9488

BY COUNCILOR STEWART (INTRODUCED BY COUNCILOR STENBERG):

AN ORDINANCE EXTENDING THE NORTH SHORE DEVELOPMENT MORATORIUM ESTABLISHED IN ORDINANCE NO. 9439 AND AMENDED IN ORDINANCE NO. 9450 UNTIL SEPTEMBER 19, 2002.

The city of Duluth does ordain:

Section 1. Statement of purpose.

On February 14, 2000, the Duluth City Council, in Ordinance 9439, enacted a one-year development moratorium on development on the North Shore of Lake Superior within Duluth. The moratorium took effect on March 20, 2000. Its purpose was to allow both the city of Duluth and the Duluth/North Shore sanitary district to complete planning studies and to allow Duluth to adjust its land use regulations to address changing conditions in land use patterns in the area because of the construction of a sanitary sewer serving the area. The Duluth City Council amended the moratorium in Ordinance 9450 to allow limited construction of one family dwellings under certain circumstances in the moratorium area. The Duluth/North Shore sanitary district's planning study will not be completed until at least October of 2001, and the city of Duluth's comprehensive plan

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

development for the area will be completed some time after that. Beyond the completion of the planning processes, it will take a significant amount of time to draft and enact appropriate land use controls based on the planning studies. Because of these factors, it is necessary to extend the moratorium 18 months to protect Duluth's scenic North Shore area.

Section 2. Moratorium extended to September 19, 2002.

For the reasons set forth in Section 1 of this ordinance, the city of Duluth hereby extends the North Shore development moratorium as established by Ordinance No. 9439 and amended by Ordinance No. 9450 to September 19, 2002.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: June 24, 2001)

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

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and President Edwards -- 7

Nays: None -- 0

Absent: Councilors Stenberg and Stover -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 14, 2001
Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9489

BY COUNCILOR STEWART (INTRODUCED BY COUNCILOR STENBERG):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 27 AND 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF MAPLE GROVE ROAD AND EAST OF EKLUND AVENUE (PRIMROSE & THARES).

The city of Duluth does ordain:

Section 1. That Plate Nos. 27 and 28 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAPS]

[see pages at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 24, 2001)

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

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and President Edwards -- 7

Nays: None -- 0

Absent: Councilors Stenberg and Stover -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 14, 2001
Approved May 14, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, May 21, 2001, 8:50 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR ECKENBERG:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of year 2001 street improvement at Hunters Park West for the engineering division in accordance with specifications on its low specification bid of \$602,965.28, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0106, Object 5530.

Resolution 01-0389 was unanimously adopted.

Approved May 21, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Northland Constructors, LLC, be and hereby is awarded a contract for construction of the year 2001 street improvement project of Congdon Park Central for the engineering division in accordance with specifications on its low specification bid of \$939,337.10, terms net 30, FOB job site, payable out of Street Improvement Project Fund 0440, Dept./Agency 038, Organization 0103, Object 5530.

Resolution 01-0390 was unanimously adopted.

Approved May 21, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of street improvement of East Fourth Street from Wallace Avenue to Hawthorne Road for the engineering division in accordance with specifications on its low specification bid of \$738,319.66, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2142, Object 5530; to be reimbursed by municipal state aid funds.

Resolution 01-0391 was unanimously adopted.

Approved May 21, 2001

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 8:54 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 29, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0529-01 Robert H. Backstrom, et al. (four signatures) submitting petition to vacate that part of 38th Avenue East adjacent to Lots 18 and 19 and Block 11 Plat 11 of Crescent View Park. – Assessor

01-0529-02 Robert A. DeDeominces, Sr., et al. (13 signatures) petitioning to construct a permanent alley in 61st Avenue West Alley between Bristol Street and Greene Street. – Assessor

01-0529-03 Joseph H. Kleiman, et al. (seven signatures) resubmitting petition to reclassify 6600 Grand Avenue from R-2 to C-2. – Assessor

01-0529-21 The following submitting communications regarding Spirit Mountain golf course (01-0175R, 01-0176R and 01-0177R): (a) Eric Dings; (b) Duluth Chamber of Commerce. -- Received

01-0529-04 The following submitting communications regarding proposed changes to the smoking ban ordinance (01-011-O, 01-016-O and 01-017-O): (a) Nancy Andrews; (b) Mary Boylan; (c) Gloria and Leif Brush; (d) Amy Bubacz; (e) Julie Calligure; (f) Connie Carter; (g) Sue Cebelinski (Virginia, MN); (h) Terry Clark; (i) Sue Coughlan; (j) Mary Courage and Dave Anderson; (k) DD Davison; (l) Mary Dresback; (m) Duluth Hospitality Association; (n) Howard Epstein (St. Paul, MN); (o) Bonnie Fritch; (p) Jim Gearns; (q) Lynn Ann Gibson; (r) Paul Goeb (copy of letter from the Minnesota State Bowling Association); (s) Cheryl Grady (Eagan, MN); (t) CJ Hailey (Fargo, ND); (u) Kristin Hedges; (v) David and Mary Helf; (w) Susan Henke; (x) Sharon Hexum; (y) Jack Hinderscheid (West St. Paul, MN); (z) Ron and Diane Holmes; (aa) Art and Char Jacquart; (bb) Susan Janson; (cc) Susan Jessico; (dd) Jim's Hamburgers; (ee) Julie Knuths; (ff) Daral Lange; (gg) Julia Lodermeier; (hh) Kristen Magnus; (ii) Saul May (Minneapolis, MN); (jj) Rosemarie, Dennis P. and Lisa Mitchell; (kk) Jay Monson; (ll) Lee Nelsen (Saginaw, MN); (mm) Ruth Olson; (nn) Steve O'Neil (copy of on line news articles from Rochester, MN); (oo) Marcie Orville; (pp) Linda Papison; (qq) Randall Pass; (rr) Mrs. L. Pelzel; (ss) Bruce Penner (Carlton, MN); (tt) Mary Rapps (South Range, WI); (uu) Richard Reeves (Bowie, MD); (vv) Kris Rhodes (St. Paul, MN); (ww) Bill Simpson; (xx) Jim Skoog; (yy) Maureen Strange; (zz) Jolane Sundstrom; (aaa) Pat Thompson (Rochester, MN); (bbb) Patti Tolo; (ccc) Barbara Tostrup; (ddd) Elisa A. Troiani; (eee) Sharon and William van Druten; (fff) Susan van Druten; (ggg) Michele Wallerstein; (hhh) Nancy Wittmer; (iii) Robert Wolters. – Received

- - -

REPORTS OF OFFICERS

01-0529-10 Mayor Doty submitting veto of Resolution 01-0385 denying a business loss of exemption from the provisions of the public smoking ordinance for Duluth Grill, 118 South 27th Avenue West. – Received

01-0529-05 Assessor submitting letters of sufficiency to:

(a) Construct a permanent alley in 61st Avenue West Alley between Bristol Street and Greene Street;

(b) Construct a permanent street improvement of Harding Street from Central Entrance to Palm Street;

(c) Reclassify 6600 Grand Avenue from R-2 to C-2;

(d) Vacate the alley easement that goes through the middle of Block 17, Duluth Heights Fifth Division. – Received

01-0529-06 Engineering division submitting monthly project status report of May 2001. – Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-0529-07 Duluth transit authority: (a) Minutes of March 21, 2001, meeting; (b) Financial statement summary for March 2001. – Received

01-0529-08 Housing and redevelopment authority of Duluth minutes of March 27, 2001, meeting. – Received

01-0529-09 Special assessment board: (a) Minutes, findings and recommendations for the proposed improvement of Commonwealth Avenue; (b) Minutes, findings and recommendations for the proposed improvement of Harding Avenue from Central Entrance to Palm Street. – Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah expressed his concern that emphasis in the schools should be directed towards the individual needs of students, versus the standard curriculum, emphasizing such things as participation sports.

- - -

Kay L. Lewis complimented the city for the fast cleanup from the ice storm and the beauty of the spring flowers.

- - -

RESOLUTIONS RECONSIDERED

Councilor Hogg moved to suspend the rules to reconsider Resolution 01-0385, denying a business loss exemption from the provisions of the public smoking ordinance for Duluth Grill, 118 South 27th Avenue West, which motion was seconded and unanimously carried.

Resolution 01-0385 was adopted as follows:

BY PRESIDENT EDWARDS:

WHEREAS, on May 9, 2001, the city clerk received a request from Kay Biga, owner of a restaurant known as Duluth Grill, located at 118 South 27th Avenue West, for a business loss exemption from the provisions of Duluth's public smoking ordinance as authorized by Section 28-66 of the Duluth City Code; and

WHEREAS, said request (Public Document No. 01-0529-12) indicates that February monthly sales for Duluth Grill, were \$60,058.65 in the year 2000 and \$50,800.35 in the year 2001, representing a business decline of approximately 15 percent; and

WHEREAS, the city sales tax administrator has verified that this information is consistent with sales tax returns submitted by Duluth Grill for those months; and

WHEREAS, the owner of Duluth Grill has submitted in writing on the application form (Public Document No. 01-0529-12) reasons why she believes her business loss was caused by enforcing the smoking ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby denies Duluth Grill, located at 118 South 27th Avenue West, a business loss exemption from the provisions of Article VII of Chapter 28 of the Duluth City Code because:

Resolution 01-0385 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Stewart and Stover – 6

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

Approved May 29, 2001, pursuant to Section 12 of the Duluth City Charter.

- - -

Councilor Stewart moved to reconsider Resolution 01-0310, confirming appointment of Barbara Hanson to planning commission replacing Alan Billington, which motion was seconded and unanimously carried.

Councilor Stewart reviewed that his concern is over the need for someone with a background in the scientific field who has knowledge of environment issues.

Councilor Hogg noted that this specific appointment came up at the same time the council appointment policy guidelines were passed and there was no indication given to Ms. Hanson of the issue of the policy guidelines during her interview.

Resolution 01-0310 failed upon the following vote (Public Document No. 01-0529-11):

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

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

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 01-0229, appointing a new member to citizens advisory committee for comprehensive planning replacing Peggy Marrin, 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.

Peggy Marrin noted that since she resigned from this committee, there have been personal changes in her life and, if possible, would like to be considered.

Councilor Stewart noted that there was a deadline for expressing interest that has passed and that, in fairness, it would not be correct to consider others at this time.

Councilor Stewart moved to amend the resolution by:

(a) Placing the name of "Mary Ann Bernard" in the blank in the resolution; and

(b) Adding the following paragraph:

"BE IT RESOLVED FURTHER, that the city council appoints Valerie Broughton to the citizens advisory committee for comprehensive planning," which motion was seconded and unanimously carried.

Resolution 01-0229, as amended, was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, the city council hereby appoints Mary Ann Bernard to the citizens advisory committee for comprehensive planning, replacing Peggy Marrin who resigned.

BE IT FURTHER RESOLVED, that the city council appoints Valerie Broughton to the citizens advisory committee for comprehensive planning.

Resolution 01-0229, as amended, was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Councilor Stewart moved to remove Resolution 01-0341, appointing _____ to Seaway Port authority of Duluth replacing Thomas Grosser, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to amend the resolution by inserting the name "Thomas A. Clure" in the blanks in the resolution, which motion was seconded and unanimously carried.

Councilor Stewart moved to retable the amended resolution for an interview to be scheduled, which motion was seconded and unanimously carried.

- - -

Councilor Stenberg moved to remove Resolution 01-0290, amending Rule 2 of the standing rules of the city council, from the table, which motion was seconded and unanimously carried.

Resolution 01-0290 failed upon the following vote (Public Document No. 01-0529-13):

Yeas: Councilor Stenberg -- 1

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

- - -

Councilor Ness moved to remove Resolution 01-0350, pledging cooperation of the city of Duluth to reduce greenhouse gas emissions, from the table, which motion was seconded and unanimously carried.

Resolution 01-0350 was adopted as follows:

BY COUNCILORS NESS AND STEWART:

WHEREAS, a scientific consensus has arisen that carbon dioxide and other greenhouse gases released into the atmosphere will have a profound effect on the earth's climate; and

WHEREAS, scientific evidence indicates that global warming is already beginning, with the 1990's the hottest decade in recorded history; and

WHEREAS, based on scientific evidence, the United States has pledged along with 160 countries under the United Nations framework convention on climate change to reduce its greenhouse gas emissions; and

WHEREAS, energy consumption, specifically the burning of fossil fuels, e.g. coal, oil and gas, accounts for more than 80 percent of U.S. greenhouse gas emissions; and

WHEREAS, local governments greatly influence their community's energy usage by exercising key powers over land use, transportation, building construction, waste management and, in many cases, energy supply and management; and

WHEREAS, local government actions taken to reduce greenhouse gas emissions and increase energy efficiency provide multiple local benefits by decreasing air pollution, creating jobs, reducing energy expenditures, and saving money for the city government, its businesses and its citizens; and

WHEREAS, the cities for climate protection campaign, sponsored by the international council for local environmental initiatives, has invited the city of Duluth to become a partner in the campaign;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth pledges to join with jurisdictions from all over the world in the cities for climate protection campaign and, as a participant in the cities for climate protection campaign, Duluth pledges to:

(a) Take a leadership role in increasing energy efficiency and reducing greenhouse gas emissions from municipal operations;

(b) Develop and implement a local action plan which describes the steps our community will take to reduce both greenhouse gas and air pollution emissions. The plan will include:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- (1) A greenhouse gas emissions analysis and forecast to determine the source and quantity of greenhouse gas emissions within the jurisdiction;
- (2) A carbon dioxide or greenhouse gas emissions reduction target;
- (3) The strategy for meeting Duluth's greenhouse gas reduction target, including an outline of the programs and measures that will be implemented to achieve the target.

Resolution 01-0350 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

- - -

At this time the public hearings regarding the Human Development Center housing program and the revenue bonds to issued by Cloquet for the Human Development Center began.

Michael Conlan, director of the planning and development department, reviewed the details of this program.

There was no one who wished to heard and the hearings ended.

- - -

At this time the public hearing regarding the Minnesota investment fund application to DTED on behalf of Cirrus began.

Michael Conlan, director of the planning and development department reviewed the details of this program.

There was no one who wished to heard and the hearing ended.

- - -

Councilor Hogg moved to suspend the rules to consider resolutions 01-0374 and 01-0398 at this time, which motion was seconded and unanimously carried.

Resolution 01-0374, by Councilor Stenberg, approving a joint powers and allocation agreement relating to bank qualification of revenue bonds to be issued by the city of Cloquet (Human Development Center project); and was introduced for discussion.

Resolution 01-0374 was adopted as follows:

BY COUNCILOR STENBERG:

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

Section 1. General recitals.

(a) The purpose of Minnesota Statutes, Sections 469.152 through 469.165 as amended, relating to municipal industrial development (the IDB Act), as found and determined by the legislature, is to promote the welfare of the state of Minnesota (the state) by the active promotion, attraction, encouragement and development of economically sound industry and commerce through governmental action to prevent, so far as possible, the emergence of blighted and marginal lands and areas of chronic unemployment;

(b) Factors necessitating the active promotion and development of economically sound industry and commerce are the increasing concentration of population in the metropolitan areas and the rapidly rising increase in the amount and cost of governmental services required to meet the needs of the increased population and the need for development of land uses which will provide access to employment opportunities for such population;

(c) Minnesota Statutes, Chapter 462C, as amended (the Housing Act), authorizes a city to finance housing programs or developments upon approval of a housing program as provided in Minnesota Statutes, Section 462C.04, Subdivision 2 and issue and sell revenue obligations which shall be payable exclusively from the revenues of the housing programs or developments.

Section 2. Description of the project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(a) Representatives of the Human Development Center (the corporation) a Minnesota nonprofit corporation and organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the code) have advised the city that the corporation desires to finance projects by the issuance of revenue obligations, in one or more series, in an amount not to exceed \$1,053,600 (the notes) under the IDB Act and the Housing Act which are located in the city, the city of Cloquet (Cloquet) and the city of Two Harbors (Two Harbors), Minnesota (collectively, the host cities), as described below (the project).

Property Location	Facility Description	Activity to be Financed	Amount
1406-1408 East Second Street, Duluth, MN	3-story office and residential facility	acquisition	\$160,000
		renovation	\$340,000
1420 East Second Street, Duluth, MN	4 person adult foster care facility	refinancing	\$30,000
1730 East Superior Street, Duluth, MN	3-story building for office and programming for person with serious and persistent mental illness	acquisition	\$240,000
629 First Avenue, Two Harbors, MN	1-story office building	refinancing	\$138,750
40 11th Street, Cloquet, MN	3-story office building	refinancing	\$24,000
		acquisition and installation of new elevator	\$100,000
1401 East First Street, Duluth, MN	3-level office building	general capital improvements	\$240,000
1406-1408 East Second Street, Duluth, MN	3-story office and residential facility		
1412 East Second Street, Duluth, MN	5 person adult foster care facility		
1420 East Second Street, Duluth, MN	4 person adult foster care facility		
629 First Avenue, Two Harbors, MN	1-story office building		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Property Location	Facility Description	Activity to be Financed	Amount
227 Seventh Street, Two Harbors, MN	1-story office building		
40 11th Street, Cloquet, MN	3-story office building		
Costs of issuance			\$18,150
TOTAL			\$1,290,900

(b) The project will be owned and operated by the corporation;

(c) A portion of the project located in the city constitutes a multifamily housing development under the Housing Act (the housing project).

Section 3. Recitals relating to the joint exercise of powers.

(a) Under the Housing Act, the city and the host cities are each authorized and empowered to finance housing programs or developments upon approval of a housing program as provided in Minnesota Statutes, Section 462C.04, Subdivision 2 and issue and sell revenue obligations which shall be payable exclusively from the revenues of the housing programs or developments;

(b) Under the IDB Act, the city, the Duluth economic development authority (DEDA) and the host cities are each authorized and empowered to issue revenue bonds or a revenue note to undertake and finance or refinance all or any part of the costs of a project consisting of the refinancing of debt incurred with respect to, or acquisition and betterment of health care facilities or revenue-producing facilities of organizations described in Section 501(c)(3) of the code and to refund bonds previously issued under the IDB Act;

(c) The corporation has requested that the city, DEDA and the host cities cooperate through a joint powers agreement (as permitted by Minnesota Statutes, Section 471.59) to finance the project through the issuance of the notes by Cloquet pursuant to the IDB Act and the Housing Act;

(d) A draft copy of the joint powers and allocation agreement among the city, DEDA and the host cities (the "joint powers agreement") has been submitted to the council and is on file in the office of the city clerk as Public Document No. 01-0529-18.

Section 4. Recital of representations made by the corporation.

(a) The city has been advised by representatives of the corporation that:

(1) Conventional financing to pay the capital cost of the project is available only on a limited basis and at such high costs of borrowing that the economic feasibility of operating the project would be significantly reduced;

(2) On the basis of information submitted to the corporation and their discussions with representatives of area financial institutions and potential buyers of tax exempt bonds, the notes could be issued and sold upon favorable rates and terms to finance the project;

(3) The corporation will experience a significant debt service cost savings through the refinancing portion of the project; and

(4) The project would not be undertaken in their present form but for the availability of financing under the IDB Act and the Housing Act;

(b) The corporation has agreed to pay any and all costs incurred by the city in connection with the issuance of the notes, whether or not such issuance is carried to completion;

(c) The corporation has represented to the city that no public official of the city has either a direct or indirect financial interest in the project nor will any public official either directly or indirectly benefit financially from the project;

(d) The corporation has caused a program to be prepared for the project in accordance with the Housing Act, a copy of which has been submitted to the council and is on file in the office of the city clerk as Public Document No. 01-0529-18 (the program) and has caused the program to be transmitted to the Arrowhead Regional Development Commission for review and comment on behalf of the city in accordance with the requirements of the Housing Act.

Section 5. Public hearings.

(a) As required by the Housing Act, the IDB Act and Section 147(f) of the Code, notices of public hearings were published in the *Duluth News Tribune*, the city's official newspaper and a newspaper of general circulation in the city, calling public hearings on the program and the issuance of the notes and the proposal to undertake and finance the project;

(b) As required by the Housing Act and Section 147(f) Code, the host cities have each held public hearings, and the city has, on May 29, 2001, held a public hearing on the program and the issuance of the notes and the proposal to undertake and finance the project, at which all those appearing who desired to speak were heard and written comments were accepted. Any comments submitted by the Arrowhead Regional Development Commission to the city were presented to the city council at the public hearing.

Section 6. Findings under the IDB Act.

It is hereby found, determined, and declared as follows:

(a) The welfare of the state and the city requires the provision of necessary health care facilities so that adequate health care services are available to residents of the state and the city at reasonable cost;

(b) The city desires to facilitate the selective development of the community and help to provide the range of services and employment opportunities required by the population. The project (excluding the housing project) will assist the city in achieving those objectives; help to stabilize market valuation of the city; help maintain a positive relationship between assessed valuation and debt; and enhance the image and reputation of the community;

(c) On the basis of information made available to this council by the corporation it appears, and this council hereby finds, that:

(1) The project (excluding the housing project) constitutes properties, real and personal, used or useful in connection with a revenue producing enterprise engaged in providing health care services within the meaning of Subdivision 2 of Section 469.153 of the IDB Act;

(2) The project furthers the purposes stated in Section 469.152 of the IDB Act;

(3) The project (excluding the housing project) would not be undertaken but for the availability of financing under the IDB Act and the willingness of Cloquet to furnish such financing; and

(4) The effect of the project (excluding the housing project), if undertaken, will be to:

(A) Encourage the development of economically sound industry and commerce;

(B) Assist in the prevention of the emergence of blighted and marginal land;

(C) Help prevent chronic unemployment;

- (D) Provide the range of service and employment opportunities required by the population;
- (E) Help prevent the movement of talented and educated persons out of the state and to areas within the state where their services may not be as effectively used;
- (F) Promote more intensive development and appropriate use of land within the city, eventually to increase the tax base of the community; and
- (G) Provide adequate health care services to residents of the city at a reasonable cost;

(d) The city acknowledges, finds, determines and declares that the provision of necessary health care facilities so that adequate health care services are available to residents of the state at a reasonable cost is a public purpose.

Section 7. Findings under the Housing Act.

It is hereby found, determined, and declared as follows:

- (a) The preservation of the quality of life in the city is in part dependent upon the maintenance and provision of adequate, decent, safe, sanitary and affordable housing stock;
- (b) Accomplishing the goals of the program is a public purpose and will benefit the residents of the city;
- (c) The need exists within the city to provide in a timely fashion additional affordable rental housing to and for the benefit of persons of low and moderate income residing and expected to reside within the city;
- (d) There exists or are expected to exist persons and families within the city who are and will be able to benefit from and are in need of the program;
- (e) The program is necessary in view of the limited resources that may be available to such persons relative to the expenses involved in accomplishing the type of objectives outlined in the program in the absence of one or more of the forms of assistance described herein or otherwise available pursuant to the Housing Act;
- (f) The city has found and hereby reaffirms the determination that such forms of assistance are often necessary for the benefit of such persons, families and goals;
- (g) The successful implementation of the objectives of the kind described in the program has been found to provide impetus for the development of other housing in the city, as well as the general development of the city by other persons who are not beneficiaries of such governmentally sponsored or assisted activities; and
- (h) There exists a need for multifamily rental housing to provide rental housing opportunities for persons of low and moderate income which is not being filled by private enterprise alone due to a variety of factors, including the fact that the cost of new construction of multifamily rental units for low and moderate income persons may in many cases prove economically unfeasible, given prevailing area rental levels, and that therefore appropriate levels of public assistance may be helpful and necessary in bridging the gap.

Section 8. Approval of the program.

The program is approved in substantially the form on file in the office of the city clerk as Public document No. 01-0529-18.

Section 9. Approval.

- (a) The project and the notes are hereby given preliminary approval by the city;
- (b) The proposal to undertake and finance that portion of the project located in the city but outside of the jurisdictional limits of the host cities, and the issuance of the obligations are hereby given approval by the city subject to the approval of the project by the department of trade and economic development of the state (DTED);

(c) In accordance with Subdivision 3 of Section 469.154 of the IDB Act, the officers of the city or their designees, are authorized and directed to cooperate with Cloquet in submitting the proposal for the project to the DTED requesting approval, and other officers, employees and agents of the city are hereby authorized to provide DTED with such information as it may require.

Section 10. Limited obligation.

The notes, when and if issued for the project, shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city, DEDA or the host cities. (There will, however, be a charge, lien or encumbrance on the project, which is not an asset of the city, DEDA or the host cities.) The notes, when and if issued, shall recite in substance that the notes and the interest thereon, are payable solely from revenues received from the project and property pledged for payment thereof, and shall not constitute a debt of the city, DEDA or the host cities.

Section 11. Approval and execution of joint powers agreement.

(a) The joint powers agreement is hereby approved in substantially the form on file in the office of the city clerk as Public Document No. 01-0529-18. The mayor is authorized and directed to execute and acknowledge the joint powers agreement on behalf of the city with such changes, insertions, and omissions therein as the city attorney may hereafter deem appropriate, such execution to be conclusive evidence of approval of such document in accordance with the terms hereof. The city clerk is authorized and directed to attest to the mayor's signature on the joint powers agreement and acknowledge and deliver the joint powers agreement on behalf of the city with such changes, insertions and omissions therein as the city attorney may hereafter deem appropriate, such execution to be conclusive evidence of approval of such document in accordance with the terms hereof;

(b) The mayor is authorized and directed to execute and deliver such other documents or certificates needed from the city in conjunction with the sale of the notes. The city clerk is authorized and directed to attest to the mayor's signature and to execute, and deliver such other documents or certificates needed from the city in conjunction with the sale of the notes;

(c) The approvals in this section are specifically subject to approval of the joint powers agreement by DEDA and the host cities and approval of the project by DTED.

Resolution 01-0374 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0398, by Councilor Stenberg, authorizing an application to the state of Minnesota for a Minnesota investment fund grant in the amount of \$500,000 (Cirrus Design Corporation), was introduced for discussion.

Resolution 01-0398 was adopted as follows:

BY COUNCILOR STENBERG:

BE IT RESOLVED, that the city of Duluth (city) act as the legal sponsor for the project contained in the business and community development application to be submitted on or about May 18, 2001, and that the mayor of the city is hereby authorized to apply to the Minnesota department of trade and economic development for funding of this project on behalf of the city.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED, that the city has not incurred any costs and has not entered into any written agreements to purchase property.

FURTHER RESOLVED, that the city has not violated any federal, state or local laws

pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

FURTHER RESOLVED, that upon approval of its application by the state, the city may enter into an agreement with the state of Minnesota for the above-referenced project and that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements and described on the project compliance section (FP-17) of the business and community development application.

FURTHER RESOLVED, that the city will obtain credit reports and credit information from Cirrus Design Corporation. The city and its city attorney will review the reports and information to ensure that no adverse findings or concerns regarding, but not limited to, tax liens, judgments, court actions, and filings with state, federal and other regulatory agencies are identified. Failure to disclose any such adverse information could result in revocation or other legal action.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements, and amendments, as are necessary to implement the project on behalf of the city.

Resolution 01-0398 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the sanitary sewer and watermain construction on 33rd Avenue West from Michigan Street to Superior Street (Contract #5324, total assessable - \$126,949.68), is hereby confirmed.

Resolution 01-0402 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the Duluth City Council hereby requests that all city councilors be provided with prompt and early written notice of all city and DEDA public hearings which are not scheduled with or during city council meetings.

Resolution 01-0405 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a letter of addendum to the agreement between the city of Duluth and the Duluth Police Local containing the terms and in substantially the form of the contract on file with the clerk as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Document No. 01-0529-14, which letter of addendum amends the agreement with the Duluth Police Local for the years 2001 and 2002.

Resolution 01-0408 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Mr. D's Men's and Women's Softball Team, Wheeler Field, for June 23 and 24, 2001, with Alan Terwey, manager.

Player's Softball Tournament (Early Bird Tournament), Wheeler Field, for June 2 and 3, 2001, with Darrell Eckenberg, manager.

Resolution 01-0381 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Grandma's, Inc., (Grandma's Saloon & Grill), 522 Lake Avenue South, for June 16, 2001, with the serving and dancing ceasing at 12:30 a.m.

Grandma's Angie's, Inc., (Little Angie's), 11 East Buchanan Street, for June 16, 2001, with the serving ceasing at 12:30 a.m.

Lemon's Reef, Inc., (Reef Bar), 2002 London Road, for June 16, 2001, with the music and serving ceasing at 11:00 p.m.

Player's Grandstand, Inc., (Player's Sports Bar), 4024 Grand Avenue, with the music and serving ceasing at 11:00 p.m.

Resolution 01-0383 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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

Northland Vietnam Veterans Association, Bayfront Park, for August 10, 11 and 12, 2001, with Sandra Fjeld, manager.

Ridgeview Country Club, 700 West Redwing Street, for July 26, 27, 28 and 29, 2001, with Philip Gaudino, manager.

Resolution 01-0399 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY PRESIDENT EDWARDS:

WHEREAS, the American Cancer Society has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

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

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

Resolution 01-0400 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
Hillside Business Association	CW Chips	May 14, 2001

Resolution 01-0401 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

LIBRARY BOARD

Mark P. Melhus for a term expiring June 1, 2006.

Resolution 01-0392 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

TECHNICAL DESIGN ADVISORY COMMITTEE

Jan Sivertson (area) and Karl C. Wasson (planning commission) for terms expiring May 31, 2004.

Resolution 01-0393 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of portions of streets and alleys legally described as:

(a) Superior Street between 48th and 49th Avenues West: adjoining Block 180; Block 174; Lots 1 through 8, Block 176; and Lots 1 through 8, Block 178, all in Oneota Division;

(b) 48th Avenue West between Superior Street and West Second Street: lying southerly of the centerline of Second Street; westerly of the easterly right-of-way line of 48th Avenue West as platted with Oneota Industrial Park First Addition and northerly of the easterly extension of the southerly line of Block 176, West Duluth Seventh Division;

(c) Wadena Street Alley between 51st Avenue West and 52nd Alley: that part of the alley in Block 171, West Duluth Seventh Division, lying between the northerly extension of the westerly line of Lot 31, said Block 171 and the westerly right of way line of 51st Avenue West;

(d) 52nd Alley between 51st and 52nd Avenues West: that part of the alley between Block 170 and 171, West Duluth Seventh Division, lying between the westerly extension of the northerly line of Lot 20, said Block 171 and the westerly extension of the southerly line of Lot 23, said Block 171, retaining the vacated portion as utility easement;

(e) Portion of 49th and 52nd Avenues West: beginning at the most easterly corner of Lot 4, Block 171, West Duluth Seventh Division; thence northeasterly along the extension of the southerly line of said Lot 4 a distance of 80 feet to the northeasterly line of 49th Avenue West; thence northwesterly along said northeasterly line a distance of 139.17 feet to the centerline of Second Street; thence southwestwardly on and along said centerline a distance of 172.34 feet to the easterly line of Elinor Street; thence southeasterly along said right-of-way a distance of 73.74 feet to a point; thence southeasterly along said right-of-way line a distance of 59.9 feet to the easterly line of 52nd Avenue West; thence north along said east line to the northwesterly corner of Lot 1, Block 171, thence northeasterly along the north line of said Lot 1 to the northern most corner of said Lot 1; thence southeasterly along the westerly line of 49th Avenue West to the point of beginning; retaining all of 52nd Avenue West and Second Street as utility easement;

(f) Second Street Alley between 48th and 49th Avenues West: the south half of the alley between 48th Avenue West and 49th Avenue West and adjacent to Block 173, West Duluth Seventh Division, and Block 58, Oneota Division; and

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

WHEREAS, the city planning commission approved unanimously the street and alley vacation petition at its June 28, 2000, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of:

(a) Superior Street between 48th and 49th Avenues West;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- (b) 48th Avenue West between Superior Street and West Second Street;
- (c) Wadena Street Alley between 51st and 52nd;
- (d) 52nd Alley between 51st and 52nd;
- (e) Portion of 49th and 52nd Avenues West;
- (f) Second Street Alley between 48th and 49th Avenues West; described above and retaining utility easements for existing facilities, as described above.

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

BE IT FURTHER RESOLVED, that Resolution 00-0479, passed July 10, 2000, is rescinded in its entirety.

Resolution 01-0378 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

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

File #	Applicant Name	Legal Description	Location
01043	Robert Anderson	Lots 10-14, Block 54, and Lots 8-12, Block 55, Bayview Addition No. 2 (10-230-3080, 3450)	northside of Ash Street between Irvin and Fletcher Streets (Bayview Heights)
01044	Kary Lindgren	northerly 60 feet, Lot 288, Block 56, Duluth Proper Second Division (10-1120-5980)	southwest corner 18th Avenue West and First Street (Lincoln Park)
01045	Daniel King	Lots 23, 24, 25 and 37, Auditors Plat of Lester Park Garden Tracts (10-90-230,370)	north of Lester Street between London Avenue and Lakeside Avenue (Lester Park)
01047	Robert Craig	west 1/2 Lot 2, Block 35, Harrison's Division (10-2080-05030)	lower side Greysolon Road between 24th and 25th Avenues East (Congdon Park)
01049	St. Louis County land department	Lots 7-8, Block 9, Gary First Division (10-1800-1350-1360)	east side of 98th Avenue West between Reis Street and Crestline Court (Gary-New Duluth)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

File #	Applicant Name	Legal Description	Location
01050	Jill Molitor	Lots 17-23, Block 9, Hunters Grassy Point (10- 2320-1070-1130)	east side of 62nd Avenue West between Redruth and Sherburne Streets (Irving)
01051	Todd Pederson	Lots 5 and 6, Auditors Plat #27 (10-0139-00020)	86th Avenue West north of Beverly Street (Morgan Park)

Resolution 01-0407 was unanimously adopted.
Approved May 29, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for rental of 14 Caterpillar Model 143H motor graders for six months each for a total of 84 months during the year 2001/2002 winter season for the street maintenance division in accordance with specifications on its low specification bid of \$377,073.90, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 01-0347 was unanimously adopted.
Approved May 29, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

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

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$4,200, all of which will be reimbursed by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board and which report is on file in the office of the city clerk as Public Document No. 01-0529-09(a) and which description is hereby incorporated herein by reference to Public Document No. 01-0529-09(a); that those assessed be permitted to pay said assessment in installments over a ten year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 01-0377 was unanimously adopted.
Approved May 29, 2001
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR ECKENBERG:

RESOLVED, that it is hereby deemed necessary for public convenience and safety, and it is hereby ordered pavement restoration for street utility excavations and the repair of sidewalks at various locations in the city of Duluth (City Job No. 9113RS01).

NOW THEREFORE BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$410,000 payable from the Special Assessment Fund 0410, Agency 038, Organization 5337, Object 5530; that approximately \$125,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund; that approximately \$25,000 be payable from the Sanitary Sewer Utility Fund 530; that approximately \$175,000 be payable from the Water Utility Fund 510; that approximately \$10,000 be payable from the Gas Utility Fund 520 and that approximately \$75,000 of the cost of said improvement (sidewalk repairs) be defrayed by special assessment against the land and premises specially benefited; that the assessed be permitted to pay said assessment in installments over a five year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter; and that said improvement is hereby ordered.

Resolution 01-0386 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Groebner & Associates, Inc., be and hereby is awarded a contract for furnishing and delivering 1,000 gas meters for the utility operations division in accordance with specifications on its low specification bid of \$54,261.75, terms net 30, FOB destination, payable out of Gas Fund 0520, Dept./Agency 500, Organization 2410, Object 5227.

Resolution 01-0403 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Northland Constructors, LLC, be and hereby is awarded a contract for construction of sanitary sewer at 38th Avenue West from Fourth Street to Fifth Street Alley and sanitary sewer at Raleigh-Polk Streets between 60th Avenue West and 60th Avenue West Alley for the engineering division in accordance with specifications on its low specification bid of \$43,915, terms net 30, FOB job site, \$25,909.85 payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5335, Object 5530 and \$18,005.15 payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5339, Object 5530.

Resolution 01-0410 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth airport authority which allows the authority to participate during 2001 in the city's self insurance fund for purposes of general liability, workers' compensation and employee honesty

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

bond coverage, which agreement shall be substantially in the form of Public Document No. 01-0529-15, on file in the office of the city clerk. Funds will be deposited to 0605-036-1659.

Resolution 01-0395 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Spirit Mountain recreation area authority which allows the authority to participate during 2001 in the city's self insurance fund for purposes of general liability, workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 01-0529-16, on file in the office of the city clerk. Funds will be deposited to 0605-036-1658.

Resolution 01-0396 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of understanding with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0529-17, which allows DEDA to participate during 2001 in the city's self insurance fund program. Funds will be deposited to 0605-036-1656.

Resolution 01-0397 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0382, by President Edwards, approving the transfer of the off sale intoxicating liquor license of Donlynn, Ltd. (Duluth Liquor), 32 West First Street, to Dean Cox, LLC (Good Times Liquor & Tobacco Shop), same address, was introduced for discussion.

President Edwards moved to amend the title and body of the resolution by replacing the name "Dean Cox" with "DAC," which motion was seconded and unanimously carried.

Resolution 01-0382, as amended, was adopted as follows:

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license, for the period ending August 31, 2001, subject to departmental approvals, and the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

DAC, LLC (Good Times Liquor & Tobacco Shop), 32 West First Street, transferred from Donlynn, LTD (Duluth Liquor), same address.

Resolution 01-0382, as amended, was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the Duluth City Council hereby approves DEDA Resolution No. 01D-29, as approved by DEDA at its meeting of May 15, 2001,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

a copy of which is on file in the office of the city clerk as Public Document No. 01-0529-19, pursuant to which DEDA committed \$56,000 in local match as required in the department of trade and economic development grant application for cleanup costs associated with the Atlas Cement site, payable from Fund 0860.

Resolution 01-0394 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

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Resolution 01-0387, of intent to construct a permanent street in Harding Avenue from Central Entrance to Palm Street (City Job No. 9313RS01); and Resolution 01-0411, ordering in the construction of a permanent street in Harding Avenue from Central Entrance to Palm Street (City Job No. 9313RS01) at an estimated cost of \$44,000, by Councilor Eckenberg, were introduced for discussion.

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

Tom Hayes voiced support for the resolutions, noting that in addition to the dust created, when limestone is put down, it deteriorates the paint finish on automobiles, which costs him over a \$1,000 a month to keep his vehicles clean.

Councilor Hogg noted that his concern is a procedural issue with the rules that allow 35 percent of the property owners to petition for this kind of improvement and that the other property owners do not have an opportunity to say no until the after the council has approved the work.

Resolution 01-0387 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, the city has received a petition from owners of 48.28 percent of the abutting property to construct a permanent design street in Harding Avenue from Central Entrance to Palm Street.

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

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 01-0387 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved May 29, 2001

GARY L. DOTY, Mayor

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Resolution 01-0411 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, by the Resolution of Intent Numbered 01-0387, the council did request the administration to prepare plans and specifications for the construction of a permanent street in Harding Avenue from Central Entrance to Palm Street (City Job No. 9313RS01); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefiting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by

the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$44,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5341, Object 5530, by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board, \$6,000 to be reimbursed by the Storm Water Utility Fund 0535 and \$3200 from Permanent Improvement Fund 0411; and which report is on file in the office of the city clerk as Public Document No. 01-0529-09(b) and which description is hereby incorporated herein by reference to Public Document No. 01-0529-09(b); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 01-0411 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved May 29, 2001

GARY L. DOTY, Mayor

BY COUNCILOR ECKENBERG:

RESOLVED, that Arby Construction, Inc., be and hereby is awarded a contract for construction of 16 inch steel high pressure gas main and related work from TBS 1A to Ramsey and Oneota for the engineering division in accordance with specifications on its low specification bid of \$3,250,848.15, terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 01-0409 was unanimously adopted.

Approved May 29, 2001

GARY L. DOTY, Mayor

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILOR STENBERG

01-016 - AN ORDINANCE ESTABLISHING ARTICLE VII OF CHAPTER 28 OF THE CITY CODE ENTITLED "SMOKING IN PUBLIC PLACES."

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

BY COUNCILOR ECKENBERG

01-017 (9490) - AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILORS STENBERG, STEWART AND PRESIDENT EDWARDS

01-011 - AN ORDINANCE REPEALING ARTICLE VII OF CHAPTER 28 OF THE CITY CODE.

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 ordinances.

The following speakers of: Bryan Flaherty, representing the Duluth Hospitality Association; David Ross, representing the Duluth Area Chamber of Commerce board of directors; Scott Carlson, representing the bowling industry; Kris Hill and Mary Christensen, representing Jim's Hamburgers locations; Paul Goeb, representing the State Bowling Association; Mitchell Cyrette; Jason Isensee; and Bernadine Patterson spoke in opposition to proposed Ordinance 01-017 and in favor not making any changes to the existing ordinance at this time because of: the reasons stated in the proposal submitted by the Duluth Hospitality Association (Public Document No. 01-0529-04(m)); the Duluth Area Chamber of Commerce board of directors support the Duluth Hospitality Association proposal; the bid on the 2003 woman's state bowling tournament, which will bring 10,000 bowlers each spending an average of \$300, will be adversely affected, even to the point of not having the tournament; local teams, with both smokers and nonsmokers will go to Hermantown to bowl; restaurants that have been enforcing the existing smoking ban are losing a little more each month and with a small profit margin, the restaurants with exemptions are hurting them; businesses that have been granted exemptions cannot survive without those exemptions; Superior restaurants are benefitting from the misfortunes of this ordinance; (Public Document No. 01-0529-04(r)) reflecting the views of the State Bowling Association and changes in sales tax revenues; choosing to smoke is a individual choice; most pool players are smokers, and pool halls would go out of business if there was this restriction; and there are things in this life that you cannot get away from and cannot discriminate against and have a prohibition on one segment of the population.

The following speakers: Janet Corica; Dorette Larson; Mabel Galvin; Terry Clark; Mary Boylon; Robert Neidringhaus; Kay Lewis; Randy Ramond; Jodi Menke, American Cancer Society; Jim Taylor; Kris Magnus; Erik Peterson; Peggy Marrin; Ken Steil; David Taylor; Randy Pass; Lisa Vogelsang; C. J. Bird; and Jim Skoog spoke in support of Ordinance 01-017 for the reasons of: family members who have died from lung cancer caused by smoking; enforcement is needed; there needs to be no exemptions; nonsmokers will increase restaurant business; the risks and dangers need to be publicized; only 20 percent of the population smokes; shortens one's life; smokers are the cause of 1/3 of house fires; the rights of the 80 percent of the population has rights also; lung cancer rates have declined in California and it is reported from Sidney, Australia, that a bar employee developed cancer of the throat and the court approved damages to the individual (Public Document No. 01-0529-04(h)); this is a matter of public health; a person's personal health is a right; to allow smoking in public places is morally and ethically wrong; those who in the medical field support the ordinance (Public Document No. 01-0529-04(b)); cities like New York and the entire state of California do not allow smoking in restaurants; in Duluth last year there was a new reportable case of lung cancer every 2-1/2 days; this is similar to regulations regarding alcoholic beverages, in that one can consume it, but cannot drive when intoxicated and endanger the lives of those people who are sober, or in this case, do not welcome second hand smoke; there needs to be posted health warnings; second hand smoke has been proven to kill and is the third leading cause of preventable death; many other cities in the state are enacting smoke free ordinances; people from surrounding communities are coming to Duluth to eat; there are

worker safety regulations in many other areas already, so this should be no different; it is normal human behavior to react to this form of restriction; the original ordinance was put together to accommodate all interests but it did not work, so this change is needed; it is unethical and unprofessional for a leader of a sports association to threaten to pull business from an area because of a smoke free ordinance; the majority of restaurants that have gone smoke free have increased their business; air curtains do not filter out the chemicals of smoke; individuals with respiratory ailments cannot enter locations that allowing smoking; tobacco is a choice free addictive substance and by allowing some places to have smoking, is discriminating and sends the wrong message; and there has already been time for local restaurants to plan for this.

Councilors expressed concern that: the hospitality industry's proposal should have come forth earlier, because now it appears to be a delay tactic; references in the hospitality industry's proposal imply that if it is accepted, there would be no promoting of a referendum; some members of the hospitality industry have not complied to the existing ordinance; a task force comprised of all parties is unlikely to come to a compromise agreement on this issue; and there has been plenty of time for all parties to discuss this.

Councilors Stewart and Stenberg expressed their support for proposed Ordinance 01-011 by noting that the original ordinance with the amendments is arbitrary, unenforceable and unfair and that there is no solid foundation with the inconsistencies.

Councilors not supporting this ordinance stated that other ordinances to be considered at this meeting are better alternatives.

Ordinance 01-011 failed upon the following vote (Public Document No. 01-0529-20):

Yeas: Councilors Stenberg and Stewart -- 2

Nays: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

- - -

Relative to supporting proposed Ordinance 01-016, Councilor Stenberg stated that it: clarifies and strengthens the existing ordinance; gives businesses a longer time to comply and is in the middle of the two view points on this issue.

Ordinance 01-016 failed upon the following vote (Public Document No. 01-0529-22):

Yeas: Councilors Stenberg, Stewart and President Edwards -- 3

Nays: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness and Stover -- 6

- - -

In discussion on Ordinance 01-017, councilors expressed issues of: problems with the changing of definitions; that the ordinance be divided into three sections to be considered separately; and that this ordinance is very complicated.

Councilor Gilbert moved to split the ordinance to vote separately on sections 28-65, 28-66, 28-70 and then the balance of the ordinance, which motion was seconded and discussed.

Councilors noted that there are other sections of the ordinance that tie into the sections referenced.

Councilor Gilbert's amendment failed upon the following vote:

Yeas: Councilors Gilbert and Ness -- 2

Nays: Councilors Eckenberg, Fena, Hogg, Stenberg, Stewart, Stover and President Edwards -- 7

Councilor Eckenberg moved to amend the ordinance by changing the year in the last sentence of the first paragraph of Section 28-66 from "2002" to 2003," to be consistent with the other dates stated, which motion was seconded and discussed.

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Councilor Fena expressed her concern that the discrepancy of what business are struggling with would last a year longer.

Councilor Eckenberg's amendment carried upon the following vote:

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

Nays: Councilor Fena -- 1

Councilor Stewart moved to amend the ordinance, in Section 2, at the end of the sentence, to add the words "or on October 11, 2001, whichever is later," which motion was seconded and discussed.

Councilor Stewart noted that, with the normal effective date of the ordinance, businesses will be scrambling during the peak tourist season and for prescheduled weddings, to make the changes and if there was interest in a referendum petition drive, that there would be more time for that to happen.

- - -

At this time, 10:53 p.m., Councilor Fena moved to suspend the rules to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

- - -

Councilor Stewart's amendment failed upon the following vote:

Yeas: Councilors Stenberg and Stewart -- 2

Nays: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

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

Yeas: Councilors Gilbert and Hogg -- 2

Nays: Councilors Eckenberg, Fena, Ness, Stenberg, Stewart, Stover and President Edwards -- 7

- - -

At this time, 11:25 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:45 p.m., which motion was seconded and unanimously carried.

- - -

Councilors Stover, Stenberg and President Edwards commented on the aspects of: bars with a limited food service license not being on a level playing field; that by tabling the ordinance and establishing a task force it would allow both sides to work on this together; that there is still a lot of confusion on how this ordinance would work and that some businesses that have made major changes and investments by creating a separately ventilated room, would eventually have to be torn down under this ordinance.

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

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

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

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The following entitled ordinances were read for the first time:

BY PRESIDENT EDWARDS

01-022 - AN ORDINANCE PERTAINING TO ALCOHOLIC BEVERAGE LICENSES; IMPOSING CIVIL PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 8-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR ECKENBERG

01-021 - AN ORDINANCE AUTHORIZING SALE OF THE OLD EAST HILLSIDE FIRE HALL BUILDING TO THE HUMAN DEVELOPMENT CENTER IN EXCHANGE FOR A LEASE ON ADJACENT PROPERTY.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT EDWARDS

01-014 (9491) - AN ORDINANCE ELIMINATING LIMOUSINE REGULATIONS; REPEALING ARTICLE V OF CHAPTER 47, DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY PRESIDENT EDWARDS

01-015 (9492) - AN ORDINANCE PERTAINING TO THE LICENSING OF MASSAGE THERAPISTS; INCREASING THE EDUCATIONAL REQUIREMENTS; AMENDING SECTION 5-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stewart moved to amend the ordinance by deleting, in the second line of paragraph (b), the words "of good moral character," which motion was seconded and unanimously carried.

President Edwards moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

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BY COUNCILOR STENBERG

01-018 (9493) - AN ORDINANCE REGULATING THE PLACEMENT OF PERSONAL WIRELESS COMMUNICATION SERVICE TOWERS WITHIN THE CITY; AMENDING SECTION 50-35 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Ness moved to amend the ordinance by deleting Section 11 in its entirety, which motion was seconded and unanimously carried.

Councilor Stenberg moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR STENBERG

01-019 (9494) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO R-1-B SINGLE FAMILY RESIDENTIAL PROPERTY LOCATED SOUTH OF GLENWOOD STREET BETWEEN SOUTH RIDGE ROAD AND WOODCREST DRIVE (BAUMGARTEN).

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

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BY COUNCILOR ECKENBERG

01-020 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH TO CARL J. AND BERNADINE F. LUNDBERG.

Councilor Eckenberg moved to refer the ordinance back to the administration, as per their request, which motion was seconded and unanimously carried.

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The meeting was adjourned at 11:43 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9490

BY COUNCILOR ECKENBERG:

AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 28 OF
THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Article VII of Chapter 28 of the Duluth City Code, 1959, as amended, shall be amended to read as follows:

Article VII. Smoking in Public Places.

Sec. 28-62. Findings of fact and statement of purpose.

(a) The Duluth City Council finds the following facts to exist:

(1) Tobacco smoke is a major contributor to indoor air pollution, and breathing second hand smoke is a cause of disease, including lung cancer, in nonsmokers. At special risk are children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Many of these individuals cannot go into public places with second hand smoke due to their respiratory or allergenic handicap; and

(2) Health hazards induced by breathing second hand smoke include, but are not limited to, lung cancer, heart disease, respiratory infection and decreased respiratory function; and

(3) The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke for which there is no known safe level of exposure.

Sec. 28-63. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section.

(a) Bar. Bar means an establishment that has an onsale 3.2 percent malt liquor license issued pursuant to Minnesota Statutes Sec. 340A.403, as amended from time to time, or an onsale intoxicating liquor license issued pursuant to Minnesota Statutes Sec. 340A.404, as amended from time to time, which does not serve food or which has a limited food menu selection as defined by Minnesota Statutes Sec 157.16, subd. 3(d)(1), as amended from time to time;

(b) Bar/restaurant. Bar/restaurant means an establishment that has an onsale 3.2 percent malt liquor license issued pursuant to Minnesota Statutes Sec. 340A.403, as amended from time to time, or an onsale intoxicating liquor license issued pursuant to Minnesota Statutes Sec. 340A.404, as amended from time to time, and that holds a small, medium or large establishment food license as defined by Minnesota Statutes Sec. 157.16, subd. 3(d)(2)-(4), as amended from time to time;

(c) Office. Office means any building, structure or area used by the general public or serving as a place of work at which the principal activities consist of professional, clerical or administrative services. An office includes professional offices, offices in financial institutions, business offices, telemarketing offices and government offices;

(d) Other person in charge. Other person in charge has the meaning specified in the Minnesota Clean Indoor Air Act Rules, Minnesota Rules Part 4620.0100, Subpart 10, as amended from time to time;

(e) Proprietor. Proprietor has the meaning specified by the Minnesota Clean Indoor Air Act Rules, Minnesota Rules Part 4620.0100, Subpart 13, as amended from time to time;

(f) Public conveyance. Public conveyance means any air, land or water vehicle used for the transportation of persons for compensation, including but not limited to airplanes, trains, buses, boats and taxis;

(g) Public place. Public place means any enclosed, indoor area used by the general public, including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, bars, hospitals, auditoriums, arenas, meeting rooms and common areas of hotels and motels, but excluding bowling alleys and pool halls until April 1, 2003, and excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers;

(h) Restaurant. Restaurant means any building, structure or area used as, maintained as, advertised as or held out to the public for food service as defined in Minnesota Rules Part 4625.2401, Subpart 15, which requires licensure under Minnesota Statutes, Chapter 157;

(i) Retail store. Retail store means that portion of a commercial occupancy used for the transaction of business or the rendering of a service directly to the public, including shops, retail food stores, laundries or laundromats and department stores;

(j) Room. Room means any indoor area bordered on all sides by a floor to ceiling wall. The sides must be continuous and solid except for closeable doors for entry and exit;

(k) Smoking. Smoking includes possessing or carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Sec. 28-64. Smoking prohibited in public places; exception.

No person shall smoke in any public place except:

(a) Restaurants that have a currently existing designated smoking area in a separate room, separately ventilated to the outside and constituting not more than 30 percent of the seating floor space and persons under the age of 18 are not permitted to enter or remain, provided that this exception shall cease to be in effect after April 1, 2003;

(b) Bars;

(c) The bar area of a bar/restaurant, if:

(1) The bar area is separately enclosed on all sides by continuous floor-to-ceiling walls, interrupted only by closeable doors; and

(2) The bar area is separately ventilated, with negative air pressure in relation to dining areas; and

(3) Revenues from the sale of food in the bar area are incidental to those from the sale of alcoholic beverages, serving only a limited food menu as defined by Minnesota Statutes Sec. 157.16, subd. 3(d)(1); and

(4) Minors are not permitted in the bar area at any time;

(d) A civic organization, service club, fraternal or patriotic organization or similar private membership organization, when admission to the organization is limited to members and members' guests, provided that this exception shall not apply to any organization established to avoid compliance with this ordinance;

(e) The use of tobacco as part of a recognized religious ritual or activity.

Sec. 28-65. Responsibilities of proprietors.

The proprietor or other person in charge of a restaurant subject to Chapter 28, Article VII, shall:

(a) Post no smoking signs that comply with the Minnesota Clean Indoor Air Act Rules, Minnesota Rules Part 4620.0500, as amended from time to time;

(b) Ensure that ashtrays, lighters and matchbooks are not provided in areas where smoking is prohibited;

(c) Ask any person who smokes in areas where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, ask the person to leave.

Sec. 28-66. Previous exemptions.

All previous exemptions are withdrawn effective April 1, 2003.

Sec. 28-67. Employees not required to enter bar area.

At public places that include both a restaurant and a bar, the owner shall not require nonsmoking employees to enter the bar area as part of the employee's duties without the employee's consent.

Sec. 28-68. Retaliation prohibited.

No person or employer shall discharge, refuse to hire, penalize, discriminate against or in any manner retaliate against, any employee, applicant for employment or customer because the employee, applicant or customer exercises any right to a smoke free environment afforded by this ordinance or other law.

Sec. 28-69. Other applicable laws.

This ordinance is intended to complement the Minnesota Clean Indoor Air Act, Minnesota Statute Sec. 144.411 to 144.417, as amended from time to time. Nothing in this ordinance authorizes smoking in any location where smoking is restricted by other applicable laws.

Sec. 28-70. Violation and penalties.

(a) Smoking where prohibited. It is a violation of this ordinance for any person to smoke in an area where smoking is prohibited by this ordinance;

(b) Proprietors. It is a violation of this ordinance for the proprietor or other person in charge of any premises subject to this ordinance to fail to comply with the requirements of Chapter 28, Article VII, or to retaliate against an employee, applicant for employment or customer, as prohibited by Section 28-68;

(c) Penalties. A person who violates any provision of this ordinance shall, upon conviction for a first violation, be subject to a penalty of up to \$700 as set forth in Section 1-7 of the Duluth City Code, 1959, as amended, or its successor;

(d) Private right of action. In addition to the penalties provided in Section 28-70(c), any person injured by a repeated or continuing violation of the ordinance may bring a civil action against the proprietor or other person in charge of a public place to enjoin further violations.

Sec. 28-71. Severability.

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If any portion of this ordinance, or its application to any circumstances, is held invalid, the remaining provisions shall be considered severable, and shall be given effect to the maximum extent possible.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: July 15, 2001)

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

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

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

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 29, 2001
Approved May 29, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9491

BY PRESIDENT EDWARDS:

AN ORDINANCE ELIMINATING LIMOUSINE REGULATIONS;
REPEALING ARTICLE V OF CHAPTER 47, DULUTH CITY CODE,
1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Article V of Chapter 47, Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 15, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 29, 2001
Approved May 29, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9492

BY PRESIDENT EDWARDS:

AN ORDINANCE PERTAINING TO THE LICENSING OF MASSAGE
THERAPISTS; INCREASING THE EDUCATIONAL REQUIRE-
MENTS; AMENDING SECTION 5-37 OF THE DULUTH CITY CODE,
1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 5-37 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 5-37. Massage therapists; employment relationships; licenses required.

(a) No massage establishment licensee shall permit any person to perform a massage in the licensee's massage establishment unless such person is an employee of said licensee and unless such person is licensed as a massage

therapist as provided herein. No person shall massage another for compensation unless such person has obtained a massage therapist license as provided herein and unless such person is the licensee of said massage establishment or an employee of the licensee of said massage establishment or is lawfully engaging in a massage practice as a home occupation under the terms of Chapter 50 of this Code;

(b) Massage therapist licenses shall be issued by the city clerk after approval by the chief of police. Applicant must be 18 years of age or over and eligible for a license under the terms of Minnesota Statutes, Chapter 364 and the provisions of this Article. Applicant must also have successfully completed a course of study in massage of not less than 500 hours from a recognized school where the theory, method, profession or work of massage is taught; except that any person licensed as a massage therapist before (effective date of ordinance) may continue to receive a license notwithstanding the fact such therapist has less than 500 hours of training. Applicant shall submit a diploma, certificate or other written proof of educational attainment with the application, including the name and address of the school;

(c) An application for such license shall be filed with the city clerk, which application shall state the name, address, date of birth, criminal record and other pertinent information as required by the chief of police. Upon receipt of the application the chief of police shall cause all necessary investigations to be made so that he may approve or disapprove of the license;

(d) The fee for such license shall be \$15 per year. The license year shall be from May 1 to April 30 and shall not be prorated.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 15, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 29, 2001
Approved May 29, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9493

BY COUNCILOR STENBERG:

AN ORDINANCE REGULATING THE PLACEMENT OF PERSONAL WIRELESS COMMUNICATION SERVICE TOWERS WITHIN THE CITY; AMENDING SECTION 50-35 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 50-35 of the Duluth City Code, 1959, as amended, 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) Bed and breakfast inns and homestays; but only 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 historically or architecturally unique residential properties, as so certified by the city's heritage preservation commission, which meet or exceed the criteria outlined herein, and only after it is determined that the single family character of the property and the quality of the neighborhood will be preserved. A bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be other than, a private home with houseguests. The intent is not to permit or allow yards to be destroyed, landscaping to be removed or the integrity of the neighborhood to be altered in order to convert the property to a bed and breakfast inn;

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

(A) Documentation of historical or architectural uniqueness, certified by the city's heritage preservation commission;

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

(C) A landscape plan as defined in Section 50-1.65;

- (D) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;
- (E) Sign drawings showing location, dimensions and detail;
- (F) Inspection reports from the city building official, city fire marshal and St. Louis County health department;
- (3) Bed and breakfast inns and homestays 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 a homestay, the proprietor shall be the owner and occupant of the property and no dwelling unit other than that of the proprietor, no home occupation, roomers or boarders shall be permitted;
 - (D) Off street parking shall be provided as required in Section 50-26;
 - (E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) from surrounding properties and rights-of-way. Scattered parking shall not be allowed;
 - (F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast homestays. In bed and breakfast inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in bed and breakfast inns not to exceed the approved seating capacity of the facility;
 - (G) Alterations to the interior of the building shall not compromise the primary residential character of the building;
 - (H) Any construction to restore buildings to historic condition, any construction of new buildings and any alterations to the exterior of the building or grounds must be authorized by the city council through this special use permit process;
 - (I) There shall be a limitation on the number of guest rooms permitted based on the character and size of the building;
 - (J) Total signage on the property shall not exceed 12 square feet in size. Such signage shall complement the architecture of the structure;
 - (K) Guests' stays shall be limited to ten consecutive days;
 - (L) The bed and breakfast homestay shall be a subordinate use to the primary single family use of the property;
 - (M) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;
- (e) Cemetery, crematorium or mausoleum;
- (f) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not

more than six children, and is an extension of an existing facility licensed under state law.

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

- (g) Circus or carnival grounds, but not within 300 feet of any R district;
- (h) Clinic of less than 10,000 square feet in floor area or institutions;
- (i) Commercial, recreational or amusement development for temporary or seasonal periods;
- (j) Commercial rooming house, but only in those districts where permitted as special use;
- (k) Commercial services and recreational uses in the IP industrial park district, as further defined in Section 50-123 of this Chapter;
- (l) Day care facility, but only in those districts where permitted as a special use;
- (m) Elderly congregate housing facility, but only in those districts where permitted as a special use;
- (n) Marina;
- (o) Mini storage facilities; subject to compliance with the following criteria:
 - (1) Located in a S zone;
 - (2) On a parcel not less than 7-½ 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, but not including personal wireless communication service towers regulated in paragraph (ff) of this Section;

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

- (w) Residential rooming house, only in those districts where permitted as a special use;
- (x) Riding stable;
- (y) Solid waste disposal facility;
 - (1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;
 - (2) An application for this special use permit shall include the following:
 - (A) A complete legal description of the property and the specific site within the property description;
 - (B) A site plan as defined in Section 50-1.64;
 - (C) A landscape plan as defined in Section 50-1.65.7;
 - (D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;
 - (E) Engineering certification, signed by the project engineer, which must certify (with any exceptions listed) that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;
 - (F) Signage plans showing location, dimensions and detail;
 - (G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;
 - (H) Ground water monitoring plan as and if required by state statutes or rules;
 - (I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;
 - (3) Standards and conditions. Solid waste disposal facilities and yard waste composting facilities may be granted special use permits in S, M-1 and M-2 zones subject to the following:
 - (A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In S and M-1 zones the setback shall be 300 feet from all properties zoned other than M-2. Such setbacks shall be bermed and/or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;
 - (B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and Western Lake Superior Sanitary District requirements in accordance with Minnesota Statutes and agency rules;
 - (C) Solid waste disposal facilities for industrial waste shall only be allowed in M-2 zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;
 - (D) Solid waste disposal facilities for construction debris shall only be allowed in M-2 zones;

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

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

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

(H) There shall be no burning of materials;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ee) Wind energy conversion systems. WECS shall be permitted, provided that the existing or future uses permitted within adjacent properties are not adversely affected by: noise, radio or television signal interference, or safety conditions. Further provided, that such WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower and in no case shall tower height exceed 200 feet. Further provided, that satisfactory visual screen buffers be provided at the edges of the property in order to mitigate aesthetic impacts upon the neighborhood.

(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 and be in force 30 days from and after its passage and publication. (Effective date: July 15, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 29, 2001
Approved May 29, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9494

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S SUBURBAN TO R-1-B SINGLE FAMILY RESIDENTIAL PROPERTY LOCATED SOUTH OF GLENWOOD STREET BETWEEN SOUTH RIDGE ROAD AND WOODCREST DRIVE (BAUMGARTEN).

The city of Duluth does ordain:

Section 1. That Plate No. 43 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 15, 2001)

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 29, 2001
Approved May 29, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 11, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on May 14 and 21, 2001, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0611-11 University of Minnesota, Duluth Campus, submitting application for a concurrent use permit to install fiber optic communications cables beneath Junction Avenue. -- Planning commission

01-0611-01 Minnesota state auditor submitting: (a) Audit report for Duluth state convention center administrative board (Duluth Entertainment Convention Center authority) for the years ended December 31, 2000 and 1999; (b) Management and compliance report for the Duluth economic development authority for the year ended December 31, 2000. -- Received

01-0611-12 Martin Rhoads submitting communication regarding the McQuade public access project (01-0360R). -- Received

01-0611-02 The following submitting communications regarding the smoking ban (Ordinance 9490): (a) Diane Peplinski; (b) Ken A. Steil; (c) Dick Thorsen (Minnetonka, MN); (d) Peter Toftey. -- Received

01-0611-13 The following submitting communications regarding granting a special use permit to Demolition Landfill Services, LLC, for a demolition and construction debris land disposal facility for property located at 1100 West Gary Street (01-0336R): (a) Arrowhead Builders Association; (b) Citizens Coalition of Gary-New Duluth. -- Received

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REPORTS OF OFFICERS

01-0611-03 Assessor submitting letters of:

(a) Confirmation of the assessment roll levied to defray the assessable portions of the snow removal 2000, Contract 5340 (assessable - \$921.80);

(b) Sufficiency to vacate part of 38th Avenue East adjacent to Lots 18 and 19, Block 11, Crescent View Park;

(c) Insufficiency to construct a permanent alley in Seventh Street Alley between 40th and 41st Avenues West. -- Received

01-0611-22 Finance department director submitting comprehensive annual financial report for the fiscal year ended December 31, 2000. -- Received

01-0611-04 Parks and recreation department director submitting: (a) Lake Superior zoological society minutes of March 23, 2001, meeting; (b) Communication authorizing the 10:00 p.m. to 6:00 a.m. closing of Lake Place Park located at Second Avenue East and Michigan Street, pursuant to Section 35-9.3 of the Duluth City Code. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0611-05 Civil service board minutes of April 3, 2001, meeting. -- Received

01-0611-06 Community development committee minutes of: (a) February 27; (b) March 27; (c) April 24, 2001, meetings. -- Received

01-0611-07 Duluth airport authority: (a) Minutes of April 17, 2001, meeting; (b) Unaudited balance sheet of March 31, 2001. -- Received

01-0611-08 Housing and redevelopment authority of Duluth minutes of April 24, 2001, meeting. -- Received

01-0611-09 Planning commission submitting copy of letter sent to Robert and Charlotte Mahai, et al., regarding the denial of a request for a local street design variance to eliminate the sidewalk on the west side of Kolstad Avenue between Faribault Street and Winona Avenue. -- Received

01-0611-10 Seaway Port authority of Duluth minutes of April 25, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Debbie Richardson expressed her concern that the Howard Gnesen Road is being driven at 50 to 60 mph, even though it is posted for 30 mph and has become a thoroughfare, and that some refer to it as a freeway. She noted that, with the road being narrow and winding, the safety of children is the primary concern and requested that the road be changed to prohibit trucks and to have it restricted to local traffic only.

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Kay L. Lewis expressed her concerns over: the speed of some motorists on city streets; the need for fire escapes for some of the buildings on Michigan Street and the possibility housing students on large boats in the harbor.

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RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 01-0340, confirming reappointment of Robert Brooks to Duluth economic development authority, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to return the resolution to the administration, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Stewart, Stover and President Edwards -- 7

Nays: Councilors Ness and Stenberg -- 2

- - -

Councilor Stewart moved to remove Resolution 01-0341, appointing Thomas A. Clure to Seaway Port authority of Duluth replacing Thomas Grosser, from the table, which motion was seconded and unanimously carried.

Resolution 01-0341 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the city council hereby appoints Thomas A. Clure to the Seaway Port authority of Duluth for a term expiring October 10, 2006, replacing Thomas Grosser.

Resolution 01-0341, as amended, was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0336, amending Resolution 00-0336 granting a special use permit to Demolition Landfill Services, LLC, for a demolition and construc-

tion debris land disposal facility for property located at 1100 West Gary Street, from the table, which motion was seconded and unanimously carried.

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

The following speakers spoke in favor of the resolution: Andy Peterson, representing the Duluth Area Chamber of Commerce; Steven Chepelnik, president of the Gary-New Duluth Community Club; and Scott Vandeheuvel, Demolition Landfill Services, LLC, (DLS) environmental manager; for the reasons of: this company is good for Duluth with its good paying jobs; the applicant has a long-range plan for the site; the Minnesota pollution control agency (MPCA) will oversee this process; the community club is supportive because of the monitoring of wells, the financial protection and environmental protection that has be established; and the state funds are substantial to cover any contingency.

The following speakers spoke in opposition to the resolution: Jeff Jackson, planning commission chairperson; Helen Sever; Joseph Balach; and Peggy Marrin; for the reasons of: this is a M-2 district; it is a substantial change to the land use; DLS should use the five year permit time frame so the MPCA has a chance to review their plans; the DLS plan is only a concept at this time and not final yet; it is premature to permit beyond the current five year permit; technology and rules are changing daily; it would be a step backwards to permit to the year 2018; two-thirds of the Gary residents signed a petition saying that they did not want a landfill; this is an open end permit that triples its size; and the concern should be in how to clean it up and relocate it.

Councilors Fena, Stover and Gilbert opposed the resolution for reasons of: this is not in the best interest of Gary and the city at this time; after reviewing this extensively, the planning commission voted against it; there should be some other place in the city for this need; it is unknown as to how many trucks will be going through a residential area; real estate values would be adversely affected; the prior council said no to this; the length of the permit; this gives a poor image to this area; the city gives up many controls; and the size will increase from 11 to 37 acres.

Resolution 01-0336 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Hogg, Ness, Stenberg, Stewart and President Edwards -- 6

Nays: Councilors Fena, Gilbert and Stover -- 3

[Editor's Note: Resolution 01-0336 was vetoed by Mayor Doty on June 21, 2001 (Public Document No. 01-0625-12), reconsidered on June 25, 2001, and failed to pass due to a lack of a 6/9ths majority.]

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

BY COUNCILOR STEWART:

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

SISTER CITY COMMISSION

Melissa Kadlec for a term expiring March 30, 2004.

Resolution 01-0420 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR STEWART:

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

DULUTH TRANSIT AUTHORITY

Frank Messina (District 2) and Renae Switzer (at large) for terms expiring June 30, 2004.

Resolution 01-0422 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a neighborhood matching grants fund agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0611-14, with the Eastern Little League Association in an amount not to exceed \$9,838, payable from Fund 0100, Agency 700, Org. 1417, Obj. 5490.

Resolution 01-0417 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the Duluth City Council hereby approves, subject to the approval of the city planning commission, the U.S. Army corp of engineers and the board of water and soil resources, the acquisition by the Duluth airport authority (DAA) of 2.19 acres of wetland replacement credits from Charles Krysiak and John Olson for the purchase price of \$28,470 relating to the 1,000 foot improvement to the runway safety area of Runway 03-21, payable from the DAA construction fund.

Resolution 01-0412 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, Linda Seguin has submitted to the city council a request for a special use permit for a home beauty salon on property located at 316 North 38th Avenue West described: southerly 35 feet of Lots 1 - 4, Block 10, Seibourn Park Duluth, and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Linda Seguin to allow for the operation of a home beauty salon at 316 North 38th Avenue West, on the following conditions:

(a) That the operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 01-0611-15;

(b) That the necessary inspections are received;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(c) The term of the permit run for ten years at which time renewal may be considered.
Resolution 01-0413 was unanimously adopted.
Approved June 11, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of West 14th Street South, legally described as: 14th Street adjacent to Lots 99 and 101, St. Louis Avenue, and Lots 100 and 102 Minnesota Avenue, Upper Duluth; and

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

WHEREAS, the city planning commission unanimously denied the vacation petition at its May 23, 2001, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth denies the vacation of 14th Street described above, based upon the following findings:

(a) The vacation petition is inconsistent with city council Resolution 90-0191 - RESOLUTION ADOPTING A CITY POLICY FOR PARK POINT STREETS RIGHTS-OF-WAY;

(b) Existing utilities must be preserved within easements, affecting the northerly 40 feet of the 60 foot wide street easement;

(c) Until the development of St. Louis Avenue and the Duluth Boat Club project are completed, and the function of 14th Street is fully understood, the vacation of this street is premature.

Resolution 01-0414 was unanimously adopted.
Approved June 11, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SoftCenter Duluth for the provision of technology related marketing service, a copy of which is on file in the office of the city clerk as Public Document No. 01-0611-16, in an amount not to exceed \$90,000, payable from Fund 0425, Agency 020, Org. 4590.

Resolution 01-0431 was unanimously adopted.
Approved June 11, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 01-0611-17, with Independent School District No. 709 to provide workforce development services, including job counseling and wage subsidies to at-risk youth as part of the school district's truancy prevention program (TAP). The initial contract period is January 1, 2000, through December 31, 2001. The contract will be extended to complete project goals upon notification by the school district of the duration of the district's funding extension.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

FURTHER RESOLVED, contract revenues will include \$38,463 for job counseling services and \$13,942 for wage subsidies (\$52,405) and shall be deposited in Fund 268, Budget Item 6281.

Resolution 01-0404 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to submit a local service unit (L.S.U.) plan for the provision of employment and training services to residents of the city of Duluth which is coordinated with St. Louis County's L.S.U. for state fiscal years 2002 and 2003 (July 1, 2001, to June 30, 2003). A copy of this plan will be on file in the city clerk's office as Public Document No. 01-0611-18.

Resolution 01-0429 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay \$20,000 to Northland Constructors of Duluth, Inc., in settlement of all claims arising out of failure of the city to timely authorize payment to Northland for work done under Mn/DOT Contract No. L96277 as required under Minnesota Statutes Section 471.425; payment to be made from Self Insurance Fund 0630.

Resolution 01-0416 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay \$14,683.67 to Mark and Michele Kohout in settlement of all claims arising out of a sewer backup on March 8, 2001; payment to be made from self insurance fund.

Resolution 01-0423 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Glacier Paving, Inc., be and hereby is awarded a contract for the year 2001 bituminous overlay program for the engineering division in accordance with specifications on its low specification bid of \$118,827.59, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2115, Object 5530.

Resolution 01-0424 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of 384 feet of 15 inch RC pipe storm sewer on Second Avenue West between Sixth Street and Seventh Street and 149 feet of 18 inch RC pipe storm sewer on 21st Avenue East between Sixth Street and Seventh Street Alley for the engineering division in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

specifications on its low specification bid of \$54,492, terms net 30, FOB job site, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0425 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Earth Burners, Inc., be and hereby is awarded a contract for construction of eight inch PVC and eight inch HDPE I&I storm sewers on Superior Street Alley from 58th Avenue East to 59th Avenue East; Colorado Street from 46th Avenue East to 47th Avenue East and east side of Fourth Avenue East from Eighth Street to Ninth Street Alley for the engineering division in accordance with specifications on its low specification bid of \$44,067.55, terms net 30, FOB job site, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0426 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of year 2001 citywide street and sidewalk repairs for the engineering division in accordance with specifications on its low specification bid of \$377,367.50, terms net 30, FOB job sites, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5337, Object 5530.

Resolution 01-0427 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for reconstruction of Lift Station Number 25 located at Woodland Avenue and Pleasant View Road for the sewer division in accordance with specifications on its low specification bid of \$127,260, terms net 30, FOB job site, payable out of Sewer Construction Bond Fund 531, Dept./Agency 500, Object 5532.

Resolution 01-0428 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute the memorandum of easement filed as Public Document No. 01-0611-19 between the Duluth Missabe and Iron Range Railway Company and the city to clarify and facilitate the recording of a 1986 easement agreement between the parties.

Resolution 01-0430 was unanimously adopted.

Approved June 11, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized to execute a contract with the Duluth state convention center administrative board substantially in the form of the agreement filed as Public Document No. 01-0611-20, for the production and promotion of a grand opening celebration for Bayfront Festival Park and Fourth of July celebration for a consideration of \$42,500 to be paid from Special Projects and Events Account 0100-015-2030.

Resolution 01-0406 was unanimously adopted.
Approved June 11, 2001
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR STEWART:

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

DULUTH AIRPORT AUTHORITY

Nancy Norr for a term expiring July 1, 2002, replacing Thomas Vecchi, who resigned.
Resolution 01-0418 was unanimously adopted.
Approved June 11, 2001
GARY L. DOTY, Mayor

- - -

Resolution 01-0419, by Councilor Stewart, confirming appointment of George Weller to the planning commission replacing Alan Billington, was introduced for discussion.

Councilor Stewart moved to table the resolution for an interview on July 5, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STENBERG

01-023 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO.14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2 TWO FAMILY RESIDENTIAL TO C-2 HIGHWAY COMMERCIAL, PROPERTY LOCATED ON THE LOWER SIDE OF GRAND AVENUE BETWEEN 66TH AND 67TH AVENUES WEST (KLEIMAN).

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

Dick Jasper; Jeanne Koneczny; and Mark Watkins, pastor of Bethany Baptist Church; opposed the ordinance for the reasons of: the desire to build residential houses there; there is an over-abundance of commercial property in that area already; this would take away the only access to a private residence; there has been a plan to have a "softer" view of West Duluth by keeping the commercial and manufacturing zoning out of the area; there is a need to wait until the West Duluth comprehensive plan is finalized; and this violates the direction of the original West Duluth plan.

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The following entitled ordinances were read for the second time:

BY PRESIDENT EDWARDS

01-022 (9495) - AN ORDINANCE PERTAINING TO ALCOHOLIC BEVERAGE LICENSES; IMPOSING CIVIL PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 8-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILOR ECKENBERG

01-021 (9496) - AN ORDINANCE AUTHORIZING SALE OF THE OLD EAST HILLSIDE FIRE HALL BUILDING TO THE HUMAN DEVELOPMENT CENTER IN EXCHANGE FOR A LEASE ON ADJACENT PROPERTY.

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

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The meeting was adjourned at 8:55 p.m.

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

- - -

ORDINANCE NO. 9495

BY PRESIDENT EDWARDS:

AN ORDINANCE PERTAINING TO ALCOHOLIC BEVERAGE LICENSES; IMPOSING CIVIL PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 8-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-9 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-9. Suspension and revocation of licenses; civil penalty; presumptive penalties.

(a) When it comes to the attention of the alcohol, gambling and tobacco commission that any establishment licensed pursuant to this Chapter may have violated the provisions of this Chapter or any other law relating to the operation of a liquor establishment, or that such establishment may be engaging in other conduct that may constitute good cause for the suspension or revocation of its liquor license, the alcohol, gambling and tobacco commission may call for a hearing to determine the validity of the allegations and to determine what, if any, disciplinary measures shall be recommended to the city council for their implementation against the licensee. Any hearing called pursuant to the provisions of this Section shall be held before the alcohol, gambling and tobacco commission and shall be held pursuant to the procedural and evidentiary provisions of Minnesota Statutes, sections 14.57 to 14.69, and rules promulgated thereunder. At such hearing, the commission shall hear all relevant evidence and arguments from all parties. After due deliberation, the commission shall determine the validity of the allegations and what, if any, corrective or punitive measures will be recommended to the city council. At the completion of the hearing and deliberations, the commission shall direct the city clerk to prepare a report to the city council which shall consist of the commission's findings of fact, conclusions and recommendation to the city council. The report shall be filed with the city council and served personally or by first class mail upon the parties to the hearing. The council shall also receive a copy of the transcript of the commission's hearing and any exhibits introduced as evidence. The city council

shall not render a decision on the matter until at least ten days after it has received the report of the alcohol, gambling and tobacco commission. During this ten day period, either party to the hearing may present written exceptions to the report of the alcohol, gambling and tobacco commission or make arrangements to be placed on the agenda of the city council to present oral argument to the city council concerning the matter. The city council's decision on the matter shall be in the form of a written resolution which shall contain findings of fact and conclusions on all material issues and shall set forth any punitive action taken against the license. A copy of the resolution shall be served upon the licensee personally or by first class mail;

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

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

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

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

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

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

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

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

(8) Nonuse of the license;

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

(c) The city council may, for the causes enumerated above, revoke a license, suspend a license for up to 60 days or impose a civil penalty of not to exceed \$2,000 for each violation, or any combination of these sanctions. Absent significant aggravating or mitigating circumstances, the presumptive penalties for violations shall be as follows:

First offense - \$500 civil penalty;

Second offense within one year - \$750 civil penalty and one day license suspension;

Third offense within two years - \$1,000 civil penalty and five day license suspension;

Fourth offense within two years - \$1,500 civil penalty and 30 day license suspension;

(d) The city council may request that the alcohol, gambling and tobacco commission conduct a hearing concerning the operation of any establishment

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

licensed pursuant to this Chapter. The commission shall conduct any hearings so requested.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 15, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 11, 2001
Approved June 11, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9496

BY COUNCILOR ECKENBERG:

AN ORDINANCE AUTHORIZING SALE OF THE OLD EAST HILLSIDE FIRE HALL BUILDING TO THE HUMAN DEVELOPMENT CENTER IN EXCHANGE FOR A LEASE ON ADJACENT PROPERTY.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 01-0611-21, with the Human Development Center (HDC) pursuant to which the city will convey by quit claim deed the below-described property in St. Louis County, Minnesota, to HDC for \$12,000, to be deposited in General Fund 0100-700-1418-4640, plus \$200,000 as a forgivable loan and to execute all documents necessary with regard to said conveyance:

Lot 1, Block 83, ENDION DIVISION.

Section 2. That the authority enter into the agreement referenced in Section 1 above shall be conditioned upon the Human Development Center executing a lease, a copy of which is on file in the office of the city clerk as Public Document No. 01-0611-21, leasing to the city at least 270 square feet in the adjacent structure, as described in said lease, plus access to common meeting rooms and facilities, at no rental cost to the city for a term of 20 years, and the proper city officials are authorized to enter into said lease and to execute all documents necessary with regard thereto.

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: July 15, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 11, 2001
Approved June 11, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 25, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on May 29, 2001, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0625-01 The following submitting communications regarding issuance of work permit to Spirit Ridge L.L.C. for construction of a golf course and lodge in the Spirit Mountain recreation area (01-0278R): (a) Iver Bogen; (b) Minnesota pollution control agency; (c) National Wildlife Federation. -- Received

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REPORTS OF OFFICERS

01-0625-12 Mayor Doty submitting veto of Resolution 01-0336, amending Resolution 00-0336 granting a special use permit to Demolition Landfill Services, LLC, for a demolition and construction debris land disposal facility for property located at 1100 West Gary Street. -- Received

01-0625-02 Building official submitting appeal of the BZA denial for an oversized off premise sign in a scenic area to be increased from 60 square feet to 240 square feet on property located at 2120 London Road (Burger King Restaurant). -- Committee 2 (Physical development)

01-0625-03 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (bingo and raffle) from St. Margaret Mary Church on September 16, 2001. -- Received

01-0625-04 Community development and housing division submitting HRA housing rehabilitation report for May 2001. -- Received

01-0625-05 Engineering division submitting monthly project status report of June 1, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0625-06 Alcohol, gambling and tobacco commission minutes of: (a) April 10; (b) May 8; (c) May 16, 2001, meetings. -- Received

01-0625-07 Board of review minutes of May 30, 2001, meeting. -- Received

01-0625-13 Board of zoning appeals minutes of May 22, 2001, meeting. -- Received

01-0625-08 Building appeal board minutes of April 18, 2001, meeting. -- Received

01-0625-09 Duluth airport authority: (a) Unaudited balance sheet of April 30, 2001; (b) Minutes of May 15, 2001, meeting. -- Received

01-0625-10 Duluth/North Shore sanitary district board minutes of June 5, 2001, meeting. -- Received

01-0625-11 Duluth transit authority: (a) Income statement for April, 2001; (b) Minutes of April 18, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah recommended that TEAM Duluth publish in the newspaper an information article as to what is being accomplished at the technology village.

- - -

Jill Jacoby, Bayfront Visions Group, presented a funding update on the Living Water Garden project and asked for support from the city (Public Document No. 01-0625-34).

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Greg Price addressed a fact sheet on the barrels in Lake Superior and that stated that he felt there are still unanswered questions and issues relative to this subject.

- - -

Kay L. Lewis noted that: short notice was sent out relative to the planned unit development meeting this evening; the fine gravel walkway at the aquarium will eliminate skateboarding; and the crosswalk signage at the back of the Duluth Entertainment Convention Center (DECC) needs to be moved back farther for safety.

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John Vaydich, vice president for Region 3 of Allied Charities, expressed the significant, adverse financial effect that the new smoking ban will have on the charities that receive funds from the proceeds of charitable gambling.

- - -

Genny Hinnenkamp, representing Irving Community Club, noted the how the smoking ban will hurt the work that they accomplish and presented their Minnesota Schedule C/D to show where the money is given out monthly and the amount of combined receipts tax paid monthly (Public Document No. 01-0625-35).

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RESOLUTION RECONSIDERED

Councilor Stewart moved to reconsider Resolution 01-0336, amending Resolution 00-0336 granting a special use permit to Demolition Landfill Services, LLC, for a demolition and construction debris land disposal facility for property located at 1100 West Gary Street, which had been vetoed by the mayor, which motion was seconded and carried unanimously.

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

Helen Sever and Bill Spehar spoke in opposition to the resolution because the council was only ordered by the court to issue the original permit, the clean-up of the slag has not begun yet and this is an attempt to have three additional landfills until the year 2018.

Jack Perry, attorney for Demolition Landfill, stated that: the deadline for starting the slag clean-up is June 30 and that it will begin by then; the ramifications of not approving this would allow his client to get a permit when the deadline expires, which is not required to have any of the conditions, which have been agreed to; and there is not a legal basis for denying this permit.

Councilors Eckenberg, Gilbert, Fena and Stover spoke in opposition to the resolution, citing such reasons as: there should not be landfills near residential neighborhoods; the mayor has not specifically identified why he vetoed this, so a losing legal battle would possibly ensue if this is not passed; the mayor must have some better alternatives for this area that he has not explained; the council does not have to act on this tonight; the planning commission had concerns regarding the extent of the expansion over time and space; this is for 18 years, which does not allow for any alternatives.

In response to the mayor's objection to inaccurate wording in the resolution, Councilor Stewart moved to amend the resolution by deleting paragraph (c) on page 4 in its entirety, which motion is seconded and unanimously carried.

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

Yeas: Councilors Eckenberg, Fena and Gilbert -- 3

Nays: Councilors Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 6

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

Yeas: Councilors Hogg, Gilbert, Ness, Stenberg, Stover and President Edwards -- 6

Nays: Councilors Eckenberg, Fena and Stewart -- 3

Resolution 01-0336 failed upon the following vote (Public Document No. 01-0625-33):

Yeas: Councilors Hogg, Ness, Stenberg, Stewart and President Edwards -- 5

Nays: Councilors Eckenberg, Fena, Gilbert and Stover -- 4

[Editor's Note: Resolution 01-0366 shall not go into effect because the council failed to override the mayor's veto by a vote of at least six of it's members.]

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RESOLUTIONS TABLED

Councilor Gilbert moved to remove Resolution 01-0175, pertaining to the Spirit Mountain golf course; requesting additional information before work permits are issued; Resolution 01-0176, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain to take certain actions against the developer; and Resolution 01-0177, pertaining to the Spirit Mountain golf course; requesting Spirit Mountain recreation area authority to ascertain whether the golf course project constitutes a conversion to private use under the Federal Land and Water Conservation Fund Act of 1965, by councilors Gilbert, Stewart and Stover, from the table, which motion was seconded and unanimously carried.

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

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of snow removal for 2000 (Contract #5340, total assessable - \$921.80), is hereby confirmed.

Resolution 01-0451 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Mr. D's Coed Softball Tournament, Wheeler Field, for July 14 and 15, 2001, with Darrell Eckenberg, manager.

Duluth Softball Players Association, Wheeler Field, for August 18-31, 2001, with John Vaydich, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Duluth Softball Players Association, Wheeler Field, for September 1-3, 2001, with John Vaydich, manager.

Woodland Fastpitch Association (Jimmy Herold Memorial Tournament), Anoka and Woodland Avenue, for July 13, 14 and 15, 2001, with Brett Klosowski, manager.

Beerhunters Softball Tournament, Wheeler Field, for August 4 and 5, 2001, with Ronald Heurung, manager.

Resolution 01-0440 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale nonintoxicating malt liquor licenses for the period ending April 30, 2002, subject to departmental approvals and the payment of sales and property taxes:

Miner's, Inc. (Woodland Piggly Wiggly), 4020 Woodland Avenue, with James A. Miner, president and 100 percent stockholder.

Miner's, Inc. (Super One Foods), 5401 Burning Tree Road, with James A. Miner, president and 100 percent stockholder.

Miner's, Inc. (Super One Foods), 5300 Bristol Street, with James A. Miner, president and 100 percent stockholder.

Resolution 01-0441 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, for July 20, 2001 (rain date: July 21, 2001), with the music and serving ceasing at 11:00 p.m.

Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, for July 13, 2001, with the music and the serving ceasing at 12:00 a.m. (rain date: July 14, 2001).

Wizner Company, 113 West First Street, for July 13, 2001, with the music and the serving ceasing at 12:00 a.m. (rain date: July 14, 2001).

Coughlin Tavas, Inc. (Bedrock Bar), 2023 West Superior Street, for July 27, 2001, with the music and the serving ceasing at midnight (rain date: July 28, 2001).

Curly's Bar, Inc. (Curly's Bar), 2013 West Superior Street, for July 27, 2001, with the music and the serving ceasing at midnight (rain date: July 28, 2001).

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 3, 2001 (rain date: August 4, 2001), with the music ceasing at midnight and the serving ceasing at 12:30 a.m.

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for August 3, 2001 (rain date: August 4, 2001), with the music ceasing at midnight and the serving ceasing at 12:30 a.m.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Dwayne & Kimberly, Inc. (Kom On Inn), 332 North 57th Avenue West, for August 3, 2001 (rain date: August 4, 2000), with the music ceasing at midnight and the serving ceasing at 12:30 a.m.

Resolution 01-0442 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor licenses for the period ending August 31, 2001, subject to departmental approvals:

Nylen, Magie & Strum Properties (Buena Vista Lounge/Restaurant), 1144 Mesaba Avenue.

Grandma's Garage, LLC (Willy's Garage), 355 Lake Avenue South.
Resolution 01-0443 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2001, subject to departmental approvals and the payment of sales and property taxes:

Grandma's Angie's Mall, LLC (Angie's Cantina & Grille), 1600 Miller Trunk Highway, with Michael J. Paulucci, chairman and 90 percent stockholder and Andy Borg, CEO and ten percent stockholder, transferred from Grandma's Rochester, Inc. (Box Car Deck), 522 Lake Avenue South.

Resolution 01-0444 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
Congdon Park Recreation Association	Twins Bar	June 5, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Congdon Park Recreation
Association

Round Up Bar & Grill

June 5, 2001

Resolution 01-0445 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

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

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

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

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

Resolution 01-0446 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas on First Street between Third and Fourth Avenues West and First and Second Avenues West, on July 13, 2001, 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 01-0447 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street and 57th Avenue West between Grand Avenue and Central Avenue, on August 3, 2001, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 01-0448 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

Northland Country Club, 3901 East Superior Street, for August 15, 2001, an application fee of \$200, with William Roberts, manager.

Resolution 01-0463 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Minnesota Power, Inc., be and hereby is awarded a contract for furnishing and installing a single primary electrical service to the Bayfront Festival Park site located on the southwest corner of Seventh Avenue West and Railroad Street for the city architect division in accordance with specifications in an amount not to exceed \$40,000, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 1998, Object C602.

Resolution 01-0467 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Cartier Agency, Inc., be and hereby is awarded a nine month extension contract for furnishing and delivering property insurance for city owned structures in accordance with specifications on its specification bid of \$53,950, terms net 30, FOB destination, payable out of Self Insurance Fund 605.

Resolution 01-0484 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

PARKING COMMISSION

John Cummings for a term expiring July 1, 2004.

Resolution 01-0438 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Orange Street Alley between Teak and Ebony Avenues in Duluth Heights legally described as: the alley in Block 17, Duluth Heights Fifth Division; and

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

WHEREAS, the city planning commission approved unanimously the alley vacation petition at its June 12, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the Orange Street Alley described above and as more particularly described on Public Document No. 01-0625-14.

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 alley to be vacated.

Resolution 01-0460 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a special use permit was issued to Snowflake Cross Country Ski Center pursuant to Resolution No. 93-0872 to operate a cross country skiing facility on property described as the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 8, Township 50, Range 14, lying north and easterly of County Highway 4 (Rice Lake Road) and located at 4348 Rice Lake Road, which permit has been amended pursuant to Resolution Nos. 97-0395, 98-0467, 99-0276 and 00-0604; said permit, as amended, being hereinafter referred to as the permit; and

WHEREAS, George Hovland, d/b/a Snowflake Cross Country Ski Center, has submitted to the city council a request for an amendment to the permit to relocate the approved uses from the easternmost portion of the site toward the western area on the above described property; and said application to amend said permit was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that:

This amendment relocates previously approved activities from the southeastern area of the site to the northwestern area of the site. Among other reasons, this change allows for a reduction in wetland impacts from 2.5 acres to less than 0.25 acres.

In making their recommendation, the planning commission considered the following findings:

- (a) There is no net change in the scope of the permitted uses.
- (b) The change is only for the location of the improvements;
- (c) The changes present only a minimal impact on wetlands;
- (d) The only change to the current permit is the site plan document.

NOW, THEREFORE, BE IT RESOLVED, that the city adopt the findings and conclusions of the planning commission and make the findings and staff report a basis for its action, that the permit is hereby amended to authorize the relocation of the following uses in accordance with the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

site plan on file in the city planning division office, subject to the conditions hereinafter set forth: relocate the previously approved clubhouse with support functions; 400 meter speed skating oval; in-line; skateboard and BMX freestyle bike park; and parking from the southeast corner to the west side of the property.

BE IT FURTHER RESOLVED, that the above cited uses are subject to the following: securing all permits otherwise required under any applicable laws, rule and regulation, including but not limited to permits required by Article V of Chapter 5 of the City Code.

Resolution 01-0462 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, Linda Paulsen has submitted to the city council a request for a special use permit for a bed and breakfast inn, consisting of three guest rooms, on property described as: Duluth; Lots 1-3, Block 53, Endion Division and parts of Lots 5, 6, 7, Block 52, Endion Division; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Linda Paulsen to allow for the operation of a bed and breakfast inn, consisting of three guest rooms, at 2104 East Superior Street, subject to the condition that the property be maintained in perpetual compliance with Section 50-35(d) of the Code, and as identified as Public Document No. 01-0625-15 and the following terms and conditions:

- (a) Issuance of certificate of occupancy by the building inspection division;
- (b) Health license from St. Louis County.

Resolution 01-0468 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$290,402 in Workforce Investment Act youth funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution No. 01-0250, passed April 9, 2001. Said monies will be used to provide workforce development services to at risk youth under the Workforce Investment Act, as defined in the program year 2001-2002 local plan for youth services, from April 1, 2001, to March 31, 2002. Funds received will be deposited in Fund No. 268, Budget Items 6246 and 6247.

Resolution 01-0433 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District No. 709 for the services of five teachers to provide instructional

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

services and work site coordination to at risk youth participating in the summer work experience program's academic enrichment component from June 11, 2001, through August 3, 2001, at costs not to exceed \$31,000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 01-0625-16.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6233, 6238, 6239, 6246 and 6247.

Resolution 01-0434 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to modify City Contract 18785 with Independent School District 709 for basic instructional services to Workforce Investment Act program participants at the employment opportunity center for the period from September 7, 2000, through June 7, 2001, by increasing the contract amount to \$26,581 to cover an increase in wages stemming from settlement of a collective bargaining agreement between the district and its teachers. A copy of this modification shall be on file in the city clerk's office as Public Document No. 01-0625-17.

Resolution 01-0435 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 01-0625-18, with the Minnesota department of trade and economic development to provide services under Title I of the workforce investment and state law to dislocated workers. The duration of the contract is July 1, 2001, to June 30, 2003. Program funds will be accepted upon receipt of notices of funds available and shall be deposited in Fund 268.

Resolution 01-0436 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0625-19, with the northeast Minnesota office of job training for the provision of dislocated worker services pursuant to the workforce investment act and Minnesota Statutes, Chapter 268 for the period July 1, 2001, to December 31, 2001, at costs not to exceed \$68,190 which shall be payable from Fund 268, Budget Item 6249.

Resolution 01-0455 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District 709 to provide customized remedial education services to participants

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

in the city's nontraditional employment project for the period June 12, 2001, through August 31, 2001, at a cost not to exceed \$1,348. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 01-0625-20.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Item 6222.

Resolution 01-0456 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with RREM, an MSA division, filed as Public Document No. 01-0625-21, for professional services needed in conjunction with the closing of former Duluth Dump Site No. 1. The compensation under this agreement shall not exceed \$50,240 and shall be paid from the Self Insurance Fund 0605-036-1650-5319.

Resolution 01-0415 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for street construction on Woodlawn Street for the engineering division in accordance with specifications on its low specification bid of \$434,526.50, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5330, Object 5530.

Resolution 01-0450 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Western Lake Superior Sanitary District setting forth the terms and conditions for the approval of a sanitary sewer extension to serve a residential development on Woodlawn Street in the city of Duluth; said agreement filed as Public Document No. 01-0625-22.

Resolution 01-0454 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources, Minnesota conservation corps, said agreement filed with the city clerk as Public Document No. 01-0625-23, for mapping and field identification of trout streams in the city of Duluth for a consideration of \$8,800 to be paid from Storm Water Utility Fund 0535.

Resolution 01-0459 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR ECKENBERG:

RESOLVED, that Glacier Paving, Inc., be and hereby is awarded a contract for the bituminous overlay and intersection improvement on Woodland Avenue from Fourth Street to Kent Road for the engineering division in accordance with specifications on its low specification bid of \$268,845.52, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2116, Object 5530; to be reimbursed by municipal state aid (MSA).

Resolution 01-0469 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Northland Materials, LLC, dba Northland Bituminous, be and hereby is awarded a contract for mill and bituminous overlay on Ninth Street from Sixth Avenue East to Chester Park Drive and on Eighth Street from Chester Park Drive to Woodland Avenue for the engineering division in accordance with specifications on its low specification bid of \$298,121, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2117, Object 5530; to be reimbursed through municipal state aid (MSA).

Resolution 01-0470 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

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

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases of Airport Loop Road; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$160,346.79, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2114, Object 5530; to be reimbursed by municipal state aid (MSA) in the amount of \$110,346.79; St. Louis County in the amount of \$46,000 and Minnesota department of transportation (Mn/DOT) in the amount of \$4,000.

Resolution 01-0471 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

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

WHEREAS, the city desires to hire a consulting engineer to provide the professional engineering services required for design and construction phases of year 2002 Congdon Park West - Lower 2; and

WHEREAS, R.L.K. - Kuusisto, Ltd., has submitted a proposal for engineering services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with R.L.K. - Kuusisto, Ltd, to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$269,788, will be payable from the Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0202, Object 5530.

Resolution 01-0472 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide the year 2002 street improvement program in Lakeside Central; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, R.R.E.M./M.S.A. Division, has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with R.R.E.M./M.S.A. Division, to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$150,160, will be payable from the Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0204, Object 5530.

Resolution 01-0473 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide the year 2002 street improvement program in Ramsey North; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$54,000, will be payable from the Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0205, Object 5530.

Resolution 01-0474 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide the year 2002 street improvement program in Woodland West; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$153,688, will be payable from the Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0206, Object 5530.

Resolution 01-0475 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

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

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases for the reconstruction of First Street from Third Avenue East to Tenth Avenue East; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$169,972, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2170, Object 5530; to be reimbursed through municipal state aid funds (MSA).

Resolution 01-0476 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to provide an improved street at First Street from 27th Avenue West to 21st Avenue West and 21st Avenue West to Piedmont Avenue; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, Krech, Ojard and Associates, P.A., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Krech, Ojard and Associates, P.A., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$115,799, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2171, Object 5530; to be reimbursed through municipal state aid (MSA).

Resolution 01-0477 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

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

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for construction administration services for the rehabilitation of Bridge Number 69639 over Keene Creek on Skyline Parkway; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$34,853, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2137, Object 5530; to be reimbursed through municipal state aid funds (MSA).

Resolution 01-0478 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

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

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for preliminary design for the replacement of box culvert over Chester Creek on Kenwood Avenue approximately 400 feet south of College Street; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$16,917, will be payable from the Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1930, Object 5303.

Resolution 01-0479 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering a new traffic signal controller and cabinet at 59th Avenue West and Grand Avenue and existing traffic signal controllers and cabinets at 44th Avenue West and Grand Avenue; 40th Avenue West and Grand Avenue; 46th Avenue West and Grand Avenue for the engineering division in accordance with specifications on its low specification bid of \$41,295.38, terms net 30, FOB destination, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2228, Object 5530; to be reimbursed through municipal state aid funds (MSA).

Resolution 01-0480 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR ECKENBERG:

WHEREAS, it is deemed necessary for the public conveyance and safety that Minnesota Bridge Number L8502 at Amity Creek and Seven Bridges Road (City Job No. 9090ML99) be reconstructed; and

WHEREAS, this project will not be eligible for municipal state aid funds unless it is constructed to urban state aid standards for an urban street, 30 to 40 mph design speed, or unless a variance is granted; and

WHEREAS, practical limitations require that the horizontal and vertical alignment through the project segment be constructed utilizing a shorter horizontal curve radius and a narrower lane width than dictated by standards resulting in a 24 mph design speed in lieu of a 30 mph which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Chapter 8820, whereby the urban state aid standards be reduced for this project allowing for a ten foot lane width in lieu of the required 11 foot width and allowing for a 170 foot radius horizontal curve in lieu of the required 300 feet.

Resolution 01-0485 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, by resolution the council requested that the commissioner of transportation grant the city of Duluth a design variance on the proposed reconstruction of Minnesota Bridge No. L8502 at Amity Creek on Seven Bridges Road allowing a reduction in the urban state aid standards for bridge approaches from the required 30 mph design to a 24 mph design, and allowing for a ten foot lane width in lieu of the required 11 foot width; and

WHEREAS, the commissioner has granted the city a variance from Minnesota Rule 8820.9936 so as to allow a 24 mph design speed in lieu of the required 30 mph design speed, and allowing for a ten foot lane width in lieu of the required 11 foot width conditioned upon receipt by the commissioner of a resolution of the city council indemnifying the state for the granting of said variance;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or causes of action arising out of or by reason of the reconstruction of Minnesota Bridge No. L8502 at Amity Creek on Seven Bridges Road in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9936, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of the granting of this variance.

Resolution 01-0486 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 01-0625-24, between the city of Duluth and St. James House d/b/a Woodland Hills for the purposes of providing services of diversion and chemical health programs for juvenile offenders, at a cost to the city of \$20,400, to be paid from the Minnesota cities grant

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

program, Police Special Revenue Fund 0268, Agency 031, Organization 6244, Activity SCXX, Object 0033.

Resolution 01-0465 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, filed as Public Document No. 01-0625-25, between the city of Duluth and Lutheran Social Services for the purposes of providing services of processing and assessment of juvenile offenders at a cost to the city of \$25,000, to be paid from the Minnesota cities grant program, Police Special Revenue Fund 0268, Agency 031, Organization 6244, Activity SCXX, Object 0030.

Resolution 01-0483 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth Community Sailing Association filed with the city clerk as Public Document No. 01-0625-26, authorizing said Duluth Community Sailing Association to operate instructional and community sailing programs at the Park Point recreation area.

Resolution 01-0449 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the city owns Bayfront Festival Park; and
WHEREAS, Bayfront Blues Festival, Inc., desires to conduct the annual Bayfront Blues Festival on the premises of said Bayfront Festival Park; and
WHEREAS, the city and Bayfront Blues Festival, Inc., have reached agreement on the terms and conditions upon which Bayfront Blues Festival, Inc., may conduct said event at Bayfront Festival Park.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the agreement, filed as Public Document No. 01-0625-27, between the city of Duluth and Bayfront Blues Festival, Inc., for conducting the annual Bayfront Blues Festival at Bayfront Festival Park.

Resolution 01-0452 was unanimously adopted.
Approved June 25, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

WHEREAS, the city has entered into Agreement No. 18628 with the Arrowhead Youth Soccer Association dated February 29, 2000, and approved by Resolution 00-0117; and
WHEREAS, the Arrowhead Youth Soccer Association has developed a new soccer field on property controlled by the Spirit Mountain authority near Grand Avenue; and
WHEREAS, the Arrowhead Youth Soccer Association desires to expand the field mainte-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

nance duties performed by city as defined in said Agreement No. 18628 for the amount of \$1,750 to be paid to the city by the Arrowhead Youth Soccer Association.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the agreement amendment filed as Public Document No. 01-0625-28, between the city and the Arrowhead Youth Soccer Association which adds maintenance services performed by the city to the new Spirit Mountain soccer field as developed by the Arrowhead Youth Soccer Association.

Resolution 01-0453 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources, Minnesota conservation corps, said agreement filed with the city clerk as Public Document No. 01-0625-29, for mapping and various maintenance on recreational trails in the city of Duluth for a consideration of \$15,000 to be paid from Capital Fund 0450, Agency 015, Organization 2001, Object C115.

Resolution 01-0464 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0437, by Councilor Stewart, confirming appointment of John Bray to Duluth state convention center administrative board replacing Richard Pearson, was introduced for discussion.

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

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Resolution 01-0494, requiring compliance with Lawcon requirements prior to approval of work permit for Spirit Ridge hotel and golf course project; and Resolution 01-0495, setting forth procedure for consideration of work permit application of Spirit Ridge, LLC, by councilors Gilbert, Stewart and Stover, were introduced for discussion.

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

John Pastor; Alberta Fairbanks; Mike Furtman; Sky Davey; Denis Sauve, parks and recreation commission member; Will Rhodes, Northeastern Minnesotans for Wilderness member; Roger Reinert; Annie Jorgenson; Kay L. Lewis; Nancy Nelson; Ivor Bogen, Duluth Public Policy Alliance member; C.J. Bird; Yvonne Randa; Craig Minowa; Bryan Bumoski; Irene Danz; Joan Olewski; Francis Isham; Greg Price and Barb Koth spoke in favor of the resolutions, citing reasons of: the need for environmental review because the area is a site of a head waters trout stream and an old growth forest; an environmental assessment worksheet (EAW) is required; a lease should not have been signed before the necessary reviews are made; the environmental advisory council; environmental quality board, department of natural resources (DNR) and U. S. parks department have stated that a review is necessary; this area is Anishinabi sacred grounds; this development will hurt Duluth's clean water; there needs to be compliance monitoring; there should not be privatization of public grounds; this is a beautiful, ancient area in its natural state; there is value other than economical value to be considered here; at a recent meeting of the parks and recrea-

tion commission, there was concern as to how the issues were presented and the commission was unclear as to why the presentation was given at that time since the Lawcon issues are still unresolved; the DNR feels that there has been a violation of the grant agreement and that other grant applications are therefore not eligible for consideration; with the conversion of this land the city must replace it; which will be very costly; it would reduce future options for that land and also be unsightly; if it is built, it must be done with the upmost care; the city should be working with the park service and the DNR; this is a beautiful urban wilderness within the city; Spirit Mountain should be designated as a national park; there are already five golf courses in existence in the area; this is an example of how the environment could be damaged; a whole forest is worth more than any thing else; this would take away the continuity of the Jay Cooke forest for the animals.

Councilor Stewart moved to amend Resolution 01-0494 as follows:

(a) In the third paragraph, delete the words "but it is expected that the NPS will confirm the opinion of the DNR";

(b) In the fifth paragraph, subparagraph (a), change it to read:

"If required or requested by the NPS or DNR, the SMRAA and the developer shall be required to amend the lease to comply with Lawcon requirements and that amendments to the lease be signed by the developer and approved by the council before any work permits are considered," which motion was seconded and unanimously carried.

Councilor Stenberg and President Edwards cited issues of: whether the city council is extending its jurisdiction; to some it feels that they are voting on the issue of the development; with the short notice of filing these resolutions, tabling would be appropriate and there are more questions to be answered.

Councilor Hogg moved to call the question on Resolution 01-0494, which motion was seconded and carried.

Resolution 01-0494, as amended, was adopted as follows:

BY COUNCILORS GILBERT, STEWART AND STOVER:

WHEREAS, the Federal Land and Water Conservation Fund Act of 1965 (Lawcon) governs development of the Spirit Mountain recreation area (the area), including the development of the proposed golf course, because the city of Duluth and the Spirit Mountain recreation area authority (SMRAA) accepted Lawcon funds and promised to develop the area in accordance with the terms of the Lawcon grant agreements; and

WHEREAS, the Minnesota department of natural resources (DNR) has informed the city in a letter dated June 6, 2001, that the current lease (the lease) between the SMRAA and Spirit Ridge LLC (the developer) for the development of a hotel and golf course at the area (the development) violates the Lawcon grant agreements that the city signed with the state and federal government; and

WHEREAS, the city is waiting for an opinion from the national park service (NPS) on current compliance of the lease with Lawcon requirements; and

WHEREAS, proceeding with the golf course project without resolving Lawcon issues would not be in the best interest of the city or the Spirit Mountain recreation area because, among other things, it would end the city's eligibility to receive future Lawcon and other grants for developing outdoor recreation areas in the city.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council that:

(a) If required or requested by the NPS or DNR, the SMRAA and the developer shall be required to amend the lease to comply with Lawcon requirements and that amendments to the lease be signed by the developer and approved by the council before any work permits are considered;

- (b) Any future amendments to the lease be approved by the council;
- (c) The NPS and DNR approve the lease and the project generally as complying with Lawcon requirements before the council considers a work permit for the development; and
- (d) The council not approve a work permit contingent upon the developer and SMRAA complying with Lawcon requirements.

Resolution 01-0494, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stenberg and President Edwards -- 2

Approved June 25, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stewart moved to amend Resolution 01-0495 as follows:

- (a) Delete the fifth paragraph;
- (b) Delete subparagraph (b) of the sixth paragraph;
- (c) In subparagraph (a) of the sixth paragraph, replace the word "approved" with "approval is recommended," and after the word "EAC" insert the word "also," which motion was seconded and unanimously carried.

Resolution 01-0495, as amended, was adopted as follows:

BY COUNCILORS GILBERT, STEWART AND STOVER:

WHEREAS, the state law that established the Spirit Mountain recreation area requires the developer to obtain a work permit from the city council, after the planning commission and the parks and recreation commission have held a public hearing and made recommendations; and

WHEREAS, the state law requires the planning commission, working jointly with the parks and recreation commission, to "attach appropriate conditions and safeguards to insure compliance" with the requirement to balance promotion of recreation with preservation of the natural environment; and

WHEREAS, in its order dated October 24, 2000, the court affirmed the obligations of the developer under state law and stated that "the lease places responsibility upon Spirit Ridge to obtain all required permits before going forward with the project. The lease also provides for Spirit Ridge to minimize environmental impact. Only after Spirit Ridge has satisfied these contingencies can the city of Duluth give final approval of the project"; and

WHEREAS, in its order dated November 17, 2000, the court further stated that "the project is subject to extensive federal, state and local permit controls and in fact is contingent upon obtaining such permits. Project compliance with these permit regulations weighs heavily in favor of a finding of no significant environmental impact. The proposed mitigation measures are more than vague statements of good intentions";

NOW, THEREFORE, BE IT RESOLVED:

(a) That all variance requests and permit applications be referred to the EAC for review and recommendations for approval or disapproval, and, if approval, that the EAC recommend to the planning commission such specific safeguards and conditions as it deems necessary;

(b) That the city attach written conditions and safeguards as approved by the planning commission to any work permit to insure that the developer complies with promises made in the environmental assessment worksheet and to otherwise insure compliance with the requirement to balance promotion of recreation with preservation of the natural environment;

(c) That city staff review the documents provided by the developer as part of its application for a work permit and prepare a summary of the documents for the council, including

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

a summary of the permits to be addressed by the documents and a time line for necessary actions.

Resolution 01-0495, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stenberg and President Edwards -- 2

Approved June 25, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0278, by Councilor Stenberg, granting a work permit to Spirit Mountain recreation area authority for placement of 9,000 cubic yards of fill on the ski slope side of the chalet, was introduced for discussion.

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

Rick Certano, executive director of Spirit Mountain, explained the nature of this project.

Resolution 01-0278 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Chapter 327, Minnesota Laws, 1973, created the Spirit Mountain recreation area authority and gave that body certain powers with respect to developing that area for recreational purposes; and

WHEREAS, said Chapter 327 requires that the Duluth City Council approve a work permit for construction on area property prior to any development; and

WHEREAS, said Chapter 327 requires a public hearing before the city planning commission and parks and recreation advisory board prior to such approval and a recommendation to the city council by each of said bodies; and

WHEREAS, the planning commission, and subsequently the parks and recreation commission, held public meetings, discussed said project and made a favorable recommendation to the city council.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves the work permit for "placement of 9,000 cubic yards of fill on the ski slope side of the chalet" as indicated on the plans on file as city council Public Document No. 01-0625-30, with the following conditions:

(a) That the necessary fill permits be obtained from the building safety division;

(b) That the affected water and gas lines be relocated as recommended by the water and gas division.

Resolution 01-0278 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0457, by Councilor Stenberg, requesting the board of county commissioners of St. Louis County to withhold from sale certain tax forfeited parcels (annual list - lands tax forfeited in 2000), was introduced for discussion.

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

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BY COUNCILOR STENBERG:

WHEREAS, Duane L. McCauley has submitted to the city council a request for a concurrent use permit of a right-of-way for force main to construct a detached 24 foot by 32 foot detached garage on property described as Lot 18, Block 2, Brighton Gardens First Division, and located at

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

7417 East Superior Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its denial of the application to the city council; and

WHEREAS, the denial recommendation was made because of the city planning commission's following findings:

- (a) The existing garage slab was poured without a building permit;
- (b) The existing water lines are located 25 feet and 34 feet north of the south line of the easement. The utility must maintain a 25 to 35 foot cushion from the centerline of the watermain to any new structure;
- (c) To permit a 24 foot by 32 foot structure within the easement could affect the ability to install an additional utility, i.e. another watermain or a sanitary sewer;
- (d) The property is of sufficient size and zoning to allow for a 24 foot by 32 foot detached garage structure to be located outside of the subject easement;
- (e) The existence of a structure within the subject easement may present a cloud on the title to the property.

NOW, THEREFORE, BE IT RESOLVED, that the concurrent use permit is hereby denied. The record in this case consists of this resolution, proceedings of the city council, the planning commission file on the matter and minutes of public meetings wherein it was determined.

Resolution 01-0458 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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Resolution 01-0461, by Councilor Stenberg, vacating a portion of 38th Avenue East at East Third Street (Backstrom), was introduced for discussion.

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

- - -

Resolutions 01-0487 and 01-0488, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to allow oversized off premise signage in a scenic area for the installation of an additional 180 square feet of signage to the existing 60 square feet (240 square feet total) of off premise signage on a retaining wall at the southwest end of the parking lot on property located at 2120 London Road (Nick Patronas), by Councilor Stenberg, were introduced for discussion.

Councilor Hogg expressed concerns over how this retaining wall will be turned into a billboard, that the owner does not need this for his own business and that the board of zoning appeals does not support this.

- - -

At this time, 10:59 p.m., Councilor Stenberg moved to suspend the rules to extend the meeting until 11:20 p.m., which motion was seconded and unanimously carried.

- - -

Resolution 01-0487 failed upon the following vote (Public Document No. 01-0625-32):

Yeas: Councilor Hogg -- 1

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

- - -

Resolution 01-0488 was adopted as follows:
BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, Nick Patronas has appealed to the city council the decision of the board of zoning appeals to deny a request to allow oversized off premise signage in a scenic area for the installation of an additional 180 square feet of signage to the existing 60 square feet (240 square feet total) of off premise signage on a retaining wall at the southwest end of the parking lot on property located at 2120 London Road; and

WHEREAS, the property is located within a scenic area as defined by Chapter 44.34(a)(9); and

WHEREAS, Chapter 44.34(b) states that no off premise sign in excess of 60 square feet shall be erected or maintained in scenic areas; and

WHEREAS, the board of zoning appeals denied the variance to allow oversized off premise signage because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which are peculiar to such property and not apply generally to other land or buildings in the vicinity, and because it is not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of _____ (condition of land) _____, strict application of the zoning code to this property would result in _____ (practical difficulty or undue hardship) _____ to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity in that _____, that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of _____ and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

FURTHER RESOLVED, that the board of zoning appeals' decision of May 22, 2001, is hereby reversed by the city council and the appeal is granted.

Resolution 01-0488 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved June 25, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0439, by Councilor Fena, authorizing proper city officials to modify an existing five year, five month lease agreement with the state of Minnesota, department of administration, for space in the Minnesota workforce center - Duluth, was introduced for discussion.

Councilor Hogg moved to table the resolution to allow the administration to respond to council questions, which motion was seconded and unanimously carried.

- - -

Resolution 01-0432, by Councilor Eckenberg, of intent to construct a permanent alley in 61st Avenue West Alley between Bristol Street and Greene Street, was introduced for discussion.

Councilor Hogg expressed his concerns over how the process for improvements can start with less than 50 percent of the owners and that it is not until after the resolution of intent passes that a greater percentage of property owners can object to a project.

Resolution 01-0432 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, the city has received a petition from owners of 46.31 percent of the abutting property to construct a permanent alley in 61st Avenue West Alley between Bristol Street and Greene Street.

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

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 01-0432 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved June 25, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the legislature of the state of Minnesota has enacted legislation allowing the city to establish a program that provides assistance to property owners in financing the costs of abating inflow and infiltration on their property; and

WHEREAS, the legislation requires the city to establish guidelines to govern the grant program; and

WHEREAS, the city established initial program guidelines in 1997 that were approved by the city council in Resolution No. 97-0333; and

WHEREAS, time deadlines and compliance standards imposed by the Western Lake

Superior Sanitary District and Minnesota pollution control agency make it necessary to accelerate the I&I program in certain basins and to complete home inspection programs in these basins on an expedited basis; and

WHEREAS, the amended guidelines for the I&I grant program will facilitate an acceleration of the program.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby adopts the amended inflow and infiltration grant program guidelines filed as Public Document No. 01-0625-31. Resolution 01-0481 was unanimously adopted.

Approved June 25, 2001

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

01-025 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO DUANE MCCAULEY FOR A DETACHED GARAGE IN THE WATERLINE EASEMENT LOCATED AT 7417 EAST SUPERIOR STREET.

Councilor Hogg noted that by the council passing Resolution 01-0458, there was no need for this ordinance, and therefore moved to remove the ordinance from the agenda, which motion was seconded and unanimously carried.

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BY COUNCILOR STOVER

01-024 - AN ORDINANCE PERTAINING TO PARKING METER VIOLATIONS; CHANGING THE PENALTIES FOR AGGRAVATED VIOLATIONS; AMENDING SECTIONS 33-46 AND 33-111 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STENBERG

01-023 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED ON THE LOWER SIDE OF GRAND AVENUE BETWEEN 66TH AND 67TH AVENUES WEST (KLEIMAN).

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

Mr. Kleiman noted that he had discussed with Mr. Jasper two access options to which he was not interested in along with the rezoning issue. He noted that it is currently zoned manufacturing.

- - -

At this time, 11:18 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:25 p.m., which motion was seconded and unanimously carried.

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Mr. Jasper stated that did not feel he should be made to buy the road he has used for many years and that this area should remain residential.

- - -

At this time, 11:23 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 11:30 p.m, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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Mark Walker, pastor of Bethany Baptist Church, stated his opposition to the rezoning of this area because of the importance for the need of green space, that the land is on a flood plane and only three businesses and the state of Minnesota support this.

Councilor Stover moved to table the ordinance for further review, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stenberg and President Edwards -- 2

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The meeting was adjourned at 11:28 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 9, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on June 11, 2001, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0709-01 Vitaline Botten submitting requests to: (a) Remove; (b) Add her name to the petition to reclassify 6600 Grand Avenue from R-2 to C-2 (01-023-O). -- Assessor

01-0709-02 Housing and redevelopment authority submitting petitions to vacate the: (a) Alley adjacent to the southerly 50 feet of Lots 1, 2, 3, 4, 4-1/2 and all of Lot 5, Block 188, West Duluth, Seventh Division; (b) Alley adjacent to Lot 16, Block 188, and Lot 16, Block 189, West Duluth, Seventh Division. -- Assessor

01-0709-03 Clifford P. Lanthier, et al. (six signatures) submitting petition to reclassify from R-2 to R-3 Lots 1 and 2, Block 36, Gary First Division Duluth. -- Assessor

01-0709-04 Dorothy Paszak, et al. (three signatures) submitting petition to vacate the unbuilt alley located at Block 1, Norton's Steel Plant Division of Duluth. -- Assessor

01-0709-05 Minnesota pollution control agency submitting copy of the national pollutant discharge elimination system (NPDES)/state disposal system (SDS) general stormwater permit for construction activity (general permit) issued to Spirit Ridge, LLC. -- Received

01-0709-06 Minnesota state auditor submitting audit report for the Duluth airport authority for the years ended December 31, 2001, and 1999. -- Received

01-0709-21 Robert and Deborah A. Braye submitting communication regarding the proposed vacation of a portion of 38th Avenue East at East Third Street (01-0461R). -- Received

01-0709-22 Greater Downtown Council submitting communication regarding the proposed ordinance on aggravated parking meter violations (01-024-O). -- Received

01-0709-12 The following submitting communications regarding Spirit Ridge, LLC (01-0494R and 01-0495R): (a) Eric Dings; (b) Warren B. Wiita. -- Received

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REPORTS OF OFFICERS

01-0709-07 Assessor submitting:

(a) Letters of sufficiency to:

(1) Reclassify from R-2 to C-2, 6600 Grand Avenue (dated July 9, 2001);

(2) Vacate:

(A) Unbuilt alley located at Block 1, Norton's Steel Plant Division

of Duluth;

(B) Alley adjacent to Lot 16, Block 188, and Lot 16, Block 189, West

Duluth Seventh Division;

(b) Letters of insufficiency to reclassify from:

(1) R-2 to R-3 Lots 1 and 2, Block 36, Gary First Division Duluth;

(2) R-2 to C-2, 6600 Grand Avenue (dated July 2, 2001);

(c) Assessment roll to be levied to defray in full the expense of solid waste collection during the period March 1, 2000, to June 1, 2001, for which the collector has not been reimbursed. -- Received

01-0709-08 Building official submitting appeal of the BZA decision to grant a variance for a reduction of the minimum rear yard setback requirement from 25 feet to 14.3 feet for the demolition of an existing service station building and construction of a new convenience store on property located at 2605 London Road (Edgewater Services, Inc., appealed by BerNutt Company). -- Committee 2 (Physical development)

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-0709-09 Civil service board minutes of May 1, 2001, meeting. -- Received

01-0709-10 Duluth airport authority minutes of May 31, 2001, meeting. -- Received

01-0709-11 Parks and recreation commission president submitting letter regarding the commission. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis questioned why the trees Downtown were cut down when they did not appear to be diseased and stated that there are not enough public toilets for the people in the Downtown and the Canal Park areas.

- - -

Peggy Marrin complimented the councilors on their straightforward talk when discussing the issues and keeping a balance and check system going on the issues.

- - -

Elijah voiced concern that the education budget for the schools is not big enough and the schools do not do a good enough job preparing the students for the real world.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 01-0419, confirming appointment of George Weller to the planning commission replacing Alan Billington, from the table, which motion was seconded and unanimously carried.

Councilor Stewart stated although George Weller would be a good addition to the planning commission, he reviewed that the council wanted balance on the planning commission by appointing someone with an environmental science background. He continued by saying that while the mayor had stated in a memo to the council that they have planning staff and consultants to present and interpret environmental documents, the planning staff is not always accurate in their information to the planning commission and the council.

Councilor Hogg agreed that balance on the planning commission is necessary, but stated that Mr. Weller is a good candidate who made a strong commitment to balance quality of life issues with development issues. He also stated that it is hard to turn down a good candidate because he does not meet every requirement set by the council.

Several councilors reviewed that a policy has been set in place about what qualifications they would like to see the planning commission appointees have and the council needs to adhere to their policies.

Councilor Stewart moved to send this resolution back to the administration, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fena, Gilbert, Ness, Stewart and President Edwards -- 5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Nays: Councilors Eckenberg, Hogg, Stenberg and Stover -- 4

- - -

Councilor Stewart moved to remove Resolution 01-0437, confirming appointment of John Bray to Duluth state convention center administrative board replacing Richard Pearson, from the table, which motion was seconded and unanimously carried.

Resolution 01-0437 was adopted as follows:

BY COUNCILOR STEWART:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

John E. Bray for a term expiring June 30, 2004, replacing Richard Pearson.

Resolution 01-0437 was unanimously adopted.

Approved July 9, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0457, requesting the board of county commissioners of St. Louis County to withhold from sale certain tax forfeited parcels (annual list - lands tax forfeited in 2000), from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to split the resolution by taking the Sundby Road parcel out of the list, which motion was seconded and unanimously carried.

Resolution 01-0457(a), without the Sundby Road parcel, was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to withhold from sale for the public interest and to classify as conservation lands the following parcels from the county auditor's list of properties which have been declared tax-forfeited and title thereto vested in the state.

Legal Description	Location	Reason
Lot 01, Block 002 Brighton Gardens 2nd Division Duluth (010- 0290-00210)	northeast corner Chase Avenue and Superior Street (North Shore)	North Shore sanitary sewer
Lots 7, 8 and 9, Block 5 Bristol Beach 2nd Division Duluth (010- 0310-670, 680, 690)	north side Seafield Street between Eastleigh and Bedford Avenues (North Shore)	North Shore sanitary sewer
Outlot B Burning Tree Division (010-0355- 00060)	east side of Haines Road north of Burning Tree Plaza (Duluth Heights)	land assembly
Lot 190, Block 67 E 45 ft of N 72 ft Duluth Proper Second Division (010-1120- 08010)	lower side First Street between 11th and 12th Avenues West (CHS)	Buckingham Creek ravine

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Legal Description	Location	Reason
Lot 0012, Block 105 Myers Rearr Blks 105, 106, 127, 128, 142 Duluth Proper Second Division (010-1170- 00130)	west side 17-1/2th Avenue West between Third and Fourth Streets (Lincoln Park)	steep slope
Lots 9 thru 11, Block 31 Gary First Division of Duluth (010-1800- 7500, 7520, 7530)	east side 96th Avenue West between Gary and McGonagle Streets (GND)	retain for buffer
Lot 0005, Block 133 West Duluth Fifth Division (010-4510- 02290)	west side 58th Avenue West between Ramsey Street and Grand Avenue (Spirit Valley)	retain for land assembly for parking
SLY 40 ft of E1/2 of E1/2 of SE1/4 of SW1/4 ex E 33 ft for 43rd Ave E & Ex that part lying WLY of extended E line of Lot 3, Blk 134, London Addn to Duluth T50R13.Sec 6 (010- 2680-00385)	west side 43rd Avenue West north of Colorado Street (Lakeside)	wetland
S1/2 of NW1/4 of SW1/4 of NW1/4 Ex WLY 65 ft T50R14.Sec18 (010- 2710-04480)	east side of Haines Road south of Sundby Road (Duluth Heights)	Miller Creek wetland

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Legal Description	Location	Reason
Part of NE1/4 of SW1/4 beg at intersection of N line & the centerline of Sundby Rd thence S87 deg 51'24"W along N line 490.27 ft thence S2 deg 8'35"E 200 ft thence N 87 deg 51'24"E 495.96 ft to centerline of Sundby Rd thence N along centerline to pt of beg ex NLY 200 ft of ELY 453.98 ft of part w of RD (010-2710-04603) T50R14.Sec18	wetland	
Outlot A, Hartley Estates First Add C of Duluth (010-2109-00330)	southwest corner of Anoka Street and Maxwell Avenue (Woodland)	designated recreational area
Lot 0001, Block 0001 Miller Creek First Addition (010-3258-00010)	south side Arrowhead Road 2,400 feet east of Haines Road (Duluth Heights)	wetland
Outlot A, Northland Estates (010-3452-00470)	east South Ridge Road adjacent Block 3 (Upper Lakeside)	public open space
Outlot D, Northland Estates (010-3452-00500)	east South Ridge Road adjacent Block 2 (Upper Lakeside)	public open space

Resolution 01-0457(a) was unanimously adopted.
 Approved July 9, 2001
 GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to return Resolution 01-0457(b), the Sundby Road parcel, back to the administration, which motion was seconded and unanimously carried.

- - -

Councilor Stenberg moved to remove Resolution 01-0461, vacating a portion of 38th Avenue East at East Third Street (Backstrom), 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.

Anna Allison expressed concern that if this vacation were to be approved, the loss of the walking trail used by the neighborhood and the green space would have a large impact on the neighborhood.

Bob Backstrom reviewed that there has been some objection to this construction as it is a substandard lot, but this vacation is needed in order to obtain a building permit to build a house.

Helen Oreck urged the councilors to turn down this resolution so she can find out if she has any ownership in the parcel next to the requested vacated area.

Jim Peterson stated that if the southern part of the parcel is vacated, his house would be greatly affected and be worth nothing if the street of the northern part of the parcel is improved.

Councilor Stenberg stated that the city needs to find out if both sides of the parcel can be vacated before action is taken on this vacation.

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

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY PRESIDENT EDWARDS:

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

Save Our Ship (Leif Erickson Restoration Project), Leif Erickson Park, for July 21 and 22, 2001, with Neill Atkins, manager, with an application fee of \$400.

Resolution 01-0496 was unanimously adopted.

Approved July 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility operations supervisor which were approved by the civil service board on June 5, 2001, and which are filed with the city clerk as Public Document No. 01-0709-13, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1080 - 1095, \$3,899 to \$5,106 per month.

Resolution 01-0489 was unanimously adopted.

Approved July 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

DULUTH AIRPORT AUTHORITY

John De Groot for a term expiring July 1, 2004.
Resolution 01-0491 was unanimously adopted.
Approved July 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2000 CDBG accounts; and
WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-2000 HUD-funded community development accounts as set forth below:

2000 Transfers
Account revised - 2000

Project #	Project	Budget Amt	New Amt	Amt of Increase or Decrease
6307	Hillside district streetscape phase 2 & 3	\$ 95,028	\$145,028	\$ 50,000
6309	Lincoln Park restoration	\$109,000	\$159,000	\$ 50,000
6333	Program administration	\$446,335	\$466,335	\$ 20,000
6335	Contingency	\$183,000	\$ 63,000	(\$120,000)

Resolution 01-0503 was unanimously adopted.
Approved July 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2001 CDBG accounts; and
WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-2001 HUD-funded community development accounts as set forth below:

2001 CDBG Transfers
Account revised - 2001

Project #	Project	Budget Amt	New Amt	Amt of Increase or Decrease
6406	Memorial Park lot improvements	\$12,000	\$14,855	\$2,855

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Project #	Project	Budget Amt	New Amt	Amt of Increase or Decrease
6437	Contingency	\$15,000	\$12,145	(\$2,855)

Resolution 01-0504 was unanimously adopted.
 Approved July 9, 2001
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the Duluth City Council hereby approves, in accordance with Minnesota Laws 1969, Chapter 577, Section 11, Subd. 2, a resolution of the Duluth airport authority (DAA) authorizing a right of entry agreement, on file in the office of the city clerk as Public Document No. 01-0709-14, between the DAA and the Minnesota air national guard.

Resolution 01-0512 was unanimously adopted.
 Approved July 9, 2001
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing service on six motor graders for the street maintenance division in accordance with specifications of \$104,563.99, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5409.

Resolution 01-0508 was unanimously adopted.
 Approved July 9, 2001
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0415 to R.R.E.M., an M.S.A. Division, for furnishing engineering services for survey, geotechnical, design and construction of year 2001 Cody North, be amended to increase the amount by \$26,089 for a new total of \$115,585, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0102, Object 5530.

Resolution 01-0509 was unanimously adopted.
 Approved July 9, 2001
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Northern Interstate Construction, Inc., be and hereby is awarded a contract for reconstruction of Bridge Number 69J33 on West Eighth Street over LeMaggie Creek for the engineering division in accordance with specifications on its low specification bid of \$128,670, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2111, Object 5530; a portion of the project in the amount of \$102,999 will be reimbursed from State Transportation Fund 29.

Resolution 01-0510 was unanimously adopted.
 Approved July 9, 2001
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources (DNR), said agreement filed with the city clerk as Public Document No. 01-0709-18, for cooperation with the DNR in fighting wildfires and for reimbursement of city expenses in fighting such fires.

Resolution 01-0490 was unanimously adopted.

Approved July 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the state of Minnesota has been given a grant by the U.S. department of transportation under the hazardous materials emergency preparedness (HMEP) program; and

WHEREAS, the city of Duluth has applied in good faith for HMEP monies for a full scale exercise;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute the grant agreement filed as Public Document No. 01-0709-19, and city of Duluth fully agrees to the terms of the grant and officially requests the division of emergency management to enforce the contract in accordance with the applicable rules and regulations.

RESOLVED FURTHER, that any grant monies received shall be deposited in General Fund 0100, Agency 100, Division 1505.

Resolution 01-0492 was unanimously adopted.

Approved July 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the Minnesota department of public safety and the city of Duluth entered into an agreement in June of 2000 for the city of Duluth to provide services as a hazardous materials emergency response team for a consideration of \$120,000 during the period from June 1, 2000, to June 30, 2001; said agreement identified as State Contract No. A08372 and City Contract No. 18678; and

WHEREAS, the Minnesota department of public safety and the city of Duluth wish to continue the above-described contract through the next fiscal year, July 1, 2001, through June 30, 2002, for an additional consideration of \$40,000;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to enter into an amended agreement with the state of Minnesota, department of public safety, filed as Public Document No. 01-0709-20, for the operation by the city fire department of a hazardous materials emergency response team for a consideration from the state of not to exceed \$40,000, to be deposited in General Fund 0100, Agency 100, Org. 1505.

Resolution 01-0502 was unanimously adopted.

Approved July 9, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 01-0516, by Councilor Stewart, confirming appointment of Thomas Wheeler to Duluth economic development authority replacing Robert Brooks, was introduced for discussion.

Councilor Stewart moved to table the resolution for an interview of the applicant on July 23, 2001, which motion was seconded and unanimously carried.

- - -

Resolution 01-0513, by Councilor Stenberg, amending Resolution 00-0336 granting a special use permit to Demolition Landfill Services, LLC, for a demolition and construction debris land disposal facility for property located at 1100 West Gary Street, was introduced for discussion.

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

Helen Seaver, Bill Spehar and Joe Balach urged the council to uphold equal justice for all by not approving the resolution as it would allow additional waste to be dumped in their neighborhood.

KL Lewis questioned if the city should do business with this company if they keep changing the rules.

Scott Vandenheuvel reviewed that he would like to have the council amend the resolution to prevent it from being inconsistent from the state statute requiring a five year review of a special use permit.

Councilor Stewart moved to amend the resolution, subparagraph (a) in the second paragraph, by striking the phrase, "for a term commencing at the date this resolution takes effect and continuing for five years additional to that term authorized by Resolution 00-0336 or, in the alternative, the term shall be such other term required by law," which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Hogg, Ness, Stenberg, Stewart and President Edwards -- 6

Nays: Councilors Fena, Gilbert and Stover -- 3

Councilors Fena and Stover stated that the city should have considered other parts of the city for this landfill and no matter how good the facility is maintained, it does not belong within a few blocks of a neighborhood and the council does not have to justify the project just because the city is in a legal box.

Resolution 01-0513, as amended, was adopted as follows:

BY COUNCILOR STENBERG:

The city council of Duluth make the following findings of fact:

(a) The Duluth City Council did, on May 8, 2000, adopt Resolution 00-0336, which did grant a special use permit, as the district court had ordered, to Demolition Landfill Services, LLC, for a demolition debris land disposal facility, in accordance with Section 50-35(y) of the Duluth City Code, on property described therein;

(b) Demolition Landfill Services, LLC, has requested an amendment to the special use permit to expand the permit to include the area described in its application and the planning staff report, expand the amount of material to be accepted at the facility and to extend the life of the facility to 2018;

(c) The existing permit is for a landfill of about 12 acres (540,000 cubic yards) on a 30 acre site. The operator has acquired adjoining property and now applies for an amendment to the permit to allow a landfill of about 37.5 acres on a 74.5 acres site;

(d) The applicant has a permit with a plan for final elevation of about 30 feet above grade. The applicant requests approval of a plan for final elevation about 90 feet above grade;

(e) Part of the area is zoned S, and part is zoned M-2. The proposed landfill use is allowed in these zones;

(f) The city has need for M zoned land. The final elevation and configuration of the proposed use would hinder redevelopment and alternate manufacturing uses of the area when the landfill is closed and capped;

(g) The proposed use is the same as prior use on this property and the use of adjacent property to the south of it;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(h) The MPCA has concluded that the current use, which is the same as the proposed use, does not present a threat of significant environmental harm and that it is a permitted use;

(i) When the landfill operation is complete, the re-use of the property is largely dependant upon proper closing and capping of the landfill;

(j) The record in this case consists of this resolution, the record of the planning commission in the matter, the staff report and exhibits presented to the planning commission, the application and its exhibits, the materials presented to the city council;

(k) Proper notices were given, hearings held and procedures followed.

Based upon these findings, now, therefore, be it resolved:

(a) That a special use permit is hereby granted to Demolition Landfill Services, LLC, to allow for the operation of a demolition debris land disposal facility at 1100 West Gary Street on the condition that the facility be limited to, operated and maintained in accordance with plans as identified as Public Document No. 00-0508-24 and the following terms and conditions:

(1) That a certified land survey of the above described property be filed with the St. Louis County registrar of titles and the city of Duluth engineering division and the boundary corners of the property be identified with permanent survey monuments so as to provide definitive reference points to monitor the limits of the fill and cover site for compliance with this permit and the requirements of Section 50-35(y) of the Duluth City Code (DCC);

(2) That there be no land disturbing activities and the existing landscaping, including ground cover, trees and shrubs, within 150 feet of the residential and suburban zoning boundaries be maintained so as to provide a visual buffer from the adjacent residentially zoned properties and adjacent roadways;

(3) That the materials to be placed in the facility be limited to those defined as demolition debris and construction debris pursuant to Sections 50-1.14 and 50-1.16 of the Duluth City Code and select industrial waste as listed in the application;

(4) That copies of the annual reports required by the Minnesota pollution control agency (MPCA) be submitted to the city of Duluth department of planning and development (planning department) within 15 days;

(5) That dust control measures identified in the application and as required by DCC 50-35(y)(2)(I) be implemented and enforced by the applicant;

(6) That copies of all MPCA inspection reports be submitted to the planning department within 15 days;

(7) That the applicant obtain and maintain compliance with all provision of MPCA and Western Lake Superior Sanitary District permits as required by DCC 50-35(y)(3)(B);

(8) That applicant maintain adequate marking of the boundaries of the subject property described in (c) below and security barrier. This barrier marking shall consist of permanent fencing at least four feet high of welded wire mesh or rail construction of the site perimeter, or, in areas where topography or vegetation make fencing unnecessary or hazardous to people, operations, animals or plants, such as the southwest boundary, an alternate system and material approved in writing by the city planning department;

(9) Should the state permitting agency (MPCA) fail to require adequate compliance funding requirements, then the permittee shall furnish to the city a security bond, or other form of security, as set out in City Code Section 50-35(y)(3)(O), to secure compliance and site closure, in the amount specified therein, but not to be less than \$20,000;

(10) That the special use permit granted by this resolution is valid only during the time that the grantee possesses valid permit or permits required by Minnesota pollution control agency in order to carry out the landfill operation;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(b) That the applicant may operate the landfill in a manner that increases the elevation of the landfill areas of the site subject to the following conditions:

(1) Before operations increase the elevation of any portion of the landfill to 840 feet or greater, the applicant shall submit to the city, for approval through the regular application process, a final site plan;

(2) Operations shall not result in creating a grade elevation anywhere on the site in excess of 840 feet;

(c) The property that is now subject to the special use permit is described as set out in the application as follows:

The north one-half of the southeast one quarter (N1/2 of SE1/4) of Section Four (4) T48N, R15W, except that part of said north one-half of the southeast one-quarter (N1/2 of SE1/4) south of the following described line:

Commencing at the southeast corner of the north one-half of the southeast one-quarter (N1/2 of SE1/4) thence north 87 degrees 34 minutes 56 seconds west, assumed bearing, along the south line of said north one-half of the southeast quarter 159.74 feet; thence north 34 degrees 18 minutes 48 seconds west 86.22 feet; thence north 57 degrees 44 minutes 34 seconds west 87.16 feet; thence south 88 degrees 16 minutes 38 seconds west 122.93 feet; thence south 28 degrees 59 minutes 03 seconds west 115.82 feet to said south line of the north one-half of the southeast quarter; thence north 87 degrees 34 minutes 56 seconds west along said south line of the north one-half of the southeast quarter 415.60 feet; thence north 55 degrees 03 minutes 41 seconds west 195.78 feet; thence south 66 degrees 33 minutes 51 seconds west 117.81 feet; thence south 2 degrees 25 minutes 04 seconds west 54.35 feet to said south line of the north one-half of the southeast quarter; thence north 87 degrees 34 minutes 56 seconds west along said south line of the north one-half of the southeast quarter 434.22 feet; thence north 2 degrees 25 minutes 04 seconds east 114.18 feet; thence north 63 degrees 27 minutes 48 seconds east 127.49 feet; thence north 8 degrees 33 minutes 18 seconds east 113.00 feet; thence north 79 degrees 36 minutes 32 seconds west 133.05 feet; thence north 41 degrees 41 minutes 18 seconds west 176.95 feet; thence south 77 degrees 56 minutes 39 seconds west 97.45 feet; thence south 57 degrees 38 minutes 00 seconds west 107.03 feet; thence south 36 degrees 16 minutes 44 seconds west 60.35 feet; thence south 31 degrees 49 minutes 11 seconds west 100.04 feet; thence south 2 degrees 25 minutes 04 seconds west 226.80 feet to said south line of the north one-half of the southeast quarter and there ending. (The areas described in the state of Minnesota Consent Decree as filed May 13, 1998, are excluded from this property description; re: Sixth Judicial District Court File No. CO-91-600831) and located at 1100 West Gary Street.

Resolution 01-0513, as amended, was adopted upon the following vote:

Yeas: Councilors Eckenberg, Hogg, Ness, Stenberg, Stewart and President Edwards -- 6

Nays: Councilors Fena, Gilbert and Stover -- 3

Approved July 9, 2001, pursuant to Section 12 of the Duluth City Charter.

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter in to an agreement, a copy of which shall be on file with the city clerk's office as Public Document No. 01-0709-15, with St. Louis County to provide services under the food stamp employment and training (FSET) program with payments not to exceed \$400 per participant and start work services for costs not to exceed \$23,809.52. Contract dates shall run from July 1, 2001, through June 30, 2002.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund 268, Budget Item 6275.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0498 was unanimously adopted.
Approved July 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that which is on file in the office of the city clerk as Public Document No. 01-0709-16, with the Northeast Minnesota office of jobs training for the provision of services to assist parents of low income families to find work under the Minnesota family investment program in the amount of not to exceed \$590,810 for the period July 1, 2001 through June 30, 2002, payable from Fund 268, Budget Item 6274.

Resolution 01-0506 was unanimously adopted.
Approved July 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that which is on file in the office of the city clerk as Public Document No. 01-0709-17, with the Arrowhead Economic Opportunity Agency for the provision of services to assist parents of low income families to find work under the Minnesota family investment program in the amount of not to exceed \$331,802 for the period July 1, 2001 through June 30, 2002, payable from Fund 268, Budget Item 6274.

Resolution 01-0507 was unanimously adopted.
Approved July 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, communities across the United States have designated August 7, 2001, as a national night out to celebrate community and neighborhood awareness and unity; and

WHEREAS, the purpose of the national night out is to generate support and participation in local anti-crime efforts to strengthen neighborhood spirit and police community partnerships, to heighten crime and drug prevention awareness and to send a message to criminals that neighborhoods are fighting back; and

WHEREAS, the Duluth City Council wishes to express its support for the national night out and the goals and purposes behind it;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for a national night out on August 7, 2001, 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 01-0493 was unanimously adopted.
Approved July 9, 2001
GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STENBERG

01-023 (9497) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED ON THE LOWER SIDE OF GRAND AVENUE BETWEEN 66TH AND 67TH AVENUES WEST (KLEIMAN).

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

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

Joe Kleiman reviewed that the ordinance was tabled for two issues; one was the ingress and egress issue raised by a neighbor and rezoning from residential to commercial. He continued by saying that the neighbor has not responded to his plans and it will probably result in a civil matter in court. Mr. Kleiman stated that this site is a good fit because it is surrounded by other businesses and a four lane state highway.

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

Yeas: Councilors Eckenberg, Fena, Stewart, Stover and President Edwards -- 5

Nays: Councilors Gilbert, Hogg, Ness and Stenberg -- 4

[Editor's note: This ordinance was reconsidered and tabled on July 23, 2001, and adopted on July 30, 2001.]

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR HOGG

01-028 - AN ORDINANCE AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA-DULUTH FOR THE INSTALLATION OF FIBER OPTIC CABLES UNDER JUNCTION AVENUE AT THE INTERSECTION OF EAST UNIVERSITY CIRCLE.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STOVER

01-024 (9498) - AN ORDINANCE PERTAINING TO PARKING METER VIOLATIONS; CHANGING THE PENALTIES FOR AGGRAVATED VIOLATIONS; AMENDING SECTIONS 33-46 AND 33-111 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Kristy Stokes, representing the Greater Downtown Council, urged the councilors to pass this ordinance as it will help alleviate some of the problems and congestion with on street parking at the meters while helping Downtown merchants and customers by imposing a stiffer penalty for people who plug the meters all day long.

To concerns from the council regarding parking for Downtown employees, Ms. Stokes replied that results from a parking study that was done recently in the Downtown area showed a large amount of underutilized parking in ramps and outlying lots.

Councilor Ness expressed concern that Downtown shoppers will find this increased fine of \$15 a disincentive to shop Downtown.

Councilor Hogg stated that the fine is too stiff and moved to amend the ordinance to change the proposed fine from \$15 to \$9, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hogg and Ness -- 2

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Nays: Councilors Eckenberg, Fena, Gilbert, Stenberg, Stewart, Stover and President Edwards – 7

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

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

Nays: Councilors Hogg and Ness -- 2

The meeting was adjourned at 9:20 p.m.

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

ORDINANCE NO. 9497

BY COUNCILOR FENA (Introduced by Councilor Stenberg):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED ON THE LOWER SIDE OF GRAND AVENUE BETWEEN 66TH AND 67TH AVENUES WEST (KLEIMAN).

The city of Duluth does ordain:

Section 1. That Plate No. 14 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

[see page at end of meeting]

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

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

Yeas: Councilors Eckenberg, Fena, Stewart, Stover and President Edwards -- 5

Nays: Councilors Gilbert, Hogg, Ness and Stenberg -- 4

Passed July 9, 2001

Approved July 9, 2001

ATTEST:

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

[Editor's note: This ordinance was reconsidered and tabled on July 23, 2001, and adopted on July 30, 2001.]

ORDINANCE NO. 9498

BY COUNCILOR STOVER:

AN ORDINANCE PERTAINING TO PARKING METER VIOLATIONS;
CHANGING THE PENALTIES FOR AGGRAVATED VIOLATIONS;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

AMENDING SECTIONS 33-46 AND 33-111 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-46 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-46. Penalties.

(a) Violations of the provisions of Articles VII and VIII of this Chapter shall be punished as set forth in this Section;

(b) Violations of the following sections or subsections shall be punishable by a fine of not less than \$10:

(1) Section 33-95, government area parking violations except meters;

(2) Section 33-97(a), no parking zone violations;

(3) Section 33-97.8, alternate side parking violations;

(4) Section 33-87(a), truck zone violations;

(5) Section 33-87(b), loading zone violations;

(6) Section 33-82(a)(1), parking on a sidewalk;

(7) Section 33-82(a)(2), parking in front of a driveway;

(8) Section 33-82(a)(3), parking within an intersection;

(9) Section 33-82(a)(5), parking on a crosswalk;

(10) Section 33-82(a)(6), parking within 20 feet of an intersection crosswalk;

(11) Section 33-82(a)(7), parking within 30 feet of a stop sign or traffic control device;

(12) Section 33-82(a)(8), parking within seven feet of an alley or driveway;

(13) Section 33-82(a)(9), parking within 50 feet of a railroad crossing;

(14) Section 33-82(a)(10), illegal parking near a fire station;

(15) Section 33-82(a)(11), illegal parking near street obstruction;

(16) Section 33-82(a)(12), double parking;

(17) Section 33-82(a)(13), parking on a bridge or in a tunnel;

(18) Section 33-82(a)(14), no stopping zones;

(19) Section 33-82(a)(15), parking on boulevards;

(20) Section 33-83, illegal alley parking;

(21) Section 33-85, 24 hour parking limit;

(22) Section 33-84, time limit parking;

(23) Section 33-93, facing wrong way;

(24) Section 33-93, parking parallel to curb;

(25) Section 33-90, parked with for sale sign;

(26) Section 33-92, failure to set parking brake or turn wheels to the curb;

(27) Section 33-94, angle parking violation;

(28) Sections 33-124 through 33-130, dealing with residential permit parking;

(29) Any other parking offense in violation of any section contained in Article VII of Chapter 33;

- (30) Section 33-109, overtime parking at a parking meter;
- (31) Section 33-106(a), improper parking at a single meter;
- (32) Section 33-106(b), improper parking at a tandem meter;
- (c) Violations of the following sections or subsections shall be punishable by a fine of not less than \$15:
 - (1) Section 33-82(a)(4), parking too close to a fire hydrant;
 - (2) Section 33-111(g), aggravated parking meter violation;
- (d) Violations of the following sections or subsections shall be punishable by a fine of not less than \$20:
 - (1) Section 33-88, parking in a taxi stand;
 - (2) Section 33-82(a)(16), parking in a fire lane;
 - (3) Sections 33-97.1 through 33-97.7, snow emergency violations;
 - (4) Section 33-91, leaving keys in the ignition;
 - (5) Section 33-87(d), unattached semi trailer parked on street;
- (e) Violations of the following sections or subsections shall be punishable by a fine of not less than \$25:
 - (1) Section 33-88, parking in a bus stop;
- (f) Violations of the following sections or subsections shall be punishable by a fine of not less than \$40:
 - (1) Section 33-89, improper roadway clearance.

Section 2. That Section 33-111 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-111. Prohibited acts.

It shall be unlawful and a violation of the provisions of this Division for any person:

- (a) To cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time established for any metered parking space or to deposit in any meter any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter space;
- (b) To permit any vehicle to remain or be placed in any parking space adjacent to any parking meter while such meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space;
- (c) To park any vehicle across any line or marking of a parking meter space or in such position that the vehicle shall not be entirely within the area designated by such lines or markings;
- (d) To deface, injure, tamper with, open or wilfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this Division;
- (e) To deposit or cause to be deposited in any parking meter any slugs, device or metal substance or other substitute for lawful coins or tokens approved by written order of the chief of police;
- (f) To fail to comply with any of the provisions of this Division;
- (g) Any owner or operator of any vehicle who causes, allows or permits the vehicle to remain parked unlawfully at a parking meter for over two hours shall be guilty of a separate aggravated violation of this Division and shall be punished as provided in Section 33-46 of this Chapter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 19, 2001)

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

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

Nays: Councilors Hogg and Ness -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 9, 2001
Approved July 9, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 23, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Gilbert -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0723-01 KBJR-TV submitting application for concurrent use permit to allow for the installation of a concrete snubber base and a guy wire snubber in Fifth Avenue West easterly of its intersection with Ninth Street. -- Planning commission

01-0723-11 The following submitting communications regarding issuance of a special use permit to Minnesota Power to upgrade and relocate a portion of an existing power transmission line located along the north and east sides of the Gary-New Duluth neighborhood (01-0515R): (a) Gerald Ceylor (Catawba, WI); (b) Delores Hrdina; (c) Tom Kreager; (d) Diane Peterson (White Bear Lake, MN); (e) Robert Ringstad (Ladysmith, WI); (f) Annette Stremer (Mosinee, WI); (g) Peg Tier; (h) Dawn Theelke; (i) LaVerne Vinzant (Catawba, WI); (j) Richard Wentzel (Edgar, WI); (k) Sylvia Wollemann (Brantwood, WI); (l) World Organization for Landowner Freedom (Northfield, MN). -- Received

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REPORTS OF OFFICERS

01-0723-02 Assessor submitting letter of sufficiency of petition to vacate the alley adjacent to the southerly 50 feet of Lots 1, 2, 3, 4, 4-1/2 and all of Lot 5, Block 188, West Duluth, Seventh Division. -- Received

01-0723-03 Building official submitting appeals to reverse the board of zoning appeals' decision to grant variances for the following:

(a) To reduce the minimum front yard setback for dwellings from 25 feet to eight feet and to allow two main buildings to be temporarily located on the same lot during the construction of a new 30 feet by 40 feet single family dwelling with a 24 feet by 24 feet detached garage on property located at 1110 East Skyline Parkway (Clevette-Henderson, appealed by Branlund, Keyser and Tierney);

(b) To reduce the minimum front yard setback for dwellings from 25 feet to one foot for the construction of a 64 feet by 24 feet single family dwelling with a ten feet by four feet vestibule and a 24 feet by 24 feet attached garage on property located at 1402 East Skyline Parkway (Hovland, appealed by Staubus). -- Committee 2 (physical development)

01-0723-04 Engineering division monthly project status report of July 1, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0723-05 Alcohol, gambling and tobacco commission minutes of: (a) June 12; (b) June 26, 2001, meetings. -- Received

01-0723-06 Board of zoning appeals minutes of: (a) June 14; (b) June 26, 2001, meetings. -- Received

01-0723-07 Charter commission minutes of October 11, 2000, meeting. -- Received

01-0723-08 Duluth housing commission minutes of: (a) April 12; (b) May 10, 2001, meetings. -- Received

01-0723-12 Environmental advisory council minutes of: (a) June 20; (b) July 18, 2001, meetings. -- Received

01-0723-09 Housing and redevelopment authority of Duluth minutes of May 29, 2001, meeting. -- Received

01-0723-10 Seaway Port authority of Duluth minutes of May 23, 2001, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah expressed concern for the need of an educated workforce.

- - -

Kay L. Lewis commented on: the need for signage at Stoneridge Mall; that some trees in the Downtown area being removed and how well Bayfront looks.

- - -

RESOLUTION TABLED

Councilor Stewart move to remove Resolution 01-0516, confirming appointment of Thomas Wheeler to Duluth economic development authority [*DEDA*] replacing Robert Brooks, from the table, which motion was seconded and unanimously carried.

Councilor Hogg stated that the applicant was very well qualified for the position, but that he has a concern as to the accountability of DEDA and the changes that have taken place over the last few years. After presenting background information, he suggested that the council review and rethink the structure and future of DEDA.

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

Yeas: Councilors Eckenberg, Fena, Hogg, Stewart and Stover -- 5

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

Absent: Councilor Gilbert -- 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 Edwards moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Lyric Block Development Corporation (Porter's/Sneakers/Greenery), 207 West First Street, for August 10 and 11, 2001, with the music and serving ceasing at 12:30 a.m.

Holiday Inn of Tucumcari (Canal Park Inn), 250 Canal Park Drive, for August 10, 11 and 12, 2001, with the music and serving ceasing at midnight.

Resolution 01-0523 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

AAD Temple, 4701 Grinden Drive, for August 25 and 26, 2001, with Roger Kurrle, manager.

Copasetic Softball Tournament, Wheeler Field, for July 28 and 29, 2001, with Paul King, manager.

Resolution 01-0524 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 2002, and approves the issuance of the following on sale wine license for the period ending August 31, 2001, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

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

Resolution 01-0525 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

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

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

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

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

Resolution 01-0526 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

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

Licensee	Gambling Site	Date Application Filed
East End Hockey Club	Midway Bar	June 29, 2001

Resolution 01-0527 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that Resolution 01-0440 issuing a temporary on sale nonintoxicating malt liquor license to Woodland Fastpitch Association (Jimmy Herold Memorial Tournament), be amended with the dates of July 27, 28 and 29, 2001.

Resolution 01-0538 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Commercial Refrigeration System, Inc., be and hereby is awarded a contract for furnishing and installing an artificial ice surface and related components at Lower Chester Recreation Center for the city architect division in accordance with specifications on its low specification bid of \$221,143, terms net 30, FOB job site, \$47,792 payable out of Community Development Fund 0262, Dept./Agency 621, Object 6118; \$46,600 payable out of Community Development Fund 0262, Dept./Agency 622, Object 6209; \$110,000 payable out of Community Development Fund 0262, Dept./Agency 624, Object 6438; \$16,000 payable out of Community Development Fund 0262, Dept./Agency 622, Object 6244; \$751 payable out of Community Development Fund 0262, Dept./Agency 624, Object 6437.

Resolution 01-0542 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Minitex be and hereby is awarded a contract for furnishing and delivering self-check and security system for the Duluth Public Library in accordance with specifications on its low specification bid of \$114,780, terms net 30, FOB destination, \$112,873 payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization 2107, Object E728 and \$1,907 payable out of General Fund 0100, Dept./Agency 300, Organization 1702, Object 5418.

Resolution 01-0547 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

SPECIAL BOARD OF REVIEW

Neal Hessen (attorney) for the term expiring July 31, 2005.
Resolution 01-0514 was unanimously adopted.
Approved July 23, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

BOARD OF ZONING APPEALS

John Morrison and Larry Sundberg for terms expiring July 31, 2004.
Resolution 01-0543 was unanimously adopted.
Approved July 23, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0723-13, with The Nature Conservancy (TNC) for technical assistance in implementing the Duluth natural areas project in the amount of \$8,517, payable from Fund 255.

Resolution 01-0497 was unanimously adopted.
Approved July 23, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, a copy of which is on file in the office of the city clerk as Public Document No. 01-0723-14 to an agreement with Center City Windwood Partners, LP, changing the designated use of community development block grant (CDBG) funds in the amount of \$69,000 from rehabilitation to acquisition, at no change in contract amount.

Resolution 01-0505 was unanimously adopted.
Approved July 23, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the Duluth City Council hereby approves, subject to the approval of the U.S. Army corp of engineers and the board of water and soil resources, the acquisition by the Duluth airport authority (DAA) of .62 acres of wetland replacement credits from Charles Krysiak and John Olson for the purchase price of \$8,060 relating to the Runway 03-21 south perimeter road extension project, payable from the DAA construction fund.

Resolution 01-0511 was unanimously adopted.
Approved July 23, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a planning agreement for the development of a joint local service unit plan with St. Louis County which

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

provides for the direct allocation of employment and training money to the city and the county and for the cooperative administration of employment and training programs in St. Louis County.

A copy of this agreement will be on file in the city clerk's office as Public Document No. 01-0723-15. Monies received and paid as a result of this agreement are accounted for through Fund 268.

Resolution 01-0499 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, the city desires to develop a land use plan for the Park Point neighborhood; and

WHEREAS, an urban impact study for the Park Point neighborhood is needed to obtain data necessary for the proper development of a land use plan; and

WHEREAS, the state of Minnesota, through the Minnesota department of natural resources, division of waters, administers financial assistance for coastal management purposes, through Minnesota's Lake Superior coastal program; and

WHEREAS, the city desires financial assistance under the coastal management assistance grant program.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to file an application for financial assistance under the coastal management assistance grant program in the amount of \$18,000 (60 percent).

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any and all of the grant agreements necessary for the implementation of said grant, such proceeds to be deposited in Fund 0100, Agency 020, Org. 1202, Rev. Src. 4210, and that the city of Duluth does agree, upon offer of the grant, to obligate the \$3,800 from Fund 0100, Agency 020, Org. 1202, Obj. 5219, local share funding, and that the remaining 40 percent of the local share required to satisfactorily complete the proposed project and become eligible under the terms and conditions of the coastal management assistance grant program shall be derived from the following sources: value in the amount of \$6,699 to be satisfied through the services of city staff, and the value of fringe benefits at 24 percent of wage which amounts to \$1,608.

Resolution 01-0530 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, the city of Duluth has partnered with the nature conservancy to implement the Duluth natural areas project (DNA), the purpose of which is to identify those ecologically significant parcels of publicly owned land located in the city of Duluth worthy of some level of protection status, and to implement the Duluth public parcel delineation and preservation project, which project will delineate publicly owned parcels appropriate for inclusion in the DNA; and

WHEREAS, the city's environmental advisory council has initiated a natural resources inventory project (NRI) in support of the preparation of the comprehensive plan; and

WHEREAS, in order to identify those parcels of land which are to be evaluated by the DNA project and the NRI project it is necessary to delineate specific parcels of land utilizing GIS technology, develop an inventory of lands, and prepare accurate maps; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the state of Minnesota, through the Minnesota department of natural resources, division of waters, administers financial assistance for coastal management purposes, through Minnesota's Lake Superior coastal program; and

WHEREAS, the city of Duluth desires financial assistance from the coastal management assistance program for the purposes of mapping and creating an inventory of publicly owned parcels of land and assessing their ecological significance.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to submit a grant application to the Minnesota department of natural resources in an amount of \$13,543 (60 percent).

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any and all of the grant agreements necessary for the implementation of said grant, to deposit such proceeds in Fund 0100, Agency 020, Org. 1202, Rev. Src. 4210, and that the city of Duluth does agree, upon offer of the grant, to obligate the \$5,237 from Fund 0100, Agency 020, Org. 1202, Obj. 5219, local funding, and that the remaining portion of the 40 percent local share required to satisfactorily complete the proposed project and become eligible under the terms and conditions of the coastal management assistance grant program shall be derived from the following sources: value in the amount of \$3,791 to be satisfied through the services of city staff which value includes wages at the rate of \$18.68/hour, and the value of fringe benefits at 23 percent of wage which amount is \$709.

Resolution 01-0544 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth established the initial municipal state aid system of streets by resolution approved October 28, 1957, under provisions of Minnesota Law 1957, Chapter 943; and

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

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that portions of the street described as follows be and hereby designed as municipal state aid street of said city of Duluth, subject to the approval of the commissioner of transportation of the state of Minnesota:

Airport Road from the Duluth city limits to Airport Approach Road (+) 0.69 miles.

Resolution 01-0519 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of Bridge No. 69J33 over LaMaggie Creek on West Eighth Street between 49th Avenue West and 39th Avenue West; and

WHEREAS, the grant has been approved and the amount of the grant has been determined to be \$106,539.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any reconstruction cost in excess of the grant will be appropriated from funds available to the city of Duluth and that any grant monies appropriated for reconstruction costs but not required, based on the final audit, shall be returned to the Minnesota state

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

transportation fund; said funds to be deposited in Permanent Improvement Fund 0411, Agency 035, Org. 2111; and any payments authorized shall be from Permanent Improvement Fund 0411, Agency 035, Org. 2111, Object 5530.

Resolution 01-0520 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 01-0723-16, leasing to Nextel WIP Lease Corporation a space on the Woodland water tower and adjacent pump house for installation of communications antennas and equipment for a consideration of \$16,200 per year; said money to be deposited in Water Fund No. 0510.

Resolution 01-0528 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires field and laboratory testing; and

WHEREAS, the city desires to hire consulting firms to provide the services required for support of construction, operation and maintenance of city system; and

WHEREAS, American Engineering Testings, Inc. (\$20,000), Twin Ports Testing, Inc. (\$20,000), and G.M.E. Consultants, Inc. (\$10,000) has submitted a proposal for field and laboratory testing services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with American Engineering Testing, Inc., Twin Ports Testing, Inc., and G.M.E. Consultants, Inc., to provide the city with such field and laboratory testing services.

BE IT FURTHER RESOLVED, that the cost of said field and laboratory testing services, total estimated at \$50,000, will be payable from the various funds, depts./agencies, organizations, objects.

Resolution 01-0534 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that St. Joseph Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a mobile walking excavator for the utility operations division in accordance with specifications on its low specification bid of \$144,712.20, terms net 30, FOB destination, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 01-0535 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Northland Bituminous be and hereby is awarded a contract for furnishing and delivering bituminous materials for the street maintenance division in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

specifications on its low specification bid of \$50,000, terms net 30, FOB picked up, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, and Object 5232.

Resolution 01-0536 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Humes Plumbing and Heating be and hereby is awarded a contract to construct storm drains to accept discharges from six sump pump discharges located in West Fourth Street for the utility operations division in accordance with specifications on its low specification bid of \$27,026.41, terms net 30, FOB job site, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0537 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept from the College of St. Scholastica, Inc., the dedication of a 33 foot by 50 foot street easement in the following described parcel of land located within the city of Duluth:

In Section 15, Township 50 North, Range 14 West, that part of the southerly half of the northwest quarter commencing at the northeast corner, thence westerly along the north line 1298.88 feet to the point of beginning, thence south 0 degrees 3 minutes 43 seconds east 366.60 feet, thence west 266 feet, thence north 0 degrees 3 minutes 43 seconds west 29.35 feet, thence west 137.80 feet, thence north 0 degrees 3 minutes 43 seconds west 337.25 feet, thence east 403.80 feet to the point of beginning; said easement being more particularly described as follows, to-wit: the northerly 33 feet of the easterly 50 feet of said parcel.

Resolution 01-0540 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires a water utility cost of service and rate design study; and

WHEREAS, the city desires to hire a consulting engineer to provide the professional services required to establish equitable water rates for Duluth's residential, commercial, industrial and outside city customers; and

WHEREAS, Progressive Consulting Engineers, Inc., has submitted a proposal for such services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Progressive Consulting Engineers, Inc., to provide the city with such utility study services.

BE IT FURTHER RESOLVED, that the cost of said utility services, estimated at \$28,340, will be payable from the Water Fund 0510, Dept./Agency 500, Organization 1915, Object 5441.

Resolution 01-0541 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires nondestructive radiographic testing services; and
WHEREAS, the city desires to hire consulting firm to provide the services required for the x-raying of welds on the construction of 16 inch steel high pressure gas main from TBS1A to Ramsey Street and Oneota Street; and

WHEREAS, Twin Ports Testing, Inc., has submitted a proposal for professional services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Twin Ports Testing, Inc., to provide the city with such professional services.

BE IT FURTHER RESOLVED, that the cost of said services, estimated at \$32,377.50, will be payable from the Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 01-0545 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0723-17, between the city of Duluth and Duluth Missabe and Iron Range Railway Company wherein the city is granted a pipeline easement in the railroad right-of-way for a consideration of \$100,000; said money to be paid from Fund 0521, Agency 500, Object 5532.

Resolution 01-0546 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement between the city of Duluth and Duluth Public Schools Academy District No. 4020, authorizing the operation of a police school liaison program, with DPSA No. 4020 contributing \$20,000 and the city contributing one police officer 20 hours per week during the school year; said agreement filed as Public Document No. 01-0723-18.

Resolution 01-0518 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized and directed to enter into a joint power agreement with St. Louis County, Lake County, Cook County, the city of Silver Bay, the city of Two Harbors, the city of Proctor, the city of Hermantown and the University of Minnesota-Duluth providing for the participation by the city of Duluth and other above named governmental agencies in the Lake Superior drug task force in the year 2002; said agreement to be in the form of Public Document No. 01-0723-19 on file in the office of the city clerk.

Resolution 01-0532 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the city is the owner of the Wheeler fieldhouse building; and

WHEREAS, the Arrowhead Youth Soccer Association desires to rent office space within the Wheeler fieldhouse building from the city for its general office function; and

WHEREAS, the Arrowhead Youth Soccer Association has agreed in principle to the payment of monthly rental fee of \$100 per month for the use of said office space with such rental fees collected to be deposited into Facilities Management General Fund Revenue 0100-015-1515-4612.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute an agreement filed as Public Document No. 01-0723-20, between the city of Duluth and the Arrowhead Youth Soccer Association of Northeastern Minnesota for the rental of office space in the Wheeler fieldhouse building.

Resolution 01-0517 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0515, by Councilor Stenberg, granting a special use permit to Minnesota Power to upgrade and relocate a portion of an existing power transmission line located along the north and east sides of the Gary-New Duluth neighborhood, was introduced for discussion.

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

Carol Overlander, representing World Organization of Landowner Freedoms, commented on the council's responsibility to address "need determination," "evaluation of future needs," "scenic views" and "noise" issues.

Kay L. Lewis expressed concern that this line would be useless with other sources of power being looked at and that the power should be kept for use in Minnesota.

Bob Lindholm, representing Minnesota Power, stated that his company would like to make a presentation to the council on the need for this.

Art Leber requested that a definite time be set to accommodate speakers that would be coming.

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

- - -

Resolution 01-0522, by Councilor Stenberg, granting a work permit to Spirit Mountain recreation area authority for removal of 0.16 acres of trees and to regrade 6.7 acres of land, was introduced for discussion.

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

Kay L. Lewis expressed support for improvements and greater use of existing facilities.

Administrative Assistant Winson stated that there will be monitoring for compliance of the work permit.

Resolution 01-0522 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Chapter 327, Minnesota Laws, 1973, created the Spirit Mountain recreation area authority and gave that body certain powers with respect to developing that area for recreational purposes; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, said Chapter 327 requires that the Duluth City Council approve a work permit for construction on area property prior to any development; and

WHEREAS, said Chapter 327 requires that the city planning commission and parks and recreation advisory board, or each, hold a public hearing and have the right to make a recommendation to the city council prior to such approval; and

WHEREAS, on July 10, 2001, the planning commission, and subsequently the parks and recreation commission, held public meeting, received input, discussed said project and each made a recommendation to the city council that work permits should be issued.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves the work permit to remove 0.16 acres of trees and regrade 6.7 acres of land as indicated on the plans on file as city council Public Document No. 01-0723-21, with the following conditions:

- (a) That the necessary permits be obtained from the building safety division;
- (b) That best management practices be installed and monitored during and post construction.

Resolution 01-0522 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0529, by Councilor Stenberg, granting a work permit to Spirit Ridge, LLC, for construction of nine holes of an 18 hole golf course and a lodge on the Spirit Mountain recreation area, was introduced for discussion.

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

Greg Price expressed concern over the federal government's regulations for wetlands, noting the uniqueness of the wetlands at Spirit Mountain.

Kay L. Lewis opposed allowing these permits, which would destroy the land as it is now.

Councilor Fena voiced her concern that the environmental advisory council review this before the council acts on it.

Councilor Stewart supported that the resolution be referred back to the administration until the national park service land and water conservation fund program (Lawcon) issues are resolved.

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

- - -

BY COUNCILOR NESS:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$39,026 from the Bill and Melinda Gates Foundation for a regional training lab at the Duluth public library, to be deposited into Fund 100, Agency 300, Org. 1704.

FURTHER RESOLVED, that the director of the Duluth public library is hereby authorized to enter into an agreement, substantially of that on file in the office of the city clerk as Public Document No. 01-0723-22, with the Bill and Melinda Gates Foundation related to the regional training lab at the Duluth public library.

Resolution 01-0531 was unanimously adopted.

Approved July 23, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0533, by councilors Ness and Stenberg, amending Resolution 01-0219 to include Sixth Street between 24th Avenue East and Wallace Avenue and Irving Place into the year 2002 street improvement program, was introduced for discussion.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STENBERG

01-028 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA-DULUTH FOR THE INSTALLATION OF FIBER OPTIC CABLES UNDER JUNCTION AVENUE AT THE INTERSECTION OF EAST UNIVERSITY CIRCLE.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HOGG

01-026 (9499) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$615,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

- - -

ORDINANCE RECONSIDERED

BY COUNCILOR FENA (INTRODUCED BY COUNCILOR STENBERG)

01-023 (9497) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED ON THE LOWER SIDE OF GRAND AVENUE BETWEEN 66TH AND 67TH AVENUES WEST (KLEIMAN).

Councilor Fena moved to reconsider the ordinance, which motion was seconded and carried.

Councilor Fena expressed a concern over the neighborhood position and that she wished to change her vote.

Councilors discussed the issues relating to the withdrawal and subsequent reinstatement signature of support and the process that was followed.

Councilor Ness moved to table the ordinance for further information and input, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness and Stover -- 5

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

Absent: Councilor Gilbert -- 1

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The meeting was adjourned at 8:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9499

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$615,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The city council has determined it to be necessary and expedient and in the public interest that the Duluth transit authority improve the Duluth public transit system through the purchase of 30 new transit buses, Stride vehicles and a replacement service vehicle and through facilities improvements and renovations.

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the city council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60 percent of the total project cost where such contribution is used to match state or federal grants, or 70 percent where it is used to match government and private grants, or 80 percent where it is used to match private grants alone. The project is of the nature contemplated by said law. The Duluth transit authority has been awarded grants of federal and state funds in aid of the purchase of the buses and vehicles and for the facilities improvements, and it is estimated that such funds, together with any private funds which may be received, and the proceeds of bonds issued by the city in an amount not to exceed \$615,000, will be sufficient to pay the total project costs, and that the amount of the city's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation transit bonds of the city of Duluth in an amount not to exceed \$615,000 (plus such additional amounts of bonds, if any, as the city council shall by resolution determine to issue as additional obligations, representing part of the interest cost as authorized by Minnesota Statutes, Section 475.56), and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city has created and maintains the capital improvement special account within the Duluth transit support fund to which there shall be credited all or a portion of the proceeds of

the bonds, as provided by council resolution, together with the grant funds and any additional funds which may be available and are appropriated for the improvement program or which may be advanced to such account on condition that such amounts be reimbursed from bond proceeds.

3.02 The city council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. TAX LEVY.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5 percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate transit bond debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from the transit bond debt service account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the city council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 26, 2001)

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

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

Nays: None -- 0

Absent: Councilor Gilbert -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 23, 2001
Approved July 23, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, July 30, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: Councilor Eckenberg -- 1

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR FENA (INTRODUCED BY COUNCILOR STENBERG)

01-023 (9497) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED ON THE LOWER SIDE OF GRAND AVENUE BETWEEN 66TH AND 67TH AVENUES WEST (KLEIMAN).

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

Councilor Fena stated that her reason to reconsider this ordinance is because on the night the ordinance was passed a person signed up to speak who was not called upon and that possibly not all of the information regarding the ordinance was presented.

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

Dede Westermann, representing the Spirit Valley Citizens' Neighborhood Development Association (SVCNDA), stated that the association opposes this change in rezoning because it conflicts with the West Duluth plan that establishes this area as an entrance corridor to the zoo, the Western Waterfront and Willard Munger trails and other recreational attractions in the area, and is not conducive with the residential neighborhood development included in the plan. She noted that urban planners have stated that there is already an established business district in West Duluth and that by rezoning and allowing uses such as this outside the boundaries weakens the core business district. She stated that present discussions regarding a comprehensive plan for West Duluth support this area being zoned as residential.

Richard Jasper; Mark Watkins, pastor at Bethany Baptist Church; and Jeanne Koneczny opposed zoning the property commercial and encouraged that it be made available for residential development.

Dale Johnson stated that he owns property that is presently zoned and used for commercial use adjacent to the property proposed to be rezoned. He added that before he purchased the property a number of years ago, approximately 1/3 was zoned residential during the West Duluth rezoning process without the knowledge of the previous property owner. Mr. Johnson noted that it is unlikely that this property will ever be developed residentially and that it seems appropriate to extend the commercial zoning to include this area. He also requested that the portion of his property that was inadvertently zoned residential be reverted back to commercial zoning.

Mr. Kleiman stated that his rezoning petition does include all of Mr. Johnson's property. He further noted that historically this property was zoned manufacturing and that 14 years ago when SVCNDA was involved with the West Duluth rezoning, it was envisioned that there would be townhome and residential development on this property which has not, and is not now, anticipated to occur. Mr. Kleiman clarified that because of a culvert running diagonally across the property, there are construction limitations which dictate that only 30 percent of the property can

be developed, which would impact residential development as well, and that the unbuildable portion of the property will be landscaped or remain green space.

Councilor Hogg stated that he previously voted against this rezoning because he did not feel there had been enough discussion on the issue. He emphasized that this property is clearly transitional property between what is now zoned commercial and the residential area, and has considerable limitations as to what it can be used for. Councilor Hogg continued by saying that since a residential developer has not come forward to develop this property, he believes the use that Mr. Kleiman has proposed for the property allows for a good deal of green space and is an appropriate use for it.

Councilor Fena stated that since there has been a plan in place for a number of years that involved extensive citizen involvement that designated this property as R-2, now, when a new process is taking place, is not the time for the council to make zoning decisions and changes that preempts present and future citizen input as to how they want their neighborhood to look.

Councilor Stover stated that this piece of property is best suited for business since only 30 percent of it can be developed and that the businesses going into this development have lost their present site in Oneota Industrial Park due to expansion of other existing businesses. He further noted that due to the heavy volume of traffic, it is unlikely that residential housing would ever be built on this site.

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

Yeas: Councilors Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 6

Nays: Councilors Fena and Gilbert -- 2

Absent: Councilor Eckenberg -- 1

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

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9497

BY COUNCILOR FENA (Introduced by Councilor Stenberg):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED ON THE LOWER SIDE OF GRAND AVENUE BETWEEN 66TH AND 67TH AVENUES WEST (KLEIMAN).

The city of Duluth does ordain:

Section 1. That Plate No. 14 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 5, 2001)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Yeas: Councilors Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 6

Nays: Councilors Fena and Gilbert -- 2

Absent: Councilor Eckenberg -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 30, 2001

Approved July 30, 2001

GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 13, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0813-01 Carla Blumberg submitting application for a concurrent use permit to landscape and construct a deck on an easement that is presently a grassy strip about ten feet wide, between 19th Avenue East sidewalk and the building located at 1902 East Eighth Street. -- Planning commission

01-0813-02 Jon A. Ekeroth, et al. (five signatures), submitting petition to vacate the empty utility easement in Lots 6 and 7 including Lots 35 and 36, Block 3, Oatka Beach Addition to Duluth. -- Assessor

01-0813-18 Clifford P. Lanthier, et al. (nine signatures) resubmitting petition to reclassify from R-2 to R-3 Lots 1 and 2, Block 36, Gary First Division Duluth. -- Assessor

01-0813-03 Larry Stingl, et al. (three signatures), submitting petition to vacate a portion of Marks Avenue (West 12th Street) and cut and fill easements, from Lot 19, Block 51, to East Diamond Avenue on the south side of West 12th Street and on the north side of West 12th Street from Lot 22, Block 46, to East Diamond Avenue, Harrison's Brookdale Division. -- Assessor

01-0813-04 BerNutt, Inc., by Kirsten Stewart, attorney, submitting communication withdrawing its appeal of the board of zoning appeals decision to grant a reduction of the minimum rear yard setback requirement from 25 feet to 14.3 feet for the property owned by Edgewater Services, Inc., and being developed by Holiday StationStores, Inc., at 2605 London Road. -- Received

01-0813-05 David Delisle submitting communication regarding the vacation of a portion of 38th Avenue East at East Third Street (01-0461R). -- Received

01-0813-19 Evensen Dodge, Inc., submitting presale analysis regarding \$4,800,000 G.O. street improvement bonds, Series 2001D, and \$615,000 G. O. transit bonds, Series 2001E. -- Received

01-0813-06 The following submitting communications regarding the BZA appeal for property located at 1110 East Skyline Parkway (01-0565R and 01-0566R): (a) Thomas A. Branlund (supported by three signatures); (b) Janice Watten. -- Received

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REPORTS OF OFFICERS

01-0813-17 Assessor submitting:

(a) Affidavits of mailing of notice:

(1) Of public hearing regarding reassessment of costs for development in Parkwood Plat-Parcel 3754-570 by the special assessment board on August 21, 2001, at 4:30 p.m. in Room 106A, City Hall. -- Clerk

(2) Regarding delinquent stormwater utility bills;

(b) Revised assessment roll to be levied to defray in full the expense of solid waste collection during the period March 1, 2000, to June 1, 2001, for which the licensed collector has not been reimbursed. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

01-0813-07 Building official submitting appeals to reverse the board of zoning appeals' decisions to deny variances for the following:

(a) To construct 30 dwelling units consisting of 22 rental flats and eight units above garages, requesting more than one main building on a lot on property located at 58th and Nicollet Street (Irving Townhomes, LLC);

(b) To construct three dwellings on parcels of property reducing the required frontage on a maintainable street for each lot from 50 feet to 37-1/2 feet to reduce the minimum side yard setback from five feet to 4-1/2 feet and the aggregate side yard setback from 12 feet to 9-1/2 feet on property located at 423 North 51st Avenue West, 425 North 51st Avenue West and 427 North 51st Avenue West (SVCNDA);

(c) To construct five dwellings on parcels of property reducing the required lot area for two dwellings from 5,000 square feet to 3,000 square feet; two dwellings to 3,500 square feet and one dwelling 3,600 square feet; to reduce the required frontage on a maintainable street for each lot from 50 feet to 30 feet, 35 feet and 36 feet respectively; and to relax the front yard setback from 25 feet to ten feet, the corner side yard setback from 15 feet to nine feet, and the aggregate side yard setback from 12 feet to ten feet on property located at 5109-5119 Ramsey Street (SVCNDA);

(d) To construct a two family dwelling reducing the required lot area for a duplex from 6,000 square feet to 5,625 square feet, reducing the front yard setback from 25 feet to 14 feet, the rear yard setback from 25 feet to five feet and the corner lot setback from 15 feet to 12 feet on property located at 427 North 52nd Avenue West (SVCNDA). -- Committee 2 (physical development)

01-0813-08 Clerk submitting letter of sufficiency of petition opposing Ordinance 9490 regarding smoking in public places. -- Received

01-0813-09 Parks and recreation department director submitting Lake Superior zoological society: (a) Financial statements of May and June, 2001; (b) Minutes of May 23, 2001, meeting. -- Received

01-0813-20 Treasurer submitting annual report of all gifts received by the city for \$5,000 or less during the period of August 1, 2000, through July 31, 2001, pursuant to Resolution 97-0954. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0813-10 Building appeal board minutes of May 9, 2001, meeting. -- Received

01-0813-11 Civil service board minutes of June 5, 2001, meeting. -- Received

01-0813-12 Duluth airport authority: (a) Minutes of June 19, 2001, meeting; (b) Unaudited balance sheet of May 31, 2001. -- Received

01-0813-13 Duluth housing commission minutes of June 14, 2001, meeting. -- Received

01-0813-14 Duluth transit authority: (a) Financial statement summary of June 2001; (b) Minutes of May 23, 2001, meeting. -- Received

01-0813-15 Planning commission minutes of: (a) April 25; (b) May 23; (c) June 12; (d) June 27, 2001, meetings. -- Received

01-0813-16 Seaway Port authority of Duluth submitting tax increment financing district reports for Rices Point and Airpark. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented on the fine work that was done at Bayfront and various aspects associated with this new operation.

- - -

Peggy Marrin commented on the council's and administration's accountability relative to the work permits associated with the Spirit Ridge Development.

- - -

Elijah commented that the youth today are raised in a violent society and that the future of the country is in providing peace for the youth.

- - -

RESOLUTIONS TABLED

Councilor Ness moved to remove Resolution 01-0516, confirming appointment of Thomas Wheeler to Duluth economic development authority replacing Robert Brooks, from the table, which motion was seconded and failed upon the following vote:

Yeas: Councilors Ness, Stenberg and President Edwards -- 3

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

- - -

Councilor Stenberg moved to remove Resolution 01-0461, vacating a portion of 38th Avenue East at East Third Street (Backstrom), from the table, which motion was seconded and unanimously carried.

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

Jim Peterson stated his support for the replacement resolution and that the city acquire the triangle piece of property.

Bob Backstrom stated that he would not object to a slight delay until all these aspects are resolved.

The council voiced at length their concern that all the desired aspects of this are addressed prior to adopting the resolution.

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

- - -

Councilor Fena moved to remove Resolution 01-0439, authorizing proper city officials to modify an existing five year, five month lease agreement with the state of Minnesota, department of administration, for space in the Minnesota workforce center - Duluth, which motion was seconded and unanimously carried.

Resolution 01-0439 was adopted as follows:

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to modify an existing five year, five month lease agreement with the state of Minnesota, department of administration, real estate management division for office space on the second floor of the Government Services Center - 320 West Second Street in the suite known as the Minnesota Workforce Center - Duluth. The five year, five month lease covers the period February 1, 1998, through June 30, 2003.

The modification reduces the amount of space leased from 2,030 square feet to 1,872 square feet and the monthly base rent rate from \$1,787.51 to \$ 1,564.68. The reduction of space and rent to be retroactive to July 1, 1999, with a refund of the amount overpaid credited toward future city rent obligation during the five year, five month lease period.

Resolution 01-0439 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

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

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

(1) \$4,800,000 general obligation street improvement bonds, Series 2001D, are hereby authorized and shall be issued for the purpose of financing the 2001 street improvement program, including payment of part of the interest cost of such bond issue and expenses incurred in the issuance of the bonds, pursuant to Minnesota Statutes, Chapter 475 and the City Charter;

(2) \$615,000 general obligation transit bonds, Series 2001E, are hereby authorized and shall be issued for the purpose of financing costs of the Duluth transit authority to purchase 30 new transit buses, Stride vehicles and a replacement service vehicle and through facilities improvements and renovations, as authorized by Laws of Minnesota 1974, Chapter 130, and Ordinance No. 9499, adopted July 23, 2001;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sales thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 01-0813-22. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

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

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

Resolution 01-0557 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

WHEREAS, the Arrowhead Manufactures and Fabricators Association Educational Trust of Duluth has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Arrowhead Manufactures and Fabricators Association Educational Trust, 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 01-0580 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
Hillside Business Association	Round Up Bar & Grill	July 30, 2001

Resolution 01-0581 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 11, 2001, municipal primary election and November 6, 2001, for the municipal and school board general election:

POLLING PLACE LIST

POLLING PLACE	ADDRESS
1. St. Michael's Catholic Church (lower level)	4901 East Superior Street
2. Portman Square	4601 McCulloch Street
3. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
4. Lutheran Church of the Good Shepherd	45th Avenue East and Colorado
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church (Fellowship Hall)	2105 Woodland Avenue
9. Duluth Congregational Church (lower level)	3833 East Superior Street
10. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
11. Pilgrim Congregational Church (lower level)	2310 East Fourth Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

12.	Woodland Middle School (auditorium)	Clover and Eighth Street
13.	U.M.D. Kirby Student Center (garden room)	10 University Drive
14.	Kenwood Lutheran Church	324 West Cleveland Street
15.	Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
16.	Prince of Peace Fellowship Church	1830 East First Street
17.	United Baptist Church (lower level)	830 East First Street
18.	Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
19.	Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
20.	Peace Church (Tenth Avenue entrance)	1015 East 11th Street
21.	First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
22.	Central Hillside Community Center	12 East Fourth Street
23.	Rainbow Senior Center (auditorium)	211 North Third Avenue East
24.	Duluth Public Library (green room)	520 West Superior Street
25.	Lafayette Square (upper level)	3026 Minnesota Avenue
26.	St. Peter's Catholic Church (lower level)	818 West Third Street
27.	Duluth Heights Community Club	33 West Mulberry Street
28.	Lincoln Park Senior Center (lower level)	2014 West Third Street
29.	Lincoln Park Baptist Church (lower level)	2202 West Third Street
30.	Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
31.	St. Lawrence Church	2410 Morris Thomas Road
32.	Harrison Community Club	3002 West Third Street
33.	Lutheran Church of Christ the King (alley entrance)	4219 Grand Avenue
34.	Faith Haven (recreation room)	4901 Grand Avenue
35.	Elim Lutheran Church (social hall)	6101 Cody Street
36.	Irving Recreation Center	20 South 57th Avenue West
37.	Bethany Baptist Church (social hall)	6700 Grand Avenue
38.	Bayview Heights School (gym)	8702 Vinland Street
39.	USDA Forest Service	8901 Grand Avenue Place
40.	Goodfellowship Community Center (warming area)	1242-88th Avenue West
41.	Stowe School (gym)	715 - 101st Avenue West
42.	Fond du Lac Recreation Center	131st Avenue West and Highway 23

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, that an absentee ballot board shall be in effect and utilized as allowed for under Minnesota Statutes, for the September 11, 2001, and November 6, 2001, 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, 2001, and November 6, 2001, 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 01-0582 was unanimously adopted.

Approved August 13, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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, 2001, municipal primary election and the November 6, 2001, municipal and school board general election, as listed in Public Document No. 01-0813-23.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$6 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.31 per mile; payable from General Fund 015-1512-5441.

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

Resolution 01-0583 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Flanagan Sales, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment for Woodland Recreation Center, Wheeler Field and Portman Recreation Center for the city architect division in accordance with specifications on its low specification bid of \$51,282.25, terms net 30, FOB destination, \$30,282.25 payable out of Capital Improvement Fund 0450, Dept./Agency 015, Organization 2001, Object C113 and \$21,000 payable out of Special Projects Fund 0210, Dept./Agency 030, Organization 2125, Object 5219.

Resolution 01-0586 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Software House International be and hereby is awarded a contract for furnishing maintenance for various Novell software licenses for the M.I.S. division in accordance with specifications and referencing state of Minnesota Contract #425551 in the amount of \$26,027.92, terms net, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 1513, Object 5201.

Resolution 01-0589 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter an amendment, substantially in the form of that on file in office of the city clerk as Public Document No. 01-0813-40, to city Contract No. 16157, with Duluth Lighthouse for the Blind (the Lighthouse), providing for payment in the amount of \$42,411.60 as settlement for default on said contract, said funds to be deposited in Fund 0265, Agency 020, Org. 0093, Obj. 4706.

Resolution 01-0539 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved August 13, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a neighborhood matching grants fund agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0813-24, with the Duluth Spirit Valley Lions Club in an amount not to exceed \$8,000, payable from Fund 0100, Agency 700, Org. 1417, Object 5490.

Resolution 01-0553 was unanimously adopted.

Approved August 13, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a neighborhood matching grants fund agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0813-25, with the Merritt Youth Hockey Association in an amount not to exceed \$8,056, payable from Fund 0100, Agency 700, Org. 1417, Object 5490.

Resolution 01-0563 was unanimously adopted.

Approved August 13, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that, pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Northern Communities Land Trust (NCLT), for its land trust homes on the hill project in an amount not to exceed \$25,000, payable from Fund 860, Org. 8642, as approved by the DEDA board at its meeting of July 17, 2001, pursuant to DEDA Resolution No. 01D-38, a copy of which is on file in the office of the city clerk as Public Document No. 01-0813-26, is hereby approved.

Resolution 01-0551 was unanimously adopted.

Approved August 13, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement for professional services, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0813-27, with Minnesota sea grant extension program for execution of a public perceptions and values survey about the characteristics and locations of public open spaces at a cost not to exceed \$13,000 payable from Fund 210, Agency 303, Org. 2176.

Resolution 01-0559 was unanimously adopted.

Approved August 13, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, the opportunities for change plan for West Duluth identified a need for increased public access to the St. Louis River; and

WHEREAS, a trail to the edge of the Grassy Point area has been constructed with a small parking area with ISTEPA funding; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the land in the area for the project is publicly owned; and

WHEREAS, the West Duluth neighborhood strongly supports the implementation of this project; and

WHEREAS, the Beneficiary Group for Environmental Improvement has selected to offer a grant of \$150,000 to the city of Duluth for construction of another portion of the Grassy Point Trail project into the wetlands; and

WHEREAS, \$50,000 has been provided by check and the remaining \$100,000 to be paid at later stages in the project.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth gratefully accepts the grant of \$150,000 and the \$50,000 check for expenditures on the Grassy Point Trail as outlined in the proposal submitted by city staff and authorizes proper city officials to receive the funding and deposit in Fund 0450-015-2001-4690.

Resolution 01-0562 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Apprise Technologies, Inc.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Apprise Technologies, Inc.

Resolution 01-0578 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, in 1997 the board of directors of trusts of Miller-Dwan Medical Center submitted a unanimous recommendation that the city council request the Minnesota legislature to adopt legislation authorizing the board of directors of trusts to create a nonprofit corporation and transfer the assets and liabilities of Miller-Dwan Medical Center to such corporation; and

WHEREAS, a task force jointly established by the city of Duluth and the Miller-Dwan Medical Center board of directors of trusts reviewed the recommendations of the board of directors of trusts and unanimously concurred with such recommendations; and

WHEREAS, such task force specifically recommended adoption of the draft legislation, articles of incorporation and bylaws on file in the office of the city clerk as Public Document No. 97-0225-09; and

WHEREAS, the Miller-Dwan Medical Center board of directors of trusts indicated its approval of the form of such draft legislation, articles of incorporation and bylaws, and its agreement to adopt such articles of incorporation and bylaws prior to or upon enactment of such draft legislation; and

WHEREAS, the Duluth City Council reviewed the recommendations of the task force and determined that it was in the best interests of the citizens of Duluth that they be implemented; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, on February 25, 1997, the Duluth City Council adopted Resolution 97-0174 which requested the Minnesota legislature to adopt the above referred to legislation authorizing the creation of a Minnesota nonprofit corporation and the transfer of the assets and liabilities of Miller-Dwan Medical Center to such nonprofit corporation, provided that such legislation would be subject to approval by the Duluth City Council before it became effective; and

WHEREAS, the above referred to legislation was enacted as Chapter 101 of the 1997 Laws of Minnesota which legislation was subsequently approved by the Duluth City Council by Resolution 97-0434, adopted May 27, 1997; and

WHEREAS, pursuant to the above referred to legislation all of the tangible and intangible assets used or held in connection with and all liabilities related to or arising out of the operation of Miller-Dwan Medical Center were transferred to Miller-Dwan Medical Center, Inc., a Minnesota nonprofit corporation, as of 12:00 a.m. on January 1, 1998; and

WHEREAS, St. Mary's/Duluth Clinic Health System(SMDC) is a Minnesota nonprofit corporation which has been recognized as a tax exempt charitable organization described in Section 501(c)(3) of the Internal Revenue Code. SMDC is affiliated with the Duluth Clinic, a Minnesota nonprofit corporation which has been recognized as a tax exempt charitable organization described in Section 501(c)(3) of the Internal Revenue Code. The Duluth Clinic provides medical care in Minnesota, Wisconsin and Michigan. SMDC also is affiliated with St. Mary's Medical Center, a Minnesota nonprofit corporation which is been recognized as a tax exempt charitable organization described in Section 501(c)(3) of the Internal Revenue Code. St. Mary's Medical Center owns and operates an acute care hospital in Duluth, Minnesota; and

WHEREAS, the board of directors of Miller-Dwan Medical Center, Inc., has determined that it is in the best interests of the citizens of Duluth and in furtherance of its charitable trust purposes to affiliate with SMDC; and

WHEREAS, SMDC and Miller-Dwan Medical Center, Inc., desire to affiliate in order to bring together two systems which currently offer many complementary services in order to reduce costs, improved quality and maintain or improve access to needed health care services consistent with an in furtherance of the charitable trust obligations of SMDC and Miller-Dwan; and

WHEREAS, Section 8.4 of the Bylaws of Miller-Dwan Medical Center, Inc., provides that no amendments shall be made to Article I, Section 4.7, Section 8.4, Section 8.8 or Section 8.9 unless such amendment has been approved by the Board of Directors of Miller-Dwan Medical Center, Inc., and the city council of Duluth Minnesota; and

WHEREAS, in connection with the affiliation between SMDC and Miller-Dwan Medical Center, Inc., it is contemplated that the bylaws of Miller-Dwan Medical Center, Inc., will be amended and restated as set forth in Public Document No. 01-0813-21, including amendments to Article I, Section 8.4 and Section 8.9; and

WHEREAS, the board of directors of Miller-Dwan Medical Center, Inc., has requested the approval of such amendments by the city council pursuant to Section 8.4 of the bylaws of Miller-Dwan Medical Center, Inc.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Duluth City Council hereby approves the amendments to Article I, Section 8.4 and Section 8.9 of the bylaws of Miller-Dwan Medical Center, Inc., as set forth in the amended and restated bylaws of Miller-Dwan Medical Center, Inc.

Resolution 01-0421 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR FENA:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the city of Hermantown authorizing the joint implementation of phase one of the Duluth-Superior metropolitan area bikeways plan in Duluth and Hermantown for an estimated cost to Duluth of \$44,000 to be paid from the P.I. fund; said agreement filed as Public Document No. 01-0813-28.

Resolution 01-0482 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$57,143 in Workforce Investment Act adult funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution No. 01-0250, passed April 9, 2001. Said monies to be used to provide workforce development services to adults under the Workforce Investment Act, as defined in the program year 2001-2002 local plan for adult services, from July 1, 2001, through June 30, 2003. Funds received will be deposited in Fund No. 268, Budget Item 6248.

Resolution 01-0548 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$153,011 in Minnesota youth program funds and \$2,000 in Workforce Investment Act youth funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution No. 01-0250, passed April 9, 2001. Said monies will be used to provide workforce development services to at-risk youth as defined in the program year 2001-2002 local plan for youth services and to provide developmental assistance to the youth council respectively from July 1, 2001, through June 30, 2002. Funds received will be deposited in Fund No. 268, budget items 6250 and 6246 respectively.

Resolution 01-0549 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$104,509 in Title V - Older American's Act funds from the Minnesota department of economic security in accordance with City Contract No. 18880, Resolution No. 01-0250, passed April 9, 2001. Said monies will be used to provide workforce development services to seniors under the Older American's Act, as defined in the program year 2001-2002 local plan for adult services, from July 1, 2001, through June 30, 2002. Funds received will be deposited in Fund No. 268, Budget Item 6333.

Resolution 01-0550 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a National Senior Citizens Education & Research Center, Inc. grant in the amount of \$213,955 for the period July 1, 2001, through June 30, 2002. A copy of this agreement and electronic form budget shall be on file in the city clerk's office as Public Document No. 01-0813-30.

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6332.

Resolution 01-0558 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$151,534 in Workforce Investment Act dislocated worker funds from the Minnesota department of trade and economic development in accordance with City Contract No. 18947, Resolution No. 01-0436, passed June 25, 2001. Said monies to be used to provide workforce development services to dislocated workers under the Workforce Investment Act, as defined in the program year 2001-2002 local plan for dislocated worker services from July 1, 2001 through June 30, 2002. Funds received will be deposited in Fund No. 268, Budget Item 6249.

Resolution 01-0564 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$215,265 in state dislocated worker funds from the Minnesota department of trade and economic development in accordance with City Contract No. 18947, Resolution No. 01-0436, passed June 25, 2001. Said monies to be used to provide workforce development services to dislocated workers under the Workforce Investment Act, as defined in the program year 2001-2002 local plan for dislocated worker services from July 1, 2001, through June 30, 2002. Funds received will be deposited in Fund 268, Budget Item 6251.

Resolution 01-0597 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0813-31, between the city of Duluth and Lake Superior & Mississippi Railroad, wherein the city is granted a utility easement across the railroad parking lot near Grand Avenue at 70th Avenue West for a consideration of \$10; said money to be paid from Fund 0521, Agency 500, Object 5532. Said parcel and easement are more particularly described as follows:

A utility easement across the following described parcel of land:

A parcel of land located in Section 13, T49N, R15W, 4th P.M., St. Louis County, Minnesota, and being more particularly described as follows:

Beginning at a point lying N49 degrees 48'51"E, 2811.20 feet, from the southwest corner of said Section 13, thence S46 degrees 54'56"E, 100.02 feet to a point, thence

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

N43 degrees 09'22"E, 340.48 feet to a point, thence S89 degrees 04'18"W, 139.39 feet to a point, thence S43 degrees 07'51"W, 243.62 feet to the point of beginning;

Said easement more particularly described as:

An easement being a strip of land 40 feet in width, the southeasterly line being described as follows:

Beginning at the southwest corner of the above described parcel lying S46 degrees 54'56"E, 27.00 feet to a point, thence N43 degrees 17'35"E, 238.25 feet to a point, thence N55 degrees 53'01"E, 41.15 feet to an intersection with the north property line of the above described parcel.

Resolution 01-0555 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Duluth-Superior Erection, Inc., be and hereby is awarded a contract for installing a replacement steam vault roof at Fourth Avenue West and Superior Street for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$52,300, terms net 30, FOB job site, payable out of Steam District #1 Fund 0540, Dept./Agency 920, Organization 1460, Object 5310.

Resolution 01-0584 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Billman Construction, Inc., be and hereby is awarded a contract for construction of year 2001 street improvement at Central Hillside-13th Street between Central Entrance to 665 feet westerly for the engineering division in accordance with specifications on its low specification bid of \$216,979.25, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0101, Object 5530.

Resolution 01-0585 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0813-32, between the city of Duluth and United States Steel, LLC, wherein the city is granted a utility easement across the United States Steel property in Gary-New Duluth for a consideration of \$5,000; said money to be paid from Fund 0521, Agency 500, Object 5532. Said parcel and easement are more particularly described as follows:

A utility easement across the following described parcel of land:

A parcel of land located in Section 3, T48N, R15W, 4th P.M., St. Louis County, Minnesota, and being more particularly described as follows:

Beginning at a point lying S39 degrees 03'40"W, 1,056.27 feet from the northeast corner of said Section 3, thence S68 degrees 05'58"W, 679.50 feet to a point, thence S01 degrees 53'54"E, 732.70 feet to a point, thence N63 degrees 30'06"E, 625.30 feet to a point,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

thence N01 degrees 54'02"W, 587.80 feet to a point, thence N43 degrees 14'58"E, 113 feet to a point, thence N05 degrees 01'39"W, 40.07 feet to the point of beginning.

Said easement more particularly described as:

An easement being a strip of land 40 feet in width, the southeasterly line being described as follows:

Said easement being a strip of land 40 foot in width, the westerly line being described as follows: beginning at the point of beginning of the above described parcel, lying S68 degrees 05'58"W, 33.60 feet from the northeast corner of said parcel, thence S09 degrees 24'01"E, 54.64 feet, intersecting and ending with the southeast property line, thence S09 degrees 30'52"E, 115.54 feet to a point, thence S21 degrees 39'53"W, 74.77 feet to a point, thence S28 degrees 32'15"W, 89.07 feet, intersecting and entering the east property line of the above described parcel, thence S28 degrees 32'15"W, 80.30 feet to a point, thence S37 degrees 10'19"W, 96.25 feet to a point, thence S44 degrees 19'47"W, 202.32 feet to a point, thence S00 degrees 12'34"W, 205.32 feet to an intersection with the south property line of the above described parcel. (The total easement strip consists of approximately .48 acres.)

Resolution 01-0587 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0813-33, between the city of Duluth and Willard M. Munger, Jr., and Sally L. Munger, husband and wife, wherein the city is granted a utility easement across Lots 1-14, Block 35, Norton's Fairmount Park Division of Duluth, and Lot 14, Block 16, Hunter/Markell's Grassy Point Addition to Duluth, for a consideration of \$7,000; said money to be paid from Fund 0521, Agency 500, Object 5532. Said parcel and easement are more particularly described as follows:

A utility easement across the following described parcel of land:

An easement across the following described property:

A parcel of land located in Lots 1-14, Block 35, Norton's Fairmount Park Division of Duluth, Section 13, T49N, R15W, 4th P.M., St. Louis County, Minnesota.

Said easement being a strip of land approximately ten feet in width and described as follows:

Beginning at the northwest corner of Lot 1, Block 35, thence S46 degrees 25'35"E, 124.37 feet to the point of beginning, thence S80 degrees 37'44"E, 12.11 feet to a point, thence N43 degrees 41'43"E, 136.0 feet to a point, thence 37 degrees 29'54"E, 137.62 feet to a point, thence N30 degrees 44'41"E, 53.62 feet to a point, thence N01 degrees 29'12"W, 19 feet to a point, thence S31 degrees 38'14"W, 78.24 feet to a point, thence S37 degrees 22'43"W, 127.27 feet to a point, thence S43 degrees 41'43"W, 142.29 feet to the point of beginning.

INCLUDING an easement across the following described property:

A parcel of land located in Lot 14, Block 16, Hunter/Markell's Grassy Point Addition to Duluth, Section 13, T49N, R15W, 4th P.M., St. Louis county, Minnesota.

Said easement being a strip of land approximately ten feet in width and described as follows:

Beginning at the northwest corner of Lot 14, Block 16, thence S46 degrees 17'50"E, 74.05 feet to the point of beginning, thence S46 degrees 22'33"E, ten feet to a point,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

thence N43 degrees 37'27"E, 24.78 feet to a point, thence N46 degrees 17'50"W, ten feet to a point, thence S43 degrees 37'27"W, 24.80 feet to the point of beginning.

Resolution 01-0588 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of street improvement of Harding Avenue from Plum Street to Central Entrance for the engineering division in accordance with specifications on its low specification bid of \$48,732.25, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Dept./Agency 038, Organization 5341, Object 5530.

BE IT FURTHER RESOLVED, that the ordering Resolution 01-0411 be amended as follows: Special Assessment Fund 0410 be increased from \$34,800 to \$40,000; Permanent Improvement Fund 0411 be increased from \$3,200 to \$10,500; Stormwater Utility Fund 0535 be increased from \$6,000 to \$9,500; the total project cost be increased from \$44,000 to \$60,000.

Resolution 01-0590 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Amendola Construction Company, Inc., be and hereby is awarded a contract for rehabilitation of Bridge Number L8505 on Seven Bridges Road over Amity Creek for the engineering division in accordance with specifications on its low specification bid of \$246,712.75, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2110, Object 5530. A portion of the project in the amount of \$174,719.84 will be reimbursed from federal enhancement funds and \$43,679.80 will be reimbursed from State Transportation Fund 29.

Resolution 01-0591 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to purchase the following described tax forfeit property from the St. Louis County Board of Commissioners for a consideration of \$11,701.35 to be paid from Fund 0521, Agency 500, Object 5532:

Lots 15, 16 and 17, except the northerly ten feet of said lots for Highway No. 23, Block 35, Norton's Fairmount Park Division of Duluth, and

Lot 15, except the northerly ten feet for Highway 23, and Lots 16, 17 and 18, all in Block 16, Hunter/Markell's Grassy Point Addition to Duluth.

Resolution 01-0592 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that ProSource Technologies, Inc., be and hereby is awarded a contract for furnishing professional right-of-way and easement acquisition services to construct an approxi-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

mately 4.7 mile, ten inch diameter, x52 steel pipeline for the transmission of natural gas for the engineering division in accordance with specifications on its low specification proposal of \$198,469 terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Depts./Agency 500, Object 5532.

Resolution 01-0594 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an amendment to Public Document No. 00-0124-17, which is an agreement with Environmental Troubleshooters for environmental remediation and cost recovery associated with the Pioneer Bar building site to increase the compensation in said contract from \$17,745 to \$24,245, an increase of \$6,500 to be paid from the Self Insurance Fund 0605-036-1650-5319.

Resolution 01-0595 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized to execute an agreement with Marcia Becker, filed as Public Document No. 01-0813-34, relating to the ownership of a police dog handled by Marcia Becker in the course of her employment.

Resolution 01-0521 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the city of Duluth through the Duluth public library is hereby authorized to act as the fiscal agent for a grant from the Northland Foundation to the St. Louis County health department (the health department) offered through the Nurse-Family Partnership Project at no cost to the Health Department to support the Book Time with Your Baby program, which grant agreement is on file in the office of the city clerk as Public Document No. 01-0813-35, said funds to be deposited in General Fund 100-100-1704-4690.

Resolution 01-0577 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 01-0552, by Councilor Hogg, appropriating tourism tax fund balance, was introduced for discussion.

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

- - -

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 01-0813-17(b), which is levied to defray in full the expense of solid waste collecting dur-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

ing the period of March 1, 2000, to June 1, 2001, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 01-0556 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0593, by President Edwards, awarding contract to Duncan Industries for two handheld meter management systems and a parking meter management system, in the amount of \$62,128.91, was introduced for discussion.

It was noted that the replacement resolution corrects the monetary amount error, which was because one of the funding sources was noted listed.

Resolution 01-0593 was adopted as follows:

BY PRESIDENT EDWARDS:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering two handheld meter management systems with software and a parking meter management system with software for the traffic operations division and the M.I.S. division in accordance with specifications on its low specification bid of \$62,128.91, terms net 30, FOB destination, \$15,336 payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR00, Object E037 and \$46,792.91 payable out of General Fund 0100, Dept./Agency 015, Organization 2020, Object MS07.

Resolution 01-0593 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0560, by Councilor Stewart, resolution confirming reappointments of Barbara Koth and Gregg Lillejord to tree commission, was introduced for discussion.

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

- - -

Resolution 01-0603, by Councilor Gilbert, supporting and donating \$5,000 to the sustainable farming association for their eighth annual harvest festival to be held on Saturday, September 8, 2001, in Leif Erikson Park, was introduced for discussion.

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

- - -

Resolution 01-0561, by councilors Gilbert, Stewart and Fena, in support of gay, lesbian, bisexual, transgender pride festival days, August 31 through September 3, 2001, was introduced for discussion.

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

The following speakers: Dennis Kempton, Angela Nichols, Bob Jansen and Stan Kaitfors, supported the resolution for the reasons of: that members of the gay, lesbian, bi-sexual, transgender (GLBT) community are people from all walks of life who interact with Duluthians in all activities; GLBT members are discounted in all areas of interactivity; to allow this gathering recognizes acceptance; this resolution shows that GLBT members are more than their sexual orientation or gender identity; this change in acceptance of GLBT is a sign of growth and that many Minnesota employers support domestic partners.

Jim Kampa expressed concerns that through this resolution the council is: singling out one small portion of the community to support and applaud and appearing to give approval and endorsement for the community at large.

Stan Kaitfors, executive director of Community Action Duluth, stated that his organization's mission is to insure equal opportunity for low income citizens and incorporated into their preferred vision is that all citizens be protected from discrimination and racism, and that the organization supports this resolution.

Councilors Eckenberg and Stenberg noted their concerns for this resolution for the reasons of: the contributions to the enhancement and quality of life from these individuals is because of who they are and their own talents, not because of their sexual preference; it reduces them to a sexual component that limits who they are as people and the acceptance sought is where the issue rests.

Resolution 01-0561 was adopted upon a the following vote:

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

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

[Editor's Note: This resolution was vetoed by Mayor Doty on August 21, 2001, reconsidered by the council and approved, pursuant to Section 12 of the Duluth City Charter, on August 27, 2001.]

- - -

Resolution 01-0565, affirming, and Resolution 01-0566, reversing, respectively, a decision of the board of zoning appeals to reduce the minimum front yard setback for dwellings from 25 feet to eight feet and to allow two main buildings to be temporarily located on the same lot during the construction of a new 30 feet x 40 feet single family dwelling with a 24 feet x 24 feet attached garage on property located at 1110 East Skyline Parkway, as per plans submitted by the applicant, and subject to specified conditions, by Councilor Stenberg, were introduced for discussion.

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

Michael Clevette expressed support for Resolution 01-0565.

Harold Frederick, attorney, representing neighbors, spoke in support of Resolution 01-0566 for the reasons that: the board of zoning appeals (BZA) must find that special conditions apply to the land that are peculiar to the land and do not apply to other land in the vicinity; that the preservation is necessary for the preservation and enjoyment of substantial property right and not merely as a convenience to the applicant and that the granting of this variance does not hurt someone else that has built on a reliance of the zoning ordinance as it does exist.

Nancy Nelson, in supporting Resolution 01-0566, noted the development of the Skyline Parkway corridor management plan is in progress, the designation of it as a state scenic by-way and also the possible national designation as a scenic by-way and that locally as an historical designation as a heritage landmark so to grant variances could have irreversible impact.

Councilors discussed the unique aspects of this location and their concerns.

Councilor Stenberg moved to table the resolutions to clarify the property owners' rights, which motion was seconded and unanimously carried.

- - -

Resolution 01-0567, affirming, and Resolution 01-0568, reversing, respectively, a decision of the board of zoning appeals to reduce the minimum front yard setback from 25 feet to one foot for the construction of a 64 feet x 24 feet single family dwelling with a ten feet x four feet vestibule and a 24 feet x 24 feet attached garage, on property located at 1402 East Skyline Parkway, as per plans submitted by the applicant, and subject to the stipulation that the existing and future fill materials as well as the building plans comply with all requirements of the building safety division

and the survey corner pins be re-established, by Councilor Stenberg, were introduced for discussion.

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

- - -

Resolution 01-0569, affirming, and Resolution 01-0570, reversing, respectively, the decision of the board of zoning appeals to deny variances to construct 30 dwelling units consisting of 22 rental flats and eight units above garages on property located at 58th Avenue West and Nicollet Street (Irving Townhomes, LLC), by Councilor Stenberg, were introduced for discussion.

Resolution 01-0569 failed upon a unanimous vote (Public Document No. 01-0813-36).

- - -

Resolution 01-0570 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Irving Town Homes, LLC, has appealed the decision of the board of zoning appeals to deny variances to construct 30 dwelling units consisting of 22 rental flats and eight units above garages, requesting more than one main building on a lot on property located at 58th Avenue West and Nicollet Street, specifically:

Building 1: Reduce minimum frontage from 50 feet to 40 feet, minimum lot area per unit from 1500 square feet to 1000 square feet, minimum side yard setback from 7 feet to 5 feet, aggregate side yard setback from 12 feet to ten feet, and minimum rear yard from 25 feet to five feet;

Building 2: Reduce minimum front yard setback from 25 feet to 10 feet;

Buildings 3, 4 and 9: No lot frontage on maintainable street;

Buildings 5 and 8: Reduce minimum front yard from 25 feet to 10 feet;

Buildings 6 and 7: Reduce minimum front yard from 25 feet to 10 feet, side yard corner lot from 15 feet to 10 feet;

Building 10: Accessory building on separate lot from the main building, side yard setback from 2.5 feet to 1 foot;

WHEREAS, the property is located within an R-3 apartment residential zoning district; and

WHEREAS, Section 50-11 allows no more than one main building on one lot; and

WHEREAS, Section 50-20.2 requires a minimum lot size of 5,000 square feet, 50 foot minimum frontage on a maintainable street, seven foot minimum side yard setback, 12 foot minimum aggregate side yard setback, and a 25 foot minimum rear yard setback; and

WHEREAS, Section 50-72(h) requires that an accessory building shall be located on the same lot as the main building and shall be constructed at the same time or after the construction of the main building; and

WHEREAS, Section 50-24(b) requires a 2.5 foot minimum side yard setback for accessory buildings; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the board of zoning appeals is not a legislative body and cannot rewrite current code; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the zoning code; and

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WHEREAS, the tool which could allow this project, the Community Unit Plan has been repealed; and

WHEREAS, dwellings could be built on the site which would comply with current code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning Code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of the overall density is less than the maximum allowed, strict application of the zoning code to this property would result in _____ (practical difficulty or undue hardship) _____ to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity in that in 2000 the city council granted a similar variance to Northern Land Trust, and there is a state of Minnesota drip/debris easement restricting development adjacent to this property and that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of _____ and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the board of zoning appeals' decision of July 24, 2001, is hereby reversed by the city council and the appeal is granted.

Resolution 01-0570 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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Resolution 01-0571, affirming, and Resolution 01-0572, reversing, respectively, the decision of the board of zoning appeals to deny a request to construct three dwellings on parcels of property reducing the required lot area for each dwelling from 5,000 square feet to 4,687.5 square feet and the required frontage on a maintainable street for each lot from 50 feet to 37.5 feet, to reduce the minimum side yard setback from five feet to 4.5 feet and the aggregate side yard

setback from 12 feet to 9.5 feet on property located at 423 North 51st Avenue West, 425 North 51st Avenue West and 427 North 51st Avenue West, by Councilor Stenberg, were introduced for discussion.

Resolution 01-0571 failed upon a unanimous vote (Public Document No. 01-0813-37).

- - -

Resolution 01-0572 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Deede Westermann, executive director of SVCNDA (Spirit Valley Citizens' Neighborhood Development Association) has appealed the decision of the board of zoning appeals to deny variances to construct three dwellings on parcels of property reducing the required lot area for each dwelling from 5,000 square feet to 4,687.5 square feet and the required frontage on a maintainable street for each lot from 50 feet to 37.5 feet, to reduce the minimum side yard setback from five feet to 4.5 feet and the aggregate side yard setback from 12 feet to 9.5 feet on property located at 423 North 51st Avenue West, 425 North 51st Avenue West and 427 North 51st Avenue West; and

WHEREAS, the property is located within an R-2 two-family residential zoning district; and

WHEREAS, Section 50-20.2 requires a minimum lot size of 5,000 square feet and 50 feet minimum frontage for dwellings in an R-2 zoning district; and

WHEREAS, Section 50-23(f) states that when a lot of record on July 14, 1958, is less than 50 feet in width, no side yard shall be less than five feet; and

WHEREAS, Section 50-23(i) requires a minimum aggregate side yard setback of 12 feet; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the board of zoning appeals is not a legislative body and cannot rewrite current code; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the zoning code; and

WHEREAS, the tool which could allow this project, the community unit plan has been repealed; and

WHEREAS, dwellings could be built on the site which would comply with current code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate

supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of _____ (condition of land) _____, strict application of the zoning code to this property would result in _____ (practical difficulty or undue hardship) _____ to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity in that in 2000 the city council granted a similar variance to Northern Land Trust, and _____ that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of _____ and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the board of zoning appeals' decision of July 24, 2001, is hereby reversed by the city council, and the appeal is granted.

Resolution 01-0572 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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Resolution 01-0573, affirming, and Resolution 01-0574, reversing, respectively, the decision of the board of zoning appeals to deny a request to construct five dwellings on parcels of property reducing the required lot area for two dwellings from 5,000 square feet to 3,000 square feet; two dwellings to 3,500 square feet and one dwelling to 3,600 square feet; to reduce the required frontage on a maintainable street for each lot from 50 feet to 30 feet, 35 feet and 36 feet respectively; and to relax the front yard setback from 25 feet to ten feet, the corner side yard setback from 15 feet to nine feet and the aggregate side yard setback from 12 feet to ten feet on property located at 5109-5119 Ramsey Street, by Councilor Stenberg, were introduced for discussion.

Councilor Stenberg moved to table the resolutions to resolve a pending alley vacation issue, which motion was seconded and unanimously carried.

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Resolution 01-0575, affirming, and Resolution 01-0576, reversing, respectively, the decision of the board of zoning appeals to deny a request to construct a two family dwelling reducing the required lot area for a duplex from 6,000 square feet to 5,625 square feet, reducing the front yard setback from 25 feet to 14 feet, the rear yard setback from 25 feet to five feet and the corner lot side yard setback from 15 feet to 12 feet on property located at 427 North 52nd Avenue West, by Councilor Stenberg, were introduced for discussion.

Resolution 01-0575 failed upon a unanimous vote (Public Document No. 01-0813-38).

- - -

Resolution 01-0576 was adopted as follows:
BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, Deede Westermann, executive director of SVCNDA (Spirit Valley Citizens' Neighborhood Development Association) has appealed the decision of the board of zoning appeals to deny variances to construct a two family dwelling reducing the required lot area for a duplex from 6,000 square feet to 5,625 square feet, reducing the front yard setback from 25 feet to 14 feet, the rear yard setback from 25 feet to 5 feet and the corner lot side yard setback from 15 feet to 12 feet on property located at 427 North 52nd Avenue West; and

WHEREAS, the property is located within an R-2 two-family residential zoning district; and

WHEREAS, Section 50-20.2 requires a minimum lot size of 3,000 square feet per family and a minimum front yard and rear yard setback of 25 foot in an R-2 zoning district; and

WHEREAS, Section 50-23(a) requires a minimum side yard setback on a corner lot of 15 feet for dwellings; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the board of zoning appeals is not a legislative body and cannot rewrite current code; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the zoning code; and

WHEREAS, the tool which could allow this project, the community unit plan has been repealed; and

WHEREAS, dwellings could be built on the site which would comply with current code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of condition of land, strict application of the zoning code to this property would result in (practical difficulty or undue hardship) to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity in that in 2000 the city council

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

granted a similar variance to Northern Land Trust, and _____ that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of _____ and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the board of zoning appeals' decision of July 24, 2001 is hereby reversed by the city council, and the appeal is granted.

Resolution 01-0576 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Iron Clyde Manufacturing, LLC; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Iron Clyde Manufacturing, LLC.

Resolution 01-0579 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract in substantially the form of that in the offices of the city clerk with the Salvation Army to provide wrap around intervention (social) services to Minnesota family investment program (MFIP) participant's residing in the city of Duluth who are at risk of reaching the 60 month lifetime eligibility limit for the period July 1, 2001, through June 30, 2002, at a cost not to exceed \$357,100. A copy of this agreement shall be on file at the city clerk's office as Public Document No. 01-0813-29.

FURTHER RESOLVED, the cost incurred shall be charged to local intervention grants for self sufficiency funding, Fund 268, Budget Item 6276.

Resolution 01-0554 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 18987 with the Northeast Minnesota office of job training to add the provision of state dislocated worker services and increase the amount of the contract by \$96,869 for the period July 1, 2001, through December 31, 2001. The total amount of the contract shall not exceed \$68,190 in Workforce Investment Act (WIA) Title I dislocated worker funding and \$96,869 in state dislocated

worker funding, payable from Fund 268, budget items 6249 and 6251 respectively. A copy of this modification shall be on file in the city clerk's office as Public Document No. 01-0813-39.

Resolution 01-0602 was unanimously adopted.

Approved August 13, 2001

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATIONS OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR STENBERG

01-028 (9500) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA-DULUTH FOR THE INSTALLATION OF FIBER OPTIC CABLES UNDER JUNCTION AVENUE AT THE INTERSECTION OF EAST UNIVERSITY CIRCLE.

Councilor Stenberg 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.

JEFFREY J. COX, City Clerk

- -

ORDINANCE NO. 9500

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA-DULUTH FOR THE INSTALLATION OF FIBER OPTIC CABLES UNDER JUNCTION AVENUE AT THE INTERSECTION OF EAST UNIVERSITY CIRCLE.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the University of Minnesota-Duluth, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain an underground fiber optic communication cable in that part of Junction Avenue as the same was dedicated to the use of the public and the plat of Superior View Addition, 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 portion of Junction Avenue located between the side lot lines of Lot 9, Block 10, and Lot 10, Block 9, Superior View Addition, First Division.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said underground fiber optic communication cable and all fixtures and pertinencies

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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 underground fiber optic communication cable shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Junction Avenue and agree that the city of Duluth shall not be liable for damage caused to such underground fiber optic communication cable while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such underground fiber optic communication cable in said Junction Avenue.

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 16, 2001)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 13, 2001
Approved August 13, 2001
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August, 27, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on June 25, 2001, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0827-01 Robert Anderson, et al. (three signatures), submitting petition to vacate the alley between Blocks 54 and 55, Bayview Heights, Second Addition. -- Assessor

01-0827-02 Bruce Boyer, et al. (four signatures), submitting petition to vacate Robin Avenue that runs parallel to Lot 1 and Lot 32, Block 2, Birch Hill Division not to exceed south of Walnut Street. -- Assessor

01-0827-04 Duluth Keystone, LLC, et al. (two signatures), submitting petition to reclassify from R-1-b to R-3, Lot 1, Auditors Plat No. 24. -- Assessor

01-0827-03 Greg Guerrero, et al. (17 signatures), submitting petition to resurface 103rd Avenue West Alley between McGonagle Street and 102nd Avenue West with bituminous material. -- Assessor

01-0827-05 James and Patricia Peterson submitting request to amend petition of Robert H. Backstrom to vacate a portion of 38th Avenue East to include a portion adjacent to Lot 10 and the south half of Lot 11, Block 16, Crescent View Park, Duluth. -- Assessor

01-0827-06 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from:

(a) Boys and Girls Club on August 29, 2001;

(b) Duluth Area Chamber of Commerce on August 28, 2001. -- Received

01-0827-19 The following submitting communications regarding inclusion of East Sixth Street and Irving Place into the 2002 street improvement program (01-0533R): (a) Duluth Preservation Alliance; (b) National Trust for Historic Preservation; (c) Society for Industrial Archeology; (d) Carolyn Sundquist. -- Received

01-0827-20 The following submitting communications regarding gay, lesbian, bisexual, transgender pride festival days (01-0561R): (a) Dennis Bloomquist; (b) Johnna Bossuot; (c) Joe Chvala; (d) Richard Dixon; (e) Kerry Ferguson (Minneapolis, MN); (f) Jeffry Ford; (g) William T. Foreman; (h) Flo Golod (Minneapolis, MN); (i) Mark and Catherine Gorghuber; (j) Glenn Johnson; (k) Leon and Darleen Kahlstorf; (l) Luanne Kaspszak; (m) Colleen Kelly; (n) Jerry Klein (Spring Green, WI); (o) Donald D. Kozlovski, Jr.; (p) Rodney Leeseberg; (q) Rhonda Lundquist (St. Paul, MN); (r) Roger Matlock; (s) John Maypark (Stillwater, MN); (t) John McDonald; (u) Susan McNeill; (v) Kriss Osbakken; (w) Richard Partika; (x) Camilla Payne; (y) Mike Peplinski; (z) Queer Student Cultural Center, University of Minnesota (Minneapolis, MN); (aa) Jack Renick; (bb) Mary Rhodes; (cc) Stasia Ruskie; (dd) Jerry Schearer; (ee) Ralph Seelke; (ff) Phillip Smith; (gg) Todd Smith; (hh) Linnea Stenson (Minneapolis, MN); (ii) Deborah Talen; (jj) Roni Seger Town; (kk) Paul Tuchman (St. Louis Park, MN); (ll) Kim Waldof; (mm) Michael Welch (Minneapolis, MN). -- Received

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REPORTS OF OFFICERS

- 01-0827-07 Mayor Doty submitting veto of Resolution 01-0561, supporting gay, lesbian, bisexual, transgender pride festival days, August 31 through September 3, 2001. -- Received
- 01-0827-08 Assessor submitting letters of sufficiency of petitions for the following:
- (a) Reclassification from R-1-b to R-3, Lot 1, Auditors Plat No. 24;
 - (b) Vacation of a portion of Marks Avenue (West 12th Street) and cut and fill easements, from Lot 19, Block 51, to East Diamond Avenue on the south side of West 12th Street and on the north side of West 12th Street from Lot 22, Block 46, to East Diamond Avenue, Harrison's Brookdale Division;
 - (c) Vacation of the empty utility easement in Lots 6 and 7 including Lots 35 and 36, Block 3, Oatka Beach Addition to Duluth . -- Received
- 01-0827-09 Clerk submitting:
- (a) Applications to Minnesota gambling control board for exemptions from lawful gambling licenses from:
 - (1) St. Michael's Church (raffle) on October 20, 2001;
 - (2) St. Mary's Medical Center (raffle) on November 1, 2001;
 - (3) St. Michael's Church on November 3 (raffle) and 4 (bingo), 2001;
 - (b) Letter of sufficiency of petition to repeal Article VII, Chapter 28, of the Duluth City Code, 1959, as amended, regarding smoking in public places. -- Received
- 01-0827-10 Engineering division submitting monthly project status report of August 1, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

- 01-0827-11 Alcohol, gambling and tobacco commission minutes of: (a) July 10; (b) August 3, 2001, meetings. -- Received
- 01-0827-12 Board of zoning appeals minutes of July 24, 2001, meeting. -- Received
- 01-0827-13 Community development committee minutes of June 26, 2001, meeting. -- Received
- 01-0827-14 Duluth housing commission minutes of July 12, 2001, meeting. -- Received
- 01-0827-15 Duluth/North Shore sanitary district minutes of August 7, 2001, meeting. -- Received
- 01-0827-16 Duluth transit authority: (a) Financial statement summary of July, 2001; (b) Income statement of July 1, 2001, (c) Minutes of May 23, 2001, meeting. -- Received
- 01-0827-17 Housing and redevelopment authority of Duluth minutes of: (a) June 26; (b) July 12, 2001, meetings. -- Received
- 01-0827-18 Sanitary sewer board for WLSSD minutes of July 23, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jenifer Buckley and Ken Peterson urged council support of their organization, Sustainable Farming Association, which is trying to get consumers and local merchants to buy food from local farmers in Northeastern Minnesota and Northwestern Wisconsin. They reviewed that they are holding a one day event called Harvest Festival, which includes a farmer's market, exhibits, crafts, a petting zoo and locally produced food to show the city what local farmers have to offer the citizens.

To questioning from Councilor Gilbert, Administrative Assistant Winson replied that the council sets in each budget what the donations will be for that year and that the city has waived the police fees for this event in order to help.

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KL Lewis reviewed that there is still a problem at the Holiday Mall between the teenagers loitering there and the people who use the mall. She also expressed concern about the lack of advertising by Duluth to promote this area to tourists.

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RESOLUTION RECONSIDERED

Councilor Stewart moved to reconsider Resolution 01-0561, in support of gay, lesbian, bisexual, transgender pride festival days, August 31 through September 3, 2001, which had been vetoed by the mayor, which motion was seconded and unanimously carried.

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

Dennis Kempton, Robert Goldish, Selma Goldish, Shirley Duke, Karen Bauman, Karin Riggs, Dianna Hunter, Monica Roth Day, Constance Jacoby, Vince Sneski, Mari Trine, Lori Rabbitt, Joanne Langdan-Larson, Peggy Marrin, Todd Erickson, Bob Jansen, CJ Bird, Angie Nichols, Joel Sipress, Amy Bernstein, Kate Regan, Kathy Youngbloom, KL Lewis, Allan Netland, John Baugh and Linea Samuelson spoke in favor of the council reconsidering this resolution for the following reasons: the obligation of public officials to protect the rights of minority citizens and recognize them for their positive contributions to society; it is important to show the youth there is a reason to celebrate their sexual orientation; the gay youth need support as they are three times as likely to be verbally and physically assaulted and suicidal; people are all equal and need to celebrate their diversity; it celebrates the worth and dignity of each individual; a precedent has been set by other proclamations by the mayor in support of other groups and community events; it is about being oppressed for many years and the need to get support from society; why does the administration feel they are so powerful to pass judgement on groups of people and you should judge people by what is in their hearts.

Elijah, Jim Kampa, Nicki Kampa and Robert Swanstrom spoke against the resolution for the following reasons: it is a vote against immorality, the Boy Scouts of America could see the danger amongst this group of people; homosexuality should be stamped out; the mayor and the council are in charge of setting policy but should not make public statements of what they believe is the right thing to do unless they know for sure what the people want them to do; this proclamation supports a minority of people of the city and not the majority; the city should not be supporting this lifestyle and should not politically endorse this issue.

Councilor Stewart stated that the mayor has no obligation to issue a proclamation and that he should not veto a council proclamation, which shows that the council has no right to express their opinion. He urged councilors to override the mayor's veto of this resolution, otherwise passing a human rights ordinance would be hypocritical. Councilor Stewart went on to say that the council is saying that times have changed and by making a public statement recognizing contributions to Duluth from this group of people is not endorsing a lifestyle.

Councilor Hogg stated that the mayor's message by vetoing the resolution is that if you are not part of the heterosexual mainstream in Duluth, then you are not welcome here, or if you do live here you are a second class citizen. He continued by saying that the city council cannot permit this message be representative of Duluth.

Councilor Eckenberg stated that his reason for changing his vote on this resolution is because this resolution was an act of the city council and the mayor went outside of the bounds of his job by vetoing the resolution. He continued by saying that while he cannot support the

resolution, he will support overriding the mayor's veto.

President Edwards and Councilor Stenberg stated that issuing a proclamation by the council on this subject matter is not the role of the council and government should not be telling citizens what moral path they should be following.

Resolution 01-0561 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, Duluth is richly endowed with a great diversity of people, cultures and lifestyles; and

WHEREAS, the strength of a democratic society must be based upon equal participation without prejudice of all people in social, economic and political activities of the community; and

WHEREAS, members of the gay, lesbian, bisexual, transgender community have made significant contributions toward the enhancement of our quality of life through active involvement in social, economic and political activities of the community;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for Gay, Lesbian, Bisexual, Transgender Pride Festival Days, August 31 through September 3, 2001.

Resolution 01-0561 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 7

Nays: Councilor Stenberg and President Edwards -- 2

Approved August 27, 2001, pursuant to Section 12 of the Duluth City Charter.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 01-0552, appropriating tourism tax fund balance, from the table, which motion was seconded and unanimously carried.

Councilor Hogg stated that while he knows that Spirit Mountain needs the money for various projects, he voiced concern that his questions have not been answered regarding the tourism tax fund balance.

Resolution 01-0552 was adopted as follows:

BY COUNCILOR HOGG:

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

WHEREAS, the city desires to assist the Spirit Mountain recreation area authority in stabilizing their finances.

NOW, THEREFORE, BE IT RESOLVED, that \$250,000 additional funds will be allocated to the Spirit Mountain recreation area authority for cash flow and fund stabilization in 2001 beyond the amount already accorded, this source coming from the unreserved, undesignated fund balance in the Tourism Tax Fund 0258.

BE IT FURTHER RESOLVED, that contributions to Spirit Mountain and the DECC be increased \$12,300 and \$4,600 respectively, to reflect the changes in cost allocation charges.

Resolution 01-0552 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved August 27, 2001

GARY L. DOTY, Mayor

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Councilor Stewart moved to remove Resolution 01-0560, confirming reappointments of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Barbara Koth and Gregg Lillejord to tree commission, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to split the resolution to vote separately on each reappointee, which motion was seconded and unanimously carried.

Councilor Stewart stated that Gregg Lillejord's attendance has been less than 50 percent, which makes it hard to conduct meetings when there is no quorum.

Resolution 01-0560(a), reappointing Barbara Koth, was adopted as follows:

BY COUNCILOR STEWART:

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

TREE COMMISSION

Barbara Koth for a term expiring August 31, 2004.

Resolution 01-0560(a) was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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Councilor Stenberg moved to table Resolution 01-0560(b), reappointing Gregg Lillejord, for an interview, which motion was seconded and failed upon the following vote:

Yeas: Councilors Eckenberg, Ness and Stenberg -- 3

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

Resolution 01-0560(b) failed upon the following vote (Public Document No. 01-0827-21):

Yeas: Councilors Eckenberg, Ness, Stenberg and President Edwards -- 4

Nays: Councilors Fena, Gilbert, Hogg, Stewart and Stover -- 5

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Councilor Stenberg moved to remove Resolution 01-0461, vacating a portion of 38th Avenue East at East Third Street (Backstrom), from the table, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Stewart -- 1

Councilors Eckenberg and Ness voiced displeasure that this vacation has taken so long and that the amended resolution is still not ready to vote on.

Councilor Stenberg moved to retable the resolution until the September 6, 2001, council meeting, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Eckenberg and Ness -- 2

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Councilor Stenberg moved to remove Resolution 01-0567, affirming, and Resolution 01-0568, reversing, respectively, a decision of the board of zoning appeals to reduce the minimum front yard setback from 25 feet to one foot for the construction of a 64 feet x 24 feet single family dwelling with a ten feet x four feet vestibule and a 24 feet x 24 feet attached garage, on property located at 1402 East Skyline Parkway, as per plans submitted by the applicant, and subject to the stipulation that the existing and future fill materials as well as the building plans comply with all requirements of the building safety division and the survey corner pins be re-established, 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.

George Hovland questioned why this was tabled if there is not an aggrieved party on this issue per the memo from City Attorney Brown. He urged the council to affirm the board of zoning appeals' decision.

Resolution 01-0567 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, George Hovland has applied to the board of zoning appeals for a variance to reduce the minimum front yard setback from 25 feet to one foot for the construction of a 64 feet x 24 feet single family dwelling with a ten feet x four feet vestibule and a 24 feet x 24 feet attached garage, on property located at 1402 East Skyline Parkway and legally described as Lot 3, including the southwesterly ten feet of Lot 4, Boulevard Terrace First Addition; and

WHEREAS, the board of zoning appeals granted the variance to reduce the minimum front yard setback from 25 feet to one foot for the construction of a 64 feet x 24 feet single family dwelling with a ten feet x four feet vestibule and a 24 feet x 24 feet attached garage as per plans submitted by the applicant, and subject to the stipulation that the existing and future fill materials as well as the building plans comply with all requirements of the building safety division and the survey corner pins be reestablished; and

WHEREAS, Tom Staubus has appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and hereby agrees with the following findings made by the board of zoning appeals pursuant to Sections 50-47(b) and (c) of the Code and that the reduction in the minimum front yard setback can be made in this case:

(a) That the existence of a substantial change in elevation between the front property line (Skyline Parkway) and the rear property line (alley), does result in exceptional topographical conditions unique to the property in question such that the strict application of the Code provisions requiring a 25 feet minimum front yard setback would result in undue hardship to the owner thereof;

(b) The 100 feet wide Skyline Parkway easement (66 feet wide city standard) and the 24 feet improved surface results in special circumstances;

(1) The aforesaid conditions, in combination, do not apply generally to other land or buildings in the area;

(2) That, because of the aforesaid topographical factors, granting of the variance is necessary to preserve a substantial property right of the owner of the property;

(3) That, given the topography of the property in questions and the developed nature of the Skyline Parkway corridor adjacent thereto, the granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city;

(4) The dwelling will comply with the maximum height requirements and any objections based on obstruction of views of the lake could not be considered in their decision; and

WHEREAS, the council finds that the property owner has a substantial right to build a dwelling on his property and this right would be lost if the variance was not granted. This would be a hardship. The right of adjacent owners to light and view are preserved by compliance with applicable height restrictions by the applicants.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth affirms the board of zoning appeals' decision of June 26, 2001.

Resolution 01-0567 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart and President Edwards -- 7

Nays: Councilors Gilbert and Stover -- 2

Approved August 27, 2001

GARY L. DOTY, Mayor

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Resolution 01-0568 failed upon the following vote (Public Document No. 01-0827-22):

Yeas: Councilors Gilbert and Stover -- 2

Nays: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart and President Edwards -- 7

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Councilor Ness moved to remove Resolution 01-0533, by councilors Ness and Stenberg, amending Resolution 01-0219 to include Sixth Street between 24th Avenue East and Wallace Avenue and Irving Place into the year 2002 street improvement program, from the table, which motion was seconded and unanimously carried.

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

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2001, subject to departmental approvals and the payment of sales and property taxes:

Ground Round, Inc. (Ground Round), 2101 Maple Grove Road, transferred from GR of Minnesota, Inc. (The Ground Round), same address.

Resolution 01-0604 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals with any specific restrictions:

Lakeside Lester Park Business Association (Lester River Festival), Lester Park, for September 29, 2001, (rain date September 30) with Andy Peterson, manager.

Resolution 01-0605 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals with any specific restrictions:

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for September 28 and 29, 2001, with the music and serving ceasing at midnight.

Resolution 01-0606 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that Resolution 01-0525 issuing the following on sale non- intoxicating malt liquor license for the period ending April 30, 2002, and approving the issuance of the following on sale wine license for the period ending August 31, 2002, is hereby amended to change the effective dates of the on sale wine license to the period beginning September 1, 2001, and ending August 31, 2002:

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

Resolution 01-0607 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues 70 on sale intoxicating liquor renewal licenses, 72 on sale Sunday intoxicating liquor renewal licenses, 18 on sale dancing renewal licenses and nine additional bar renewal licenses for the period beginning September 1, 2001, and ending August 31, 2002, 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. 01-0827-23.

Resolution 01-0608 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 16 on sale wine licenses for the period beginning September 1, 2001, and ending August 31, 2002, 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. 01-0827-24.

Resolution 01-0609 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 20 off sale intoxicating liquor licenses for the period beginning September 1, 2001, and ending August 31, 2002, for issuance by the liquor control commissioner and further subject to departmental

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 01-0827-25.

Resolution 01-0610 was unanimously adopted.
Approved August 27, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves nine on sale club liquor licenses for the period beginning September 1, 2001, and ending August 31, 2002, 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. 01-0827-26.

Resolution 01-0611 was unanimously adopted.
Approved August 27, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the March of Dimes 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 01-0612 was unanimously adopted.
Approved August 27, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

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

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

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

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

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

Licensee	Gambling Site	Date Application Filed
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Lester Park Hockey Association	O’Gilby’s	July 11, 2001
Congdon Park Recreation Association	Pioneer Bar	August 14, 2001

Resolution 01-0613 was unanimously adopted.
Approved August 27, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Resolution No. 86-0142, which established the special board of review pursuant to Minnesota Statutes Section 274.01, subd. 2, is amended to read as follows:

WHEREAS, Minnesota Statutes 274.01 requires that the city council shall be and act as a board of review to, among other things:

- (a) Review the assessment and classification of all property within the city;
- (b) Determine that all taxable property within the city is listed and properly valued;
- (c) Hear all persons feeling aggrieved by the assessment or classification of property,

and to make such adjustments as shall appear just; and

WHEREAS, said statute makes provision for the appointment by the council of a special board of review to fulfill these responsibilities, and the council, being fully informed on the matter, deems it to be in the public interest to appoint such a special board of review.

NOW, THEREFORE, BE IT RESOLVED:

(a) That a special board of review for the city of Duluth is hereby created, and all the powers and duties of the city council under Minnesota Statutes 274.01, subd. 1, are hereby delegated to said special board of review;

(b) That said board shall be comprised of five members, one of whom shall be a city councilor and the remainder of whom shall by training and experience be well versed and familiar with property values in the city of Duluth. Other than the city councilor, one member shall be an appraiser by profession, one member shall be a real estate broker, one member shall be an attorney and the final member shall be any person familiar with real property valuations in Duluth;

(c) The city council member of the board shall be appointed each year to a one year term. Of the other members of the board, one member shall initially be appointed for a two year term, another for a three year term, the other for a four year term, and, thereafter, all appointments except those made to fill an unexpired term shall be for four years;

(d) The board shall meet annually on such day as the county auditor shall designate and from time to time thereafter until all duties and responsibilities imposed on said board by Minnesota Statutes 274.01 are discharged in full;

(e) All meetings of the special board of review shall be public, and it shall keep minutes of its proceedings which shall be immediately forwarded to the council, and which shall be a public record. At any meeting, three members shall constitute a quorum. Necessary staff, recording, transcription and mailing service shall be provided the board by the assessor’s office.

Resolution 01-0601 was unanimously adopted.

Approved August 27, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are authorized to enter into an agreement with the Minnesota historical society, filed as Public Document No. 01-0827-27, to assist in the perform-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

ance and management of a reuse study to be completed for the former Duluth National Guard Armory building, located at 1301 London Road.

FURTHER RESOLVED, that the proper city officers are authorized to accept a \$6,500 grant from the Minnesota historical society, a \$3,500 grant from the Duluth preservation alliance and a \$3,000 grant from the national trust for historic preservation which will be administered by the Duluth preservation alliance, to be used for funding of the reuse study; said grant funds to be deposited in Special Projects Fund 0210.

Resolution 01-0640 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech, Ojard and Associates, P.A., for the sum of not to exceed \$13,500, from Community Development Fund 262, Ag. 623, Obj. 6309, for providing certain architectural services to the city of Duluth in connection with restoration of Lincoln Park Pavilion, 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. 01-0827-28.

Resolution 01-0618 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0827-29, with the Duluth Local Initiatives Support Corporation (LISC) to provide capacity building assistance to the city of Duluth, in an amount not to exceed \$20,000, payable from Fund 262, Agency 623, Object 6333.

Resolution 01-0633 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley located on the west side of 51st Avenue West, 100 feet south of Wadena Street, legally described as: alley adjacent to the southerly 50 feet of Lots 1, 2, 3, 4, 4-1/2 and all of Lot 5, Block 188, West Duluth Seventh Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its August 14, 2001, 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. 01-0827-30.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

Resolution 01-0626 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley easement running east-west, 100 feet northerly of Glencrest Court on the East side of Commonwealth Avenue in Gary New Duluth legally described as the alley easement in Block 1, Norton's Steel Plant Division of Duluth; and

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

WHEREAS, the city planning commission unanimously approved the alley vacation petition at its August 14, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alley easement in Block 1, Norton's Steel Plant Division of Duluth, described above and as more particularly described on Public Document No. 01-0827-31.

BE IT FURTHER RESOLVED, that the city retain that portion of the alley easement adjoining Lots 15 through 35, inclusive, as a utility easement.

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

Resolution 01-0634 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that the city of Duluth is hereby authorized to enter into a grant agreement (Public Document No. 01-0827-32) for the state fiscal year 2002 with the Minnesota department of public safety, center of crime victim services, for the program entitled emergency fund for crime victims.

RESOLVED FURTHER, that the city attorney is hereby authorized to execute and sign such grant agreement and amendments as are necessary to implement the program on behalf of the city of Duluth.

RESOLVED FURTHER, that funds received by the city under such grant agreement shall be deposited in the General Fund 100, Agency 010, Org. 1104.

Resolution 01-0619 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a national senior citizens education and research center (N.S.C.E.R.C.) public sector initiatives grant in the amount of \$4,303 for the period July 5, 2001, through June 30, 2002. A copy of this agreement is on file in the city clerk's office as Public Document No. 01-0827-33.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund 270, Budget Item 6345.

Resolution 01-0624 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Infratech, Inc., be and hereby is awarded a contract for furnishing and delivering a sewer TV inspection system for the utility operations division in accordance with specifications on its low specification bid of \$104,254.98, terms net 30, FOB destination, \$89,659.28 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580 and \$14,595.70 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 01-0614 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Lakehead Electric, Inc., be and hereby is awarded a contract for furnishing and delivering the Fourth Street lighting project - Phase III for the community development and housing division in accordance with specifications on its low specification bid of \$128,413, terms net 30, FOB job site, \$50,000 payable out of Community Development Fund 0262, Dept./Agency 623, Object 6307 and \$78,413 payable out of Community Development Fund 0262, Dept./Agency 624, Object 6408.

Resolution 01-0616 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay \$18,961.51 to Tim and Amanda Andrews in settlement of all claims arising out of a sewer backup on April 7, 2001; payment to be made from self insurance fund.

Resolution 01-0620 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0827-34, between the city of Duluth and ME International, Inc., wherein the city is granted a utility easement across ME International, Inc., property near 95th Avenue West and Carterett Street for a consideration of \$10;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

said money to be paid from Fund 0521, Agency 500, Object 5532. Said parcel and easement are more particularly described as follows:

A utility easement across the following described property:

A parcel of land located in Section 3, T48N, R15W, 4th P.M., St. Louis County, Minnesota, and being more particularly described as follows:

All that portion of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 3, T48N, R15W, including Lot E, GARY FIRST DIVISION, which lies west of the extended center line of 95th Avenue West as the same was platted in NEW DULUTH, FIRST DIVISION, being more described as follows:

Beginning at the intersection of the extended centerline of 95th Avenue West and the extended north ROW line of Carterett Street, thence N00°37'06"W, 156.25 feet to a point, thence N01°02'33"W, 292.32 feet to a point, thence along a line drawn concentric with and distant 25 feet southeasterly of, as measured radially to the track centerline of Duluth Missabe and Iron Range Railway Company as originally located and constructed, 378.99 feet to a point, thence S89°20'27"W, 42.03 feet to a point, thence S00°43'17"E, 155.75 feet to a point, thence N89°30'49"E, 360.92 feet to the point of beginning, and there terminating.

Said easement being a strip of land 40 feet in width, the centerline being described as follows: beginning at the intersection of the extended centerline of 95th Avenue West and the extended north ROW line of Carterett Street, thence S89°30'49"E, 9.42 feet to the intersection of the centerline of the easement and property line, thence N11°43'06"W, 131.90 feet to a point, thence N16°55'13"W, 82.77 feet to a point, thence N10°30'06"W, 121.73 feet to an intersection with the north property line.

Resolution 01-0621 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 99-0435 to Ayres Associates, Inc., for furnishing professional engineering services for design of a sanitary sewer network to and in Fond du Lac, as amended by Resolution 00-0133, is amended to increase the amount by \$23,450, payable out of Sewer Construction Fund 0531, Dept./Agency 500, Object 5532, and increase the amount by \$12,400, payable out of Water Construction Fund 0511, Dept./Agency 500, Object 5532. The new total contract amount is \$181,679.

Resolution 01-0625 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0827-35, between the city of Duluth and the Asbury United Methodist Church of Duluth, wherein the city is granted a utility easement across the portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T49N, R15W, Fourth P.M. described below for a consideration of \$7,000; said money to be paid from Fund 0521, Agency 500, Object 5532. Said parcel and easement are more particularly described as follows:

A utility easement across the following described property:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

That portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13 T49N, R15W, Fourth P.M., St. Louis County, Minnesota, described as follows:

Beginning at the most southerly corner of Lot 22, Block 5, Hunter's Grassy Point Addition to Duluth, Third Division, according to the recorded plat thereof, in said SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 13; thence southwesterly along the southeast line of Block 6, said Hunter's Point Grassy Addition, and the southeast line of Block 11, Markel's Addition to Duluth, Minnesota, according to the recorded plat thereof, to the most southerly corner of Lot 15 in said Block 11, lying on the north right-of-way line of Fremont Street (formerly Sixth Street South), as now located; thence easterly along said north right-of-way line of Fremont Street to the point of intersection with a line drawn concentric with and distant 50.0 feet northwesterly of, as measured radially to the main track centerline of Burlington Northern Railroad Company's West Superior Branch Line, as originally located and constructed; thence northeasterly along said concentric line to the point of intersection with the southeasterly extension of the southwest line of said Lot 22, Block 5; thence northwesterly along said last described southeasterly extension to the point of beginning.

Said easement area more particularly described as follows: beginning at the most southerly corner of Lot 22, Block 5, Hunter's Grassy Point Addition to Duluth, Third Division, thence S43°17'35"W, 875.28 feet to a point; thence N89°39'21"E, 55.81 feet to the point of beginning; thence N89°39'21"E, 26.56 feet to a point; thence N43°39'04"E, 208.09 feet to a point; thence N50°30'49"E, 204.94 feet to a point; thence N52°29'00"E, 112.84 feet to a point; thence N55°04'10"E, 116.94 feet to a point; thence N58°34'42"E, 63.54 feet to a point; thence N62°11'11"E, 125.01 feet to a point of intersection at the north property line; thence N46°09'43"W, 21.61 feet to a point; thence S62°31'49"W, 129.23 feet to a point; thence S55°57'49"W, 134.12 feet to a point; thence S52°19'13"W, 139.27 feet to a point; thence S50°46'56"W, 220.42 feet to a point; thence S43°33'25"W, 226.26 feet to the point of beginning.

Resolution 01-0629 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0827-36, between the city of Duluth and Burlington Northern and Santa Fe Railway Company wherein the city is granted a license to construct a pipeline in the railroad right-of-way for a consideration of \$28,000; said money to be paid from Fund 0521, Agency 500, Object 5532.

Resolution 01-0630 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Michael J. Horvat and Kirsten L. Horvat to petition for the permanent improvement of Lochaire Avenue along its frontage with Outlot A, Greysolon Farms, First Division of Duluth; said agreement filed as Public Document No. 01-0827-37.

Resolution 01-0638 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR NESS:

WHEREAS, the DECC desires to conduct a concert event at Bayfront Festival Park on September 3, 2001; and

WHEREAS, the city and DECC have reached agreement on the terms and conditions upon which DECC may conduct said event at Bayfront Festival Park.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the agreement, filed as Public Document No. 01-0827-38, between the city and the DECC for conducting a concert event at Bayfront Festival Park.

Resolution 01-0631 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0639, by Councilor Hogg, declaring intent to proceed with public utilities facilities project and to issue general obligation utilities revenue bonds in an approximate amount of \$7,250,000 to finance the costs thereof, was introduced for discussion

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

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BY PRESIDENT EDWARDS:

WHEREAS, Sigees LLP holds on sale beer and wine licenses issued by the city of Duluth for premises known as Sigees Restaurant located at 3904 Grand Avenue in Duluth; and

WHEREAS, Minnesota Statutes §270.72 requires that a political subdivision issuing liquor licenses must revoke such licenses if the commissioner of revenue notifies the political subdivision that one of the licensees owes delinquent state taxes; and

WHEREAS, on July 18, 2001, the commissioner of revenue notified the city of Duluth that Sigees LLP owed delinquent state sales tax and requested that the city revoke the wine and 3.2 beer licenses of Sigees LLP; and

WHEREAS, on August 14, 2001, Brian D. Coulson, owner of Sigees LLP, appeared before the Duluth alcohol, gambling and tobacco commission and acknowledged that Sigees LLP did in fact owe delinquent state sales taxes; and

WHEREAS, on August 14, 2001, the Duluth alcohol, gambling and tobacco commission passed a resolution recommending that the Duluth city council revoke Sigees LLP's on sale wine and 3.2 beer licenses as required by Minnesota Statutes §270.72;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council does hereby revoke the on sale wine and 3.2 beer licenses held by Sigees LLP pursuant to Minnesota Statutes §270.72 and after notice and request to do so from the Minnesota commissioner of revenue.

Resolution 01-0641 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0598, by Councilor Gilbert, accepting and approving the low income housing consortium's affordable housing recommendations and directing the housing commission to implement the same, was introduced for discussion.

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

Andrew Falstrom urged support of this resolution because not all people are lucky to live

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

in homes and Duluth is a great place to live.

Resolution 01-0598 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the city council of the city of Duluth hereby accepts and approves the low income housing consortium's affordable housing recommendations filed as Public Document No. 01-0827-39.

FURTHER RESOLVED, that the city council directs the Duluth housing commission to implement the affordable housing recommendations together with appropriate housing partners and report back to the city council quarterly.

Resolution 01-0598 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, the city of Duluth established certain 2000 and 2001 CDBG accounts; and WHEREAS, the community development committee (CD committee) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-2000 and 2001 HUD-funded community development accounts as set forth below:

2000 CDBG transfers				
Project #	Project	Budget amount	New amount	Amount of increase or decrease
6935	Contingency	\$63,000	\$30,000	(\$30,000)
2001 CDBG transfers				
6440	Morgan Park sidewalk safety	\$0	\$30,000	\$30,000

Resolution 01-0600 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a memorandum of agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 01-0827-40, with the city of Superior to collaborate on the development of a department of housing and urban development (HUD) renewal community application; costs related to preparation of the application, shall not exceed \$5,000, payable from Fund 0262, Agency 624, Obj. 6435.

Resolution 01-0632 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the board of county commissioners of St. Louis County is hereby

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

requested to reclassify from conservation to nonconservation and to offer for sale the following tax forfeited parcels now withheld from sale in conservation:

File #	Applicant Name	Legal Description	Location
01081	Habitat for Humanity -Duluth	Lots 1-2 (10-890-07930), Lots 5-10 (10-890-7930-7980), Block 24, Lots 15-16 (8030) Block 25, Duluth Heights Sixth Division	south side of Linden Street between Hugo and Ebony Avenues (Duluth Heights)
01082	Brian Erickson	southerly 300 feet westerly 100 feet of southerly 627 feet of southwest 1/4 of southwest 1/4, T50-R14, Section 8 (10-2710-2452)	north side of Arrowhead Road at Swan Lake Road intersection (Duluth Heights)
01084	Bruce Johnson	Lots 19-24, Block 17, Duluth Heights, Fifth Division (10-880-4750-4820)	north side of Lemon Street between Teak and Ebony Avenues (Duluth Heights)
01085	Mark Gerard	Lots 9-10, Block 16, Grassy Point Addition (10-1970-1500 partial)	west side of 65th Avenue West between Redruth and Sherburne streets (Irving)
01088	Richard Popovich	easterly 11.72 feet of Lot 31 and Lot 32, Block 4, Centerdale Addition (10-440-853,855,860)	east side of Elm Street South of Chestnut Street (Lincoln Park)
01089	Jane Maron Welles	southerly 33 feet of northwest 1/4 of southeast 1/4 of southeast 1/4, Section 35, T51N, R14W	north 1/2 of right-of-way of Hubbell Street east of Minneapolis Avenue (Woodland)
01090	Dale Anderson, Housing and redevelopment authority	Lot 12, Block 188, West Duluth, Seventh Division (10-4530-3470)	Ramsey Street and 51st Avenue West (Ramsey Village/ West Duluth)
01091	Tim Little	Outlot 19, Nortons Duluth Outlots (10-3500-00250)	southwest corner Howard Gnesen Road and McFarlane Road (Kenwood)
01106	Russ Kauzlaric, Minnesota department of transportation	Lots 12-16, Block 8, Nortons Steel Plan Division (10-3540-2590 partial)	west side of Commonwealth Avenue between Becks Road and Crestline Court (Gary-New Duluth)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

File #	Applicant Name	Legal Description	Location
01110	Steve Ryan	Lot 6, Block 30, Gary First Division (10-1800-07180)	east side of 97th Avenue West, between Dickson and Gary streets (Gary-New Duluth)
01115	Dale Anderson, housing and redevelopment authority	Lot 7, Block 199, West Duluth Third Division (10-4490-1740)	east side of 53rd Avenue West below Bristol and Ramsey Streets (Ramsey)

Resolution 01-0622 was unanimously adopted.
 Approved August 27, 2001
 GARY L. DOTY, Mayor

- - -

Resolution 01-0644, by councilors Fena and Hogg, authorizing the engagement of an attorney to advise the council on McQuade boat launch for a cost not to exceed \$4,000, was introduced for discussion.

Councilor Stenberg stated that the council is wasting taxpayers' dollars by hiring an attorney to review this issue.

President Edwards stated that the council should be using the city attorney's office to investigate this issue and not using the taxpayers' money needlessly.

Councilor Hogg stated that the intent of this action is to defend the city against administrative and legislative attempts to overturn the work of the council against the city's wishes. He stated that instead of leaping into a large court battle without a lot of information, this resolution would give the council a clear analysis from an attorney who is knowledgeable in condemnation proceedings and an opinion of what the city's chances would be in litigation.

Resolution 01-0644 was adopted as follows:

BY COUNCILORS FENA AND HOGG:

BE IT RESOLVED, that the city council is authorized to retain the law firm of Fryberger, Buchanan, Smith and Frederick to advise it on legal defenses available to the city should the state commence a condemnation action in order to build the McQuade boat launch, as set out in the proposal on file as Public Document No. 01-0827-41, for a cost not to exceed \$4,000; payment from General Fund 0100, Agency 010, Org. 1101, Object 5304.

Resolution 01-0644 was adopted upon the following vote:

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

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

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Johnson Brothers Corporation be and hereby is awarded a contract for rehabilitation of Bridge Number L6114 on Ninth Street over Chester Creek for the engineering division in accordance with specifications on its low specification bid of \$1,193,133.94, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2133, Object 5530; to be reimbursed by Federal TEA 21 in the amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

\$905,936.40; State Transportation Fund 29 in the amount of \$226,484.10 and municipal state aid in the amount of \$60,713.44.

Resolution 01-0615 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0627, by Councilor Eckenberg, authorizing a contract to TGC Services, Inc., for roof repairs in the amount of \$28,725, was introduced for discussion.

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

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Resolution 01-0628, by Councilor Eckenberg, authorizing a contract to A.W. Kuettel & Sons for roof repairs in the amount of \$12,415, was introduced for discussion.

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

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to stabilize the failed slope on Lincoln Park Drive; and
WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction of Lincoln Park Drive, City Job. No. 0001ST; and
WHEREAS, Ayres Associates has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$19,957, will be payable from the Storm Water Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0635 was unanimously adopted.

Approved August 27, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0636, by Councilor Eckenberg, authorizing a consultant agreement with Damberg, Scott, Gerzina, Wagner for providing certain architectural services to the city of Duluth in connection with the construction of a new public works and utilities maintenance facility on Garfield Avenue in an amount not to exceed \$397,000, was introduced for discussion

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

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept a gift of \$14,284.16 from a donor who wishes to remain anonymous for the city of Duluth fire department's purchase of a thermal imagining camera to be used at Fire Station No. 6 in Lakeside.

RESOLVED FURTHER, that monies accepted pursuant to this resolution shall be deposited into Fund 0210, Agency 030, Org. 2180, Revenue Source 4690.

RESOLVED FURTHER, that the Duluth City Council and Duluth fire department express their deepest thanks to the donor for this generous gift.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0623 was unanimously adopted.
Approved August 27, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that pursuant to Section 35-9.1 of the Duluth City Code, the following fees are established for various uses of Bayfront Festival Park:

Special events - use of entire park

- (a) \$1,000/day - usage fee for actual event (advance payment)
- (b) \$500/day - setup/takedown fee (advance payment)
- (c) \$1,000 - damage/cleanup deposit (advance payment - refundable if park left in acceptable condition)
- (d) \$10/per vendor space per day
 - based on 10' x 10' minimum size space
 - payment due 7 days after event
- (e) \$.50 per paid admission on each ticket sold in excess of total daily rental payment - payment due 7 days after event

Use of Lois M. Paulucci Music Pavilion

- (a) \$35 per hour
- (b) \$25 for alcohol consumption permit
- (c) \$50 damage deposit (refundable).

All fees will be deposited in Bayfront Festival Park Fund No. 0237.

Resolution 01-0617 was unanimously adopted.
Approved August 27, 2001
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

01-029 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO KBJR-TV FOR THE PLACEMENT AND MAINTENANCE OF A CONCRETE SNUBBER BASE AND GUY WIRE SNUBBER IN THE RIGHT OF WAY OF FIFTH AVENUE WEST LOCATED SOUTH OF WEST NINTH STREET.

- - -

BY COUNCILOR STENBERG

01-030 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, TO CREATE A NEW ARTICLE XXIX TO PROVIDE FOR TRADITIONAL NEIGHBORHOOD DISTRICT.

- - -

BY COUNCILOR ECKENBERG

01-031 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN NEW DULUTH TO RONALD AND MARCIA HANSON.

- - -

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

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

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, September 6, 2001, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0910-01 Evensen Dodge, Inc., submitting official statement regarding \$4,800,000 G.O. street improvement bonds, Series 2001D and \$615,000 G.O. transit bonds, Series 2001E. -- Received

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RESOLUTION TABLED

Councilor Stenberg moved to remove Resolution 01-0461, vacating a portion of 38th Avenue East at East Third Street (Backstrom), from the table, which motion was seconded and unanimously carried.

Councilor Gilbert voiced concern that all of the neighbor property issues next to this piece of property had not been resolved.

Resolution 01-0461 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of 38th Avenue East between Third Street and Fourth Street more particularly described as: that portion of platted 38th Avenue East between Third Street and Fourth Street abutting Block II and Block 16, Crescent View Park Division and outside of an area lying 33 feet either side of the following described line: beginning at the intersection of the center line of platted Crescent View Avenue and the centerline of platted 38th Avenue East; thence southeasterly along the centerline of platted 38th Avenue East to the centerline of platted East Fourth Street and the centerline of platted 38th Avenue East; thence continuing on the same line extended southeasterly to its intersection with the westerly right-of-way line of Third Street and then terminating; and

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

WHEREAS, the city planning commission approved unanimously the partial street vacation petition at its June 12, 2001, meeting; and

WHEREAS, the council has determined, following meetings held June 23 and August 13, 2001, that the current design of the intersection is inappropriate and with the city purchase of Lot Y for right-of-way purposes, this right-of-way is reasonably vacated.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of 38th Avenue East at intersection of East Third Street described above and as more particularly described on Public Document No. 01-0906-02.

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

Resolution 01-0461 was adopted upon the following vote:

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

Nays: Councilor Gilbert -- 1

Approved September 6, 2001

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

Resolution 01-0642, providing for the issuance, sale and delivery of \$4,800,000 general obligation street improvement bonds, Series 2001D, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof; and Resolution 01-0643, providing for the issuance, sale and delivery of \$615,000 general obligation transit bonds, Series 2001E, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion.

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

Katherine Kardell was present on behalf of Evensen Dodge, Inc., financial consultants, and stated that the city still has A1 and A+ ratings with Moody's Investors Service and Standard & Poor Ratings Group, respectively.

Resolutions 01-0642 and 01-0643 were adopted as follows:

BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 A. Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of Minnesota Statutes and the home rule charter of the City, the City is authorized to issue its general obligation street improvement bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

B. The city council has, by resolutions adopted on the following dates, ordered street improvements to certain streets, avenues and parkways set forth below (the "2001 Street Improvement Program"), as more fully described in reports filed with the city clerk by the special assessment board pursuant to and in accordance with Section 61(b) of the City Charter, and the council has determined to defray one-fourth or less of the cost of the improvements set forth below to be assessed against benefitted property or paid from community development block grants:

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
00-0247 & 00-0475	4/10/00 & 7/10/00	\$ 83,520	Central Hillside-North
		103,733	Cody-North
		197,481	Congdon Park-Central
		160,716	Congdon Park-West Lower

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Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
		57,703	East Hillside-Upper West
		182,721	Hunters Park-West
		178,884	Lakeside-Central
		147,045	Woodland West-Center

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$4,800,000 General Obligation Street Improvement Bonds, Series 2001D, to be dated September 1, 2001, as the date of original issue (the "Bonds") for financing the 2001 Street Improvement Program.

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

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of U.S. Bancorp Piper Jaffray of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$4,742,400, plus accrued interest on the total principal amount from September 1, 2001, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 2001, 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
2003	\$350,000	3.50%
2004	260,000	3.50%
2005	265,000	3.50%
2006	270,000	3.50%
2007	275,000	3.60%
2008	285,000	3.80%
2009	295,000	3.90%
2010	305,000	4.00%

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Year	Amount	Interest Rate
2011	315,000	4.10%
2012	330,000	4.20%
2013	340,000	4.30%
2014	355,000	4.40%
2015	370,000	4.50%
2016	385,000	4.60%
2017	400,000	4.70%

2.02 The Bonds maturing in the years 2003 through 2009 shall not be subject to redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2010 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2009, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the representation letter described in Section 2.06A hereof.

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

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

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

Section 2.11, but only if the opinion is not manually executed. The clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

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

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

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

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

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond 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.

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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 2001D

R-___ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	September 1, 2001	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from September 1, 2001, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2002. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond

to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$4,800,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted by the governing body of the City on September 6, 2001 (the "Resolution"). The Bonds are issued for the purpose 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 said statutes for the purpose of financing a portion of the cost of local public improvements, which obligations and interest thereon will be payable in part from special assessments levied or to be levied against property specially benefitted by local improvements and in part from ad valorem taxes, as described in the Resolution.

The Bonds of this series maturing in the years 2003 through 2009 are not subject to redemption before maturity, but those maturing in the year 2010 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2009, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

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

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

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank Minnesota, National Association, 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

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unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
9/___/01	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds in the amount of \$4,484,710.95 into the 2001 street improvement account (the "2001 Street Account") within the street improvement fund in the capital projects fund. The proper City officers are authorized and directed to pay out of the 2001 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 2001 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 2001 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 "2001 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 2001 Improvement Bond Account shall be paid from the proceeds of the Bonds, capitalized interest in the amount of \$257,689.05, plus the amount of accrued interest on the Bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied pursuant to Section 3.04 hereof.

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

Levy Year	Collection Year	Tax Levy
2002	2003	\$382,557
2003	2004	379,906
2004	2005	377,071
2005	2006	368,802
2006	2007	370,797

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Levy Year	Collection Year	Tax Levy
2007	2008	366,671
2008	2009	367,343
2009	2010	367,343
2010	2011	366,650
2011	2012	359,993
2012	2013	363,327
2013	2014	360,429
2014	2015	362,004
2015	2016	357,289

Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council may reduce or cancel the above levies to the extent of an irrevocable appropriation to said debt service account of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not special assessments), and may direct the County Auditor to reduce the levy for such calendar year by that amount.

B. All proceeds of the special assessments from the properties described in Section 1.01 hereof and said taxes are hereby appropriated and shall be paid when collected into the 2001 Improvement Bond Account. If the balance in the 2001 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 2001 Improvement Bond Account when the balance therein is sufficient.

3.05 Proceeds of the Bonds on deposit in the 2001 Street Account and 2001 Improvement Bond Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

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

from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

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

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

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

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

Section 6. Certificate of Proceedings.

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

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 01-0642 was unanimously adopted.

Approved September 6, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

Section 1. Bond Purpose and Authorization.

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

B. The city council has, by Ordinance No. 9499 adopted on July 23, 2001, authorized the issuance and sale of \$615,000 general obligation transit bonds of the City to provide the funds necessary to match federal and state grants in aid of the purchase of 30 new transit buses, Stride vehicles and a replacement service vehicle and the improvements and renovations of the Duluth Transit Authority facilities (the "Project").

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$615,000 General Obligation Transit Bonds, Series 2001E, to be dated September 1, 2001, as the date of original issue (the "Bonds") for financing the Project.

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

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Dain Rauscher, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$605,867.25, plus accrued interest on the total principal amount from September 1, 2001, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the clerk are authorized and directed to

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execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated September 1, 2001, 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
2003	\$60,000	2.650%
2004	60,000	2.950%
2005	60,000	3.150%
2006	65,000	3.350%
2007	70,000	3.550%
2008	70,000	3.750%
2009	75,000	3.875%
2010	75,000	4.000%
2011	80,000	4.100%

2.02 The Bonds shall not be subject to redemption and prepayment before maturity.

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

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

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

to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

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

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

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

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

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 TRANSIT BOND, SERIES 2001E

R-___ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	September 1, 2001	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from September 1, 2001, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2002. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal

and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$615,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted by the governing body of the City on September 6, 2001 (the "Resolution"). The Bonds are issued for the purposes of financing a portion of the costs of the Duluth Transit Authority for the purchase of 30 new transit buses, Stride vehicles and a replacement service vehicle and completion of facilities improvements and renovations, issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, and Ordinance No. 9499, which obligations and interest thereon are payable from annual ad valorem taxes, as described in the Resolution.

The Bonds of this series are not subject to redemption before maturity.

Prior to the date fixed for mandatory redemption of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

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

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

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

Date
9/___/01

Registered Owner
Cede & Co.
c/o The Depository Trust Company
55 Water Street

Signature of
Bond Registrar

New York, NY 10041
Federal Taxpayer I.D. No.: 13-2555119

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created the capital improvement special account within the Duluth Transit Support Fund to which there shall be credited the proceeds of the Bonds, less discount,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

capitalized interest and accrued interest. The City shall, or will, also credit any additional funds, including grant 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 “2001 Transit Bonds Debt Service Account” (the “Debt Service Account”) within the City's debt service fund. The money in the Debt Service Account shall be used for no purpose other than the payment of principal and interest on the portion of the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Account, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Account shall be credited unused discount, if any, plus capitalized interest in the amount of \$13,367.25, and plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

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

Levy Year	Collection Year	Tax Levy
2001	2002	\$85,810
2002	2003	84,141
2003	2004	82,282
2004	2005	85,548
2005	2006	88,512
2006	2007	85,902
2007	2008	88,396
2008	2009	85,344
2009	2010	87,444

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

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

B. All taxes are hereby appropriated and shall be paid when collected into the Debt Service Account. If the balance in the Debt Service Account is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Account when the balance therein is sufficient.

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

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

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

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

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

Section 6. Certificate of Proceedings.

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

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 01-0643 was unanimously adopted.

Approved September 6, 2001

GARY L. DOTY, Mayor

- - -

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 10, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0910-01 Consolidated Real Estate Company submitting petition to vacate a portion of Kentucky Avenue that lies south of Chester Creek and north of vacated Cleveland Avenue and adjacent to Lots 14 and 15, Block 3, and Lot 10, Block 2, Gray's Addition. -- Assessor

01-0910-02 Snowflake Cross Country Ski Center, et al. (two signatures), submitting petition to reclassify from S to R-3 that part of the Southeast 1/4, Section 8, Township 50, Range 14. -- Assessor

01-0910-05 Michael D. Corica submitting communication regarding Lakeview Drive (supported by 33 signatures). -- Received

01-0910-21 Jim Erlemeier submitting communication requesting the closure of Niagara Street between Junction Avenue and Brainerd Avenue (supported by 95 signatures). -- Received

01-0910-06 International Brotherhood Electrical Workers submitting communication regarding a proposed special use permit to Minnesota Power to upgrade and relocate a portion of an existing power transmission line (01-0515R). -- Received

01-0910-04 The following submitting communications regarding the proposed lease of property for the McQuade Road safe harbor project (01-0682R): (a) Minnesota department of natural resources; (b) Christine Penney. -- Received

01-0910-07 The following submitting communications regarding the gay, lesbian, bisexual, transgender pride festival days (01-0561R): (a) Scott Jakel (Annandale, MN); (b) Ray and Carol Johnson (Texas); (c) Dukes Knutson; (d) Richard Partika; (e) Paul Rengel (Minneapolis, MN); (f) Michael B. Welch (Minneapolis, MN); (g) Mark Windham (Rice Lake Township). -- Received

01-0910-03 The following submitting communications regarding the proposed Spirit Ridge project (01-0529R, 01-0676R, and 01-0685R): (a) John H. and Mary B. Anderson; (b) Ken Borchert; (c) Eric Dings; (d) Ed and Liz Gleeson; (e) Steve Johnson and Carol Kondrath; (f) National Wildlife Federation, by Jane Reyer, attorney (Grand Marais, MN); (g) Kristine Osbakken; (h) Robert S. Pokorney; (i) Virginia Temple; (j) Tim Sundquist; (k) Terri Port Wright (Esko, MN) (supported by 31 signatures); (l) US department of the interior. -- Received

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REPORTS OF OFFICERS

01-0910-20 Mayor Doty submitting: (a) 2002 budget; (b) 2002 budget address. -- Received

01-0910-08 Assessor submitting:

(a) Letters of sufficiency for:

(1) Bituminous surfacing of 103rd Avenue West concrete alley between McGonagle Street and 102nd Avenue West;

(2) Vacations of:

(A) Paper road of Robin Avenue that runs parallel to Lot 1, Block 2, Birch Hill Division and Lot 32, Block 2, Birch Hill Division not to exceed south of Walnut Street;

(B) Alley between Blocks 54 and 55, Bayview Heights Second Addition;

(b) Letter of insufficiency to reclassify from R-2 to commercial or R-3, Gary First Division, Lots 1 and 2, Block 36. -- Received

01-0910-09 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license (bingo) from St. John's Catholic Church on November 4 or November 10, 2001. -- Received

01-0910-10 Community development and housing division manager submitting HUD-funded community development program quarterly status report for April-June, 2001. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-0910-11 Civil service board minutes of: (a) July 3; (b) July 13, 2001, meetings. -- Received

01-0910-12 Duluth airport authority minutes of July 17, 2001, meeting.-- Received

01-0910-13 Planning commission minutes of July 10, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jim Erlemeier, Ann Myer, Margaret Stenberg and Pat Thompson requested that Niagara Street be closed for the reasons referenced in Pubic Document No. 01-0910-21 and also for the following reasons: the recent traffic count from this last summer were in excess of 1,200 cars per day on Brainerd and Niagara streets; the University of Minnesota - Duluth supports this closure; the issue of safety is of extreme concern, especially with there being no sidewalks, a posted speed limit or stop signs; almost all homeowners in the area support this and this route is being used as an alternate route to the main roads.

- - -

Elijah expressed his concerns that the problem of underage drinking arises from the parents' examples and that the laws relative to yielding to buses and right turns need to be enforced more.

- - -

Eric Dings noted that in 1974 the council passed two resolutions relative to the leasing out of the Spirit Mountain Villas and a management agreement and questioned if this could be a violation of the Lawcon regulations.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 01-0516, confirming appointment of Thomas Wheeler to Duluth economic development authority replacing Robert Brooks, from the table, which motion was seconded and unanimously carried.

Resolution 01-0516 was adopted as follows:

BY COUNCILOR STEWART:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Thomas Wheeler for a term expiring April 27, 2007, replacing Robert Brooks.

Resolution 01-0516 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0565, affirming, and Resolution 01-0566, reversing, respectively, a decision of the board of zoning appeals to reduce the minimum front yard setback for dwellings from 25 feet to eight feet and to allow two main buildings to be temporarily located on the same lot during the construction of a new 30 feet x 40 feet single family dwelling with a 24 feet x 24 feet attached garage on property located at 1110 East Skyline Parkway, as per plans submitted by the applicant, and subject to specified conditions; from the table, which motion was seconded and unanimously carried.

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

Michael Clevette expressed support for Resolution 01-0565, citing reasons of: he purchased this older home, at this location, with the intention of building further on the lot; city staff did not feel that the right-of-way would never be needed by the city; the lot slopes severely; this is only a variance to use the right-of-way as a front yard; two other variances for residences closer to Skyline Parkway have been granted; the existing driveway will be used and that the height of the addition will still be lower than the existing trees.

Tom Branlund spoke in support of Resolution 01-0566 for the reasons that: it will lessen the impact on a view of the shed; promote intelligent development; will not set a precedent resulting in spot zoning issues in the future and lessen the impact on surrounding property values and that observing the present setback requirements would only put the structure further down the hill and enhance the scenic view from Skyline Parkway for tourists and residents.

Harold Frederick, attorney, spoke in support of Resolution 01-0566, noting that: there is currently a formal study of Skyline Parkway, which when presented to the council, will make recommendations regarding the utilization of this parkway; there may be a need for the city to utilize the full right-of-way in the future and it will have given away that right if this is granted; there is no basis in the record to show that the variance is necessary for the preservation of a substantial property right and not just as a convenience to the owner.

Councilors Stewart and Hogg supported Resolution 01-0566 for the reasons that there was no real hardship, the property could be developed and there might be a desire to establish one of those pullover areas that are along the parkway.

Councilor Hogg moved to divide Resolution 01-0566 to consider that 01-0566(a) would address the setback and that 01-0566(b) would allow two temporary buildings on the lot during construction, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hogg and Stewart -- 2

Nays: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg, Stover and President Edwards -- 7

Resolution 01-0565 failed upon the following vote (Public Document No. 01-0910-14):

Yeas: Councilors Eckenberg, Fena, Ness and President Edwards -- 4

Nays: Councilors Gilbert, Hogg, Stenberg Stewart and Stover -- 5

- - -

Resolution 01-0566 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Michael J. Clevette and Tamara Henderson applied to the board of zoning appeals for a variance to reduce the minimum front yard setback for dwellings from 25 feet to eight feet and to allow two main buildings to be temporarily located on the same lot during the construction of a new 30 feet x 40 feet single family dwelling with a 24 feet x 24 feet attached garage on property located at 1110 East Skyline Parkway and legally described as southerly 83 feet of Lot 12 and Lots 13 and 14, except that part within 17 feet of 12th Street, Block 33, Lakeview Division; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the board of zoning appeals granted the variance to reduce the minimum front yard setback for dwellings from 25 feet to eight feet and to allow two main buildings to be temporarily located on the same lot during the construction of a new 30 feet x 40 feet single family dwelling with a 24 feet by 24 feet attached garage, as per plans submitted by the applicant, and subject to the following conditions:

(a) That a time limit for the completion of the new dwelling and the removal of the old dwelling be one year from taking the permit out;

(b) That a building demolition performance bond be executed in accordance with and approved by the city attorney in an amount sufficient to demolish said existing dwelling in the event that the terms of this variance are not met;

(c) That a license to enter real property to demolish the building be submitted to and approved by the city attorney with the following conditions:

_____ ; and

WHEREAS, Thomas Branlund, Gene Keyser and Carol Tierney have appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and hereby makes the following determinations and disagrees with the findings of the board of zoning appeals pursuant to Sections 50-47(b) and (c) of the Code:

(a) That the reduction in the minimum front yard setback and the allowance of two main buildings to be temporarily located on the same lot during construction should not be made in this case based upon _____;

(b) That the existence of a substantial change in elevation between the front property line (Skyline Parkway) and the rear property line (alley), do not result in exceptional topographical conditions unique to the property in question such that the strict application of the code provisions requiring a 25 feet minimum front yard setback would not result in undue hardship to the owner thereof and that:

(c) The substantial change in elevation between the improved Skyline Parkway and the front property line does not result in exceptional topographical conditions unique to the property in question such that the strict application of the code provisions requiring a 25 feet minimum front yard setback would not result in undue hardship to the owner thereof and that:

(1) The aforesaid conditions, in combination, apply equally to other land or buildings in the area;

(2) That, because of the aforesaid topographical factors, granting of the variance is not necessary to preserve a substantial property right of the owner of the property;

(3) That, given the topography of the property in questions and the developed nature of the Skyline Parkway corridor adjacent thereto, the granting of the variance will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of June 26, 2001.

Resolution 01-0566 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hogg, Stenberg, Stewart and Stover -- 5

Nays: Councilors Eckenberg, Fena, Ness and President Edwards -- 4

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY PRESIDENT EDWARDS:

RESOLVED, that TGC Services, Inc., be and hereby is awarded a contract for Washington Center skylight removal and roof repairs (base bid A) and 40th Avenue West toolhouse roof repairs (base bid D), in accordance with specifications on its low specification bid of \$28,725, terms net 30, FOB job site, payable out of Capital Improvement Fund 0450, Agency 015, Org. 2001, Object C103.

Resolution 01-0627 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that A.W. Kuettel & Sons be and hereby is awarded a contract for roof repair at the Lund toolhouse, 2407 Commonwealth Avenue (base bid C), in accordance with specifications on its low specification bid of \$12,415, terms net 30, FOB job site, payable out of Capital Improvement Fund 0450, Agency 015, Org. 2001, Object C103.

Resolution 01-0628 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the licensed premises of the follow on sale intoxicating liquor license for the period ending August 31, 2002, subject to department approvals:

Duluth Entertainment Convention Center, 350 Harbor Drive, to include the parking area adjacent to Pioneer Hall, the second and third floor of the Harborside Convention Center and the area from the outer wall of the arena to the auditorium along Harbor Drive.

Resolution 01-0658 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Nelson Dodge-GMC be and hereby is awarded a contract for furnishing and delivering one GMC Track cargo express van for the fleet service division in accordance with specifications on its low specification bid of \$25,633.73, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS00, Object V014.

Resolution 01-0666 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that J.R. Jensen and Son, Inc., be and hereby is awarded a contract for construction of replacement of handrails at First Street entry main stairs and the Civic Center entry main stairs for the architect division in accordance with specifications on its low specification bid of \$44,658, terms net 30, FOB job site, \$23,000 payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2000, Object C010 and \$21,658 payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2001, Object C102.

Resolution 01-0667 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that American LaFrance, Inc., be and hereby is awarded a contract for furnishing and delivering one heavy rescue squad for the fire department in accordance with specifications on its low specification bid of \$166,868, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS01, Object V101.

Resolution 01-0668 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the Jamar Company be and hereby is awarded a contract for roof repair at the Central Hillside Community Center, 12 East Fourth Street (base bid B), in accordance with specifications on its low specification bid of \$13,700, terms net 30, FOB job site, payable out of Capital Improvement Fund 0450, Agency 015, Org. 2001, Object C103.

Resolution 01-0671 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor renewal license, an on sale Sunday intoxicating liquor renewal license and an on sale dancing renewal license and for the period beginning September 1, 2001, and ending August 31, 2002, subject to departmental approvals and the payment of sales and property taxes:

Lac/Tom Investments, Ltd. (Limit Bar), 1426 Commonwealth Avenue.

Resolution 01-0672 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ENVIRONMENTAL ADVISORY COUNCIL

Kenneth Nebel for a term expiring January 5, 2002, replacing Joel Koepmtgen who resigned.

Resolution 01-0648 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- - -

BY COUNCILOR STEWART:

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

HERITAGE PRESERVATION COMMISSION

Robert Hewitt for a term expiring May 31, 2004, replacing Debra Kellner.

Gordon Fon for a term expiring May 31, 2004, replacing Diane Kettlehut.

Resolution 01-0649 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

TREE COMMISSION

Harold Frederick for a term expiring for a term expiring August 31, 2002, replacing Janet Corica who resigned.

Resolution 01-0652 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMISSION ON DISABILITIES

Annette Port for a term expiring November 1, 2003, replacing Alyce Hagberg.

Sheri Lombardi for a term expiring November 1, 2003, replacing John O'Neill.

Resolution 01-0653 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

COMMUNITY DEVELOPMENT COMMITTEE

Rudy Anderson (West Duluth) for a term expiring March 1, 2002, replacing Andrew Peterson who resigned.

Resolution 01-0657 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DEFERRED COMPENSATION PLAN COMMISSION

Mitchell Peterson (fire) for a term expiring December 31, 2004, replacing Martin Mehling who resigned.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0659 was unanimously adopted.
Approved September 10, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires to install new street lighting along 88th Avenue West in Morgan Park between Concord Street and Hilton Street; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design of the street lighting; and

WHEREAS, Foster Jacobs and Johnson, Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Foster Jacobs and Johnson, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$10,320, will be payable from the Community Development Fund 0262, Dept./Agency 624, Object 6412.

Resolution 01-0669 was unanimously adopted.
Approved September 10, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Metal Service, Inc.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Metal Service, Inc.

Resolution 01-0677 was unanimously adopted.
Approved September 10, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the proper city officers are hereby authorized and directed to execute an amendment to an agreement between the city of Duluth and the St. Louis County board for the furnishing of home delivered meals for senior citizens for the period of January 1, 2001, through June 30, 2002, to increase the payment for elderly waiver meals from \$4.23 to \$4.36. Said agreement is filed as Public Document No. 01-0910-19. Monies collected under said agreement shall be deposited in Federal Program Fund 0272, Dept. 031, Org. 6301, Rev. Source 4654.

Resolution 01-0637 was unanimously adopted.
Approved September 10, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that Eggebrecht Chevrolet-Olds be and hereby is awarded a contract for furnishing and delivering a Chevrolet Tahoe for the utility operations division in accordance with specifications on its low specification bid of \$30,903.35, terms net 30, FOB destination, \$15,451.68 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580 and \$15,451.67 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 01-0663 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a hydro excavator for the utility operations division in accordance with specifications on its low specification bid of \$287,343.39, terms net 30, FOB destination, \$57,468.68 payable out of Water Fund 0510, Dept./Agency 500, Organization 1905, Object 5580; \$143,671.70 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5580; \$57,468.68 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1905, Object 5580; \$28,734.33 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5580.

Resolution 01-0664 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Minnesota Aggregate, Inc., be and hereby is awarded a contract for furnishing and delivering 10,500 cubic yards of washed sand for the maintenance operation division in accordance with specifications on its low specification bid of \$92,216.50, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 01-0665 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Bachand Painting and Decorating be and hereby is awarded a contract for painting of 2,800 gas meter piping throughout the city of Duluth for the utility operations division in accordance with specifications on its low specification bid of \$30,500, terms net 30, FOB job site, payable out of Gas Fund 0520, Dept./Agency 500, Organization 1945, Object 5400.

Resolution 01-0670 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are authorized to execute an easement agreement substantially in the form of the agreement filed as Public Document No. 01-0910-15, between the city of Duluth and state of Minnesota department of natural resources wherein the city is granted a license to construct a pipeline in the Munger Trail right-of-way for a consideration of \$15,529; said money to be paid from Fund 0521, Agency 500, Object 5532.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0673 was unanimously adopted.
Approved September 10, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to stabilize the banks and infrastructure along Oregon and Grey's creeks; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the survey, hydraulics, geotechnical work and design, right-of-way research, plans and specifications, bidding and construction engineering for Grey's Creek between East Sixth Street and East Sixth Street Alley, and Oregon Creek below Jefferson Street to 20th Avenue East; and

WHEREAS, Short Elliott Hendrickson (S.E.H., Inc.) has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$28,000, will be payable from the Storm Water Fund 0535, Dept./ Agency 500, Organization 1905, Object 5533.

Resolution 01-0674 was unanimously adopted.
Approved September 10, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to stabilize the banks and infrastructure near Morningside/Valley Drive from Snively Road to Pinewood Lane and Crescent View Avenue; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the survey, hydraulics, geotechnical work and design, right-of-way research, plans and specifications, bidding and construction engineering for the Morningside/Valley Drive drainage course from Snively Road to Pinewood Lane and Crescent View Avenue; and

WHEREAS, Short Elliott Hendrickson (S.E.H., Inc.) has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$20,240, will be payable from the Storm Water Fund 0535, Dept./ Agency 500, Organization 1905, Object 5533.

Resolution 01-0675 was unanimously adopted.
Approved September 10, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized to execute the grant extension agreement filed as Public Document No. 01-0910-16, accepting \$43,686.50 from the Minnesota department of public safety, Minnesota auto theft prevention program, to reimburse the police department for the salary and benefits of one police officer and equipment in the grant period from July 1, 2001, to December 31, 2001.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BE IT FURTHER RESOLVED, all revenues from the grant shall be deposited in Fund 215, Agency 200, Org. 2459, Revenue Source 4230.

Resolution 01-0662 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the city desires to protect the recently renovated Viking Ship at Leif Erikson Park from degradation from weathering; and

WHEREAS, Save Our Ship, Inc., has made application on behalf of the city and received approval for a matching grant from the Minnesota department of natural resources coastal program in an amount of \$30,000; and

WHEREAS, said Save Our Ship, Inc., has satisfactorily met the match requirements for said grant.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 01-0910-17, between the city of Duluth and the state of Minnesota, which awards the city a matching grant in the amount of \$30,000 to be used toward the purchase of materials for the Viking Ship superstructure project at Leif Erikson Park, funds to be deposited into Fund 0210-030-2104.

Resolution 01-0646 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, Save Our Ship, Inc., has made application on behalf of the city to the Minnesota department of natural resources coastal program for a matching grant for the Viking Ship superstructure project at Leif Erikson Park; and

WHEREAS, the coastal grant program has approved said application in the amount of \$30,000; and

WHEREAS, Save Our Ship, Inc., desires to take a leadership role in the completion of this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 01-0910-18, with Save Our Ship, Inc., for the purchase of building materials necessary for the proper completion of said Viking Ship superstructure project and further authorizing the reimbursement to Save Our Ship, Inc., for an amount not to exceed \$30,000, payable from Fund 0210-030-2104.

Resolution 01-0647 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Section 275.065, the city council adopts the following proposed property tax levy.

Section 1. The sum to be raised by taxation for the year 2002 for general operations is hereby determined to be the sum of \$9,038,100 which sum is levied against the taxable property

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$4,228,400.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$4,219,700.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$590,000.

Resolution 01-0654 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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 2002 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$272,300 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be levied for transit operations the sum of \$272,300.

Resolution 01-0655 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that pursuant to Minnesota Statutes, Section 469.053, the city council adopts the following proposed property tax levy.

Section 1. The sum to be raised by taxation for the year 2002 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$526,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing for the Seaway Port authority special taxing district the sum of \$526,100.

Resolution 01-0656 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that in accordance with Minnesota Statutes, Section 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 31, 2002:

GENERAL			
010	Total legislative and executive	-----	\$ 2,056,800
015	Total administrative services	-----	\$ 8,551,000
020	Total planning and development	-----	\$ 958,600
030	Total finance	-----	\$ 2,859,900

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

100	Total fire -----	\$14,793,100
200	Total police -----	\$13,968,600
300	Total library -----	\$ 3,989,800
400	Total parks and recreation -----	\$ 2,673,800
500	Total public works -----	\$10,107,900
700	Total transfers -----	\$10,634,000
100	General fund total -----	\$70,593,500

PUBLIC ENTERPRISE

503	Golf fund - total -----	\$ 1,942,200
510	Water fund - total -----	\$12,259,900
520	Gas fund - total -----	\$47,329,100
530	Sewer fund - total -----	\$19,042,300
535	Stormwater fund - total -----	\$ 5,734,200
540	Steam fund -----	\$ 3,510,200

Resolution 01-0660 was unanimously adopted.
 Approved September 10, 2001
 GARY L. DOTY, Mayor

- - -

Resolution 01-0685, by Councilor Hogg, authorizing the acquisition of land for an addition to Spirit Mountain recreation area authority, authorizing settlement of compliance issues with Minnesota department of natural resources, authorizing execution of a contract with Spirit Mountain recreation area authority and Hovland Spirit Ridge, LLC, was introduced for discussion.

- - -

The rules were suspended upon a unanimous vote to consider resolutions 01-0529 and 01-676 at this time.

- - -

Resolution 01-0529, granting a work permit to Spirit Ridge LLC for construction of nine holes of an 18 hole golf course and a lodge on the Spirit Mountain recreation area; and Resolution 01-0676, denying work permit application of Spirit Ridge LLC. related to Spirit Ridge project, by Councilor Stenberg, were introduced for discussion.

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

Alberta Fairbanks; Kay L. Lewis; David Grandmaison; Will Rhodes, chairman of Northeastern Minnesota Wilderness for Regional Advocacy; Lynn Olson, vice chair of the Isack Walton League; C. J. Bird; Nancy Nelson; State Representative Dale Swapinski; Terry Brown; Jane Reyer, counsel for the National Wildlife Federation; Barb Olsen Browne, president of the Duluth Public Policy Alliance; Douglas Happy; Edward Kale; Peggy Marrin and Brian Frederickson, vice chair of the city's environmental advisory council (EAC); spoke in support of Resolution 01-0676 and against the other two resolutions for the reasons of: it is sacred Indian grounds; advertising of this area as a city forest can also be economically beneficial; this area has a natural beauty; the land should be respected and the old growth forest should be protected; Lawcom regulations are not being adhered to; any land swap must have all the conditions and amenities of the original site; many other sites could be used for this new golf course; a previously approved resolution states that unless the Lawcon regulations are followed no work permits would be approved; the process of informing the public of the potential land swap has not be followed; not following Lawcon

regulations will adversely affect future funding; this controversy could affect future Spirit Mountain bonding availability; some wording in Resolution 01-0685 appears to contradict state law relative to who has the authority to sell land, consider environmental affects and approve work permits; thorough, responsible planning should go into deciding this issue; the costs to the city are unknown; the EAC recommends denial of the work permits based on accumulative environmental costs and other environmental issues; the EAC recommendations and concerns in areas of wetland mitigation and water temperatures in Stewart Creek, the forest canopy impacts and the poorly defined soils were dismissed by the planning commission.

Charles Andresen, chairperson of the Spirit Mountain recreation area authority, spoke in support of resolutions 01-0685 and 01-0529 for the reasons of: according to the department of natural resources, a golf course can be built there if certain criteria are met; for 27 years the villas have been in place and no agency has commented; there now is the need to have the Lawcon issues resolved and the idea of the land swap would appear to be a sensible way to resolve the Lawcon issue.

Councilors questioned Mr. Andresen at length, on aspects of this issue.

William Burns, counsel for Hovland Spirit Ridge, the developer, expressed support for resolutions 01-0685 and 01-0529 because: there is no public land that is being proposed to be made private; the areas that could be in violation of Lawcon regulations did receive environmental approval from the appropriate governmental agencies for the study of the golf course; in good faith and on a voluntary basis the developer is willing to extend the period for 90 days to issue the work permits and there are limitations as to rights that the council has based on state statute, terms of agreements already approved and the findings of the planning commission.

Councilor Stenberg moved to table all three resolutions, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hogg, Ness, Stenberg and President Edwards -- 4

Nays: Councilors Eckenberg, Fena, Gilbert, Stewart and Stover -- 5

Councilor Eckenberg moved to table Resolution 01-0685, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Hogg, Ness, Stenberg and President Edwards -- 5

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

- - -

Councilor Stewart moved to amend Resolution 01-0676, by adding a paragraph after the eighth paragraph which reads as follows:

"WHEREAS, a representative of the NPS has indicated that they do not see, in the existing lease between the authority and the developer, necessary provisions to insure the reasonableness of the fee structure for use of the golf course and to insure the continuing public nature of its use and that these provisions include the following:

(a) Lease must insure that the leased area will be operated by the lessee for public outdoor recreation purposes;

(b) Control must be retained by the project sponsor over charges to the public for use of facilities to assure that they are fair;

(c) The area must be identified as being publicly owned; and

(d) Provision must be made for adequate standards of maintenance; and," which motion was seconded, discussed and carried upon the following vote:

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Councilor Stenberg moved to table resolutions 01-0529 and 01-0676, as amended, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Hogg, Ness, Stenberg and President Edwards -- 5

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

- - -

Resolution 01-0682, by President Edwards and Councilor Stenberg, authorizing 25 year lease to the DNR of property adjacent to Congdon Boulevard for the McQuade Road safe harbor project, was introduced for discussion.

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

Kay L. Lewis, Glenn Maxham, Janet Green and Clyde Ritchie spoke in opposition to the resolution for the reasons that: the Knife River Harbor should be utilized instead; a high amount of explosives would be used; the DNR stated that stormwater gates will not be installed for safety; commercial crafts would be allowed to make a temporary stop occasionally without charge and at the expense of taxpayers; it has been very difficult to pin down the many details of what is actually proposed; who will fund various aspects of it and that the attorney general's office has stated that a gift given for a particular charitable purpose must be used for that purpose.

Councilor Stenberg moved that the resolution be tabled for a committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STEWART:

WHEREAS, the planning commission advises the council on all planning and development matters including rezonings, issuance of special use permits and community development policies; and

WHEREAS, the planning commission has final authority over approval of plats and certain variances; and

WHEREAS, the planning commission may act as the regulatory governmental unit (RGU) with regard to the environmental review process as outlined in the statutes of the state of Minnesota; and

WHEREAS, the stated jurisdiction of the planning commission frequently requires the assessment of scientific information pertaining to watersheds, ecosystems, endangered and threatened species, pollutants and other issues of environmental significance; and

WHEREAS, a clear awareness of environmental science is essential to making informed decisions concerning these matters; and

WHEREAS, no current member of the planning commission has professional expertise in these areas of environmental science; and

WHEREAS, the Duluth City Council desires that at least one individual with such expertise be seated on the planning commission;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council requests that the administration nominate an individual with professional experience in an area of environmental science for a seat on the planning commission.

BE IT FURTHER RESOLVED, that the Duluth City Council has the utmost regard for all planning commissioners and the valuable and diverse experience that they bring to the commission.

Resolution 01-0678 was unanimously adopted.

Approved September 10, 2001, pursuant to Section 12 of the Duluth City Charter.

- - -

Resolution 01-0650, by Councilor Stewart, confirming appointment of Jeanne Koneczny to planning commission replacing Alan Billington, was introduced for discussion.

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

- - -

Resolution 01-0687, by Councilor Gilbert, of intent to conduct an advisory referendum on the Spirit Ridge golf course and hotel project and McQuade public access project, was introduced for discussion.

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

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

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

- - -

Resolution 01-0645, by Councilor Eckenberg, ordering in the construction of a permanent alley in Spear Avenue from Glenwood Street to Park Street (City Job No. 9309RS01) at an estimated cost of \$32,000, was introduced for discussion.

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

Joyce Krajewski spoke in opposition to the resolution, citing that there is an underground spring that runs onto the alley, any blacktopping will eventually be loosened up and the cost of \$7,000 to each homeowner is a large amount of money for what is not a long term solution.

The council and administration reviewed the process for special assessments like this.

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

- - -

ORDINANCE FOR RECONSIDERATION

BY COUNCILOR ECKENBERG

01-017 (9490) - AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Eckenberg moved to reconsider Ordinance 9490 (File No. 01-017), which motion was seconded and unanimously carried.

Councilor Eckenberg reviewed that under Section 52 of the Charter, when a referendum petition has been determined to be sufficient, it shall be the duty of the council to reconsider the ordinance, and upon reconsideration, if the ordinance is not repealed by the council, it shall go to a vote of the people.

Councilor Eckenberg moved adoption of the ordinance that was previously adopted, which motion was seconded and unanimously carried.

- - -

At this time, 11:25 p.m., Councilor Fena moved to suspend the rules and extend the meeting until 11:45 p.m., which motion was seconded and unanimously carried.

- - -

Resolution 01-0661, by Councilor Eckenberg, placing the initiative and referendum questions relating to Duluth's public smoking ordinance on the ballot of the November 6, 2001, general election, was introduced for discussion.

Councilor Eckenberg reviewed that because of a sufficient initiative petition, Question No. 1 would be on the ballot and because of the action of the council in not repealing Ordinance 9490, Question No. 2 would be on the ballot.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0661 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, on June 12, 2000, the Duluth City Council passed Ordinance No. 9448, which regulated smoking tobacco in public places and which was codified as Article VII of Chapter 28 (Sections 28-62 through 28-72) of the Duluth City Code; and

WHEREAS, on December 21, 2000, the Duluth City Council passed Ordinance No. 9475, which amended Sections 28-64 and 28-71 of the Duluth City Code; and

WHEREAS, on May 29, 2001, the Duluth City Council passed Ordinance No. 9490, which amended Sections 28-62, 28-64, 28-65, 28-66, 28-67, 28-68, 28-69, 28-70 and 28-71 of the Duluth City Code; and

WHEREAS, pursuant to Section 52 of the Duluth City Charter, a sufficient petition protesting the passage of Ordinance No. 9490 has been filed with the city clerk within the required time period, suspending said ordinance from going into effect until it can be submitted to a vote of the people; and

WHEREAS, pursuant to Section 51 of the Duluth City Charter, a sufficient initiative petition has been filed with the city clerk initiating an ordinance that would repeal Article VII of Chapter 28 of the Duluth City Code; and

WHEREAS, pursuant to Sections 51 and 52 of the Duluth City Charter, the Duluth City Council desires to exercise its option to have both the initiative and the referendum question to be put to a vote of the people.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city clerk is hereby directed to place both the initiative and referendum questions relating to the public smoking ordinance on the November 6, 2001 general municipal election ballot.

RESOLVED FURTHER, that the city clerk is authorized and directed to prepare and mail or publish any and all notices of such initiative and referendum questions as are required by the Duluth City Charter.

RESOLVED FURTHER, that the city clerk is authorized and directed to incorporate said initiative and referendum questions into the general municipal election ballot, which questions shall be substantially in the following form:

Question 1

Should Duluth's present smoking ordinance continue to remain in effect (Article VII, Chapter 28, Duluth City Code)?

A YES vote means Duluth's smoking ordinance will continue to be a valid law.

A NO vote means Duluth's smoking ordinance will be abolished.

YES

NO

Question 2

Should the amendments made to Duluth's smoking ordinance which place enforcement responsibilities on restaurant owners and eliminate exemptions from the smoking ordinance in 2003 be allowed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

to take effect? (Amendments were passed on May 29, 2001 as Ordinance No. 9490)

A YES vote means the amendments will be included in the existing smoking ordinance and will become law.

A NO vote means the amendments will be voided and will not become law.

YES
NO

RESOLVED FURTHER, that a copy of Article VII, Chapter 28, Duluth City Code and Ordinance No. 9490 shall be kept on file in the office of the city clerk prior to such election for examination by members of the public.

Resolution 01-0661 was unanimously adopted.

Approved September 10, 2001

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR ECKENBERG

01-034 - AN ORDINANCE DEDICATING A PUBLIC UTILITY EASEMENT ACROSS THE EASTERLY TEN FEET OF LOTS 11-16, BLOCK 59, NEW DULUTH FIRST DIVISION.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STENBERG

01-029 (9501) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO KBJR-TV FOR THE PLACEMENT AND MAINTENANCE OF A CONCRETE SNUBBER BASE AND GUY WIRE SNUBBER IN THE RIGHT-OF-WAY OF FIFTH AVENUE WEST LOCATED SOUTH OF WEST NINTH STREET.

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

- - -

BY COUNCILOR STENBERG

01-030 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, TO CREATE A NEW ARTICLE XXIX TO PROVIDE FOR TRADITIONAL NEIGHBORHOOD DISTRICT.

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

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

Nays: Councilor Eckenberg -- 1

- - -

BY COUNCILOR ECKENBERG

01-031 (9502) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN NEW DULUTH TO RONALD AND MARCIA HANSON.

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

Ronald Hanson spoke in support of the ordinance.

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

- - -

The meeting was adjourned at 11:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9501

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO KBJR-TV FOR THE PLACEMENT AND MAINTENANCE OF A CONCRETE SNUBBER BASE AND GUY WIRE SNUBBER IN THE RIGHT-OF-WAY OF FIFTH AVENUE WEST LOCATED SOUTH OF WEST NINTH 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 KBJR-TV, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a concrete snubber base and a guy wire snubber in that part of Fifth Avenue West, adjacent to Lot 80, Block 111, as the same was dedicated to the use of the public and the plat of Duluth Proper Third Division, on file and of record in the office of the registrar of deeds in and for the St. Louis County, Minnesota.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said concrete snubber base and guy wire snubber and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That said concrete snubber base and guy wire snubber shall be properly maintained, and in the event that the concrete snubber base and guy wire snubber becomes dilapidated, the city building official shall notify the owner to repair or remove said dilapidated concrete snubber base and guy wire snubber and shall so notify the city council.

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 concrete snubber base and guy wire snubber shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Fifth Avenue West and agree that the city of Duluth shall not be liable for damage caused to such concrete snubber base and guy wire snubber 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 concrete snubber base and guy wire snubber in said Fifth Avenue West.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 14, 2001)

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

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

Nays: None -- 0

Passed September 10, 2001
Approved September 10, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9502

BY COUNCILOR ECKENBERG:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN NEW DULUTH TO RONALD AND MARCIA HANSON.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Ronald D. and Marcia B. Hanson for the sum of \$3,200 and to execute all documents necessary with regard to said conveyance:

Lots 21 and 22, Block 26, NEW DULUTH, First Division.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 14, 2001)

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

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

Nays: None -- 0

Passed September 10, 2001
Approved September 10, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, September 17, 2001, 7:07 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stover and President Edwards -- 7

Absent: Councilors Gilbert and Stewart -- 2

- - -

MOTIONS AND RESOLUTIONS

BY PRESIDENT EDWARDS:

WHEREAS, on September 11, 2001, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a primary municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election districts in the city have made their returns of said election and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 01-0917-01) at 7:00 p.m., September 17, 2001, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 10,480 cast votes, said votes having been cast in the following manner:

Councilor at Large

Jeffery D. Anderson	351
Herb W. Bergson, Jr.	4,555
Marcia Hales	3,126
Carl E. Hammerberg, Sr.	277
Brian Homstad	777
Frank (Jim) Kampa, Jr.	633
Mykel J. Miller	62
Nancy Nelson	3,682
Heather Rand	1,769
Jim Stauber	3,587
Fred Youngstrand	496

Councilor - Second District

Greg Gilbert	1,333
Daniel A. Landgren	289
Pat Spott	811

Councilor - Fourth District

Neill A. Atkins	964
Roger J. Reinert	825
Daniel Richard Williams	269

NOW, THEREFORE, BE IT RESOLVED, that Herb W. Bergson, Jr., Marcia Hales, Nancy Nelson and Jim Stauber, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BE IT FURTHER RESOLVED, that Greg Gilbert and Pat Spott, having the two largest numbers of the votes cast at said election for councilor - second 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 Neill A. Atkins and Roger J. Reinert, having the two largest numbers of the votes cast at said election for councilor - fourth district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

Resolution 01-0691 was unanimously adopted.

Approved September 17, 2001

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:10 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 24, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-0924-01 Jon Helstrom submitting petition to vacate the utility easement on Lots 3, 4 and 5, Block 1, Helstrom Rearrangement. -- Assessor

01-0924-02 Daniel King submitting petitions to:

(a) Reclassify from C-5 to R-3 property legally described as a 6.3 acre portion in Car Line Gardens;

(b) Vacate East Palm Street between South Arlington Avenue and South Blackman Avenue. -- Assessor

01-0924-03 Joseph H. Kleiman, et al. (two signatures), submitting petition to vacate Third Avenue East between 14th and 15th Streets between Lots 47 and 49, Block 197, Duluth Proper Third Division. -- Assessor

01-0924-04 Dan Stocke, et al. (four signatures), submitting petition to reclassify from R-1-b to R-3 property legally described as Lots 4 - 7, Auditors Plat 24. -- Assessor

01-0924-14 Glenn Maxham submitting communications regarding McQuade safe harbor project (01-0682R). -- Received

01-0924-05 The following submitting communications regarding the proposed Spirit Ridge project (01-0529R): (a) Mary and John Anderson; (b) Eric Dings; (c) ShannaLee Horvik; (d) Don Kienholz; (e) Town of Midway. -- Received

- - -

REPORTS OF OFFICERS

01-0924-06 Assessor submitting letters of:

(a) Insufficiency of petition to reclassify from existing suburban zoning to R-3 that part of the Southeast 1/4, Section 8, Township 50, Range 14;

(b) Sufficiency of petitions to:

(1) Reclassify from R-1-b to R-3 property legally described as Lots 4 - 7, Auditors Plat 24;

(2) Vacate Third Avenue East between 14th and 15th Streets between Lots 47 and 49, Block 197, Duluth Proper Third Division. -- Received

01-0924-07 Engineering division submitting monthly project status report of September 1, 2001. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-0924-08 Alcohol, gambling and tobacco commission minutes of: (a) August 14; (b) August 31, 2001, meetings. -- Received

01-0924-09 Building appeal board minutes of June 13, 2001, meeting. -- Received

01-0924-10 Community development committee minutes of July 31, 2001, meeting. -- Received

01-0924-11 Housing and redevelopment authority of Duluth minutes of July 31, 2001, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

01-0924-12 Parking commission minutes of April 10, 2001, meeting. -- Received

01-0924-13 Sanitary sewer board for WLSSD minutes of August 20, 2001, meeting. -- Received

01-0924-26 Special assessment board findings and recommendations for the proposed permanent alley improvement in Spear Avenue. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah voiced concern regarding such public safety issues as the loud sirens of fire trucks going through Downtown and the increased police calls to bars. He also stated that the city should help publicize and encourage people to use the Duluth transit authority buses to help prevent pollution.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 01-0650, confirming appointment of Jeanne Koneczny to planning commission replacing Alan Billington, from the table, which motion was seconded and unanimously carried.

Resolution 01-0650 was adopted as follows:

BY COUNCILOR STEWART:

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

PLANNING COMMISSION

Jeanne Koneczny for a term expiring December 31, 2005, replacing Alan Billington who resigned.

Resolution 01-0650 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

Councilor Eckenberg moved to remove Resolution 01-0645, ordering in the construction of a permanent alley in Spear Avenue from Glenwood Street to Park Street (City Job No. 9309RS01) at an estimated cost of \$32,000, from the table, which motion was seconded and unanimously carried.

Resolution 01-0645 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in Spear Avenue from Glenwood Street to Park Street (City Job No. 9309RS01), and filed with the secretary of the special assessment board; proper notice has been sent to the benefiting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$32,000, payable from the Special Assessment Fund 0410, Agency 038, Organization 5342, Object 5530 by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board, \$7,200 to be reimbursed by the permanent improvement Fund 0411, and which report is on file in the office of

the city clerk as Public Document No. 01-0924-26 and which description is hereby incorporated herein by reference to Public Document No. 01-0924-26; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

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

Resolution 01-0645 was adopted upon the following vote:

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

Nays: Councilor Eckenberg -- 1

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR HOGG:

WHEREAS, the city, Lake Superior Center (LSC), DEDA and the Lake Superior Center authority entered into an operating and revenue participation agreement dated June 30, 1998, which bears City Contract No. 18364 for the operation of the Great Lakes Aquarium; and

WHEREAS, Paragraph 6B of said agreement requires that LSC submit its annual budget to the city not later than October 1 of each year and for the city to approve or disapprove said budget on or before November 1st of each such year; and

WHEREAS, LSC has requested an extension of the deadline for filing its 2002 budget because unusual circumstances in August would have an aberrational affect on said budget and it is necessary to include September figures, which will not be available by said deadline, to more accurately evaluate its proposed 2002 budget; and

WHEREAS, the city is willing to extend the date for submission of LSC's 2002 budget to November 1, 2001, under the condition that it still has an entire month to determine whether to approve or disapprove said budget.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to extend the date for filing of Lake Superior Center's annual budget for year 2002, as set forth in Paragraph 6B of City Contract No. 18364 from October 1, 2001, to November 1, 2001, upon the condition that the city shall have until December 1, 2001, to approve or disapprove said budget in accordance with the procedures set forth in said Paragraph 6B.

Resolution 01-0712 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with SEH, Inc., for the sum of not to exceed \$75,000, from Capital Fund 450, Object C110, for providing certain professional engineering services to the city of Duluth in connection with Lakewalk East trail extension, Phase I, said services and payment therefore to be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 01-0924-15.

Resolution 01-0684 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers and Architects for the sum of not to exceed \$24,116, from Capital Fund 450, Ag. 015, Org. 2001, Obj. C117, for providing certain professional services to the city of Duluth in connection with Grassy Point Trail, Phase I, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 01-0924-16.

Resolution 01-0689 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

WHEREAS, St. Mary's Medical Center and the Minnesota Ballet have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Lincoln Park Business Group has applied to the Minnesota gambling control board for a lawful gambling exemption (bingo); and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to St. Mary's Medical Center, the Minnesota Ballet and the Lincoln Park Business Group 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 01-0695 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

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

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

Licensee	Gambling Site	Date Application Filed
Irving Youth Hockey	North Pole Bar	September 5, 2001
Irving Community Association	Mitch's	August 31, 2001
Irving Community Association	Gopher Lounge	August 31, 2001
Multiple Sclerosis	VFW Post #6320	August 29, 2001
Multiple Sclerosis	Curly's Bar	August 29, 2001
American Red Cross	T-Bonz	August 27, 2001
American Red Cross	Congress Bar & Grill	August 27, 2001

Resolution 01-0696 was unanimously adopted.
Approved September, 24, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 222 CK electronic parking meter mechanisms for the maintenance operations division in accordance with specifications on its low specification bid of \$11,821.50, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR00, Object E037.

Resolution 01-0703 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Graybar Electric Company, Inc., be and hereby is awarded a contract for furnishing and delivering miscellaneous electrical supply items for facilities management division in accordance with specifications on its low specification bid of \$15,111.94, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 015, Organization 2500, Object 5220.

Resolution 01-0707 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District
Mark Dylla for a term expiring July 1, 2003, replacing Joanne Line.

Resolution 01-0651 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

COMMISSION ON DISABILITIES

Bryan Jensen and David Moberg for terms expiring November 1, 2004, replacing Monica Butche and Christopher Wakefield who resigned.

Richard Anderson for a term expiring November 1, 2002, replacing Kenneth Cayo, who resigned.

Resolution 01-0679 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

DULUTH TRANSIT AUTHORITY

Walter Kramer for a term expiring June 30, 2003, replacing Roger Gunderson who resigned.

Resolution 01-0680 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ANIMAL HUMANE BOARD

Joan Eastman for a term expiring October 31, 2003, replacing Roger Pitts who resigned.

Resolution 01-0693 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to execute an agreement, on file with the city clerk as Public Document No. 01-0924-17, between the city of Duluth and Thomas R. Zahn and Associates for the completion of a reuse study for the former Duluth National Guard Armory building, located at 1301 London Road; total consideration not to exceed \$13,000; payable from Special Projects Fund 0210-030-2106-5319.

Resolution 01-0698 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

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

File #	Applicant Name	Legal Description	Location
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

01083	St. Louis County land department	Lots 20-23, Block 2, Ironton Fourth Division (10-2550-400 405P)	south side of Clyde Avenue east of Grand Avenue (Lower Smithville)
01086	St. Louis County land department	Lot 24, Block 10, City Home Acres (10-530-2280)	south side of Walnut Street below Ponderosa and Swan Lake Road (Duluth Heights)
01087	St. Louis County land department	Lots 3 and 4, Block 44, Lakeview Division (10-2790-4940,4950)	north side of Denny Drive 100 feet east of 12th Avenue East (East Hillside)
01114	St. Louis County land department	Lots 3-4, Block 88, London Addition (10-3030-3050,3060)	south side of Jay Street between 50th and 51st avenues East (Lakeside-Lester Park)

Resolution 01-0686 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, Lutheran Social Services has submitted to the city council a request for a special use permit, in conformance with the requirements of Section 245A.11 of the Minnesota Statutes, to establish and operate a state licensed program for a transitional living program on property described as Lot 18, West First Street, Duluth Proper First Division and located at 104 West First Street; and said permit application was duly referred to the city planning commission for a study, report, and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the Minnesota Statute, 245A.11 Subd. 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 "Bridge House" located at 221 North First Avenue West, is within said radius of 104 West First Street; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Lutheran Social Services to allow for the operation of a residential program as defined by Minnesota Statute and known as Lutheran Social Services renaissance transitional living program and defined by Duluth City Code as a "commercial rooming house" which is a permitted use in the C-4, Central Business District Zone, at 104 West First Street.

Resolution 01-0697 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

File #	Applicant Name	Legal Description	Location
01093	City of Duluth facilities management division	Lots 85 (10-4400-440), 87-119 (odd) (10-4400-450) and 102 and 104 (10-4400-1680), Upper Duluth, St. Louis Avenue	St. Louis Avenue between 13th and 15th streets (Park Point)
01129	City of Duluth	Lot Y, Crescent View Park Division (10-760-2810)	intersection of 38th Avenue East and Third Street (Congdon Park)

Resolution 01-0710 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 01-0924-18, with the Minnesota department of economic security to provide welfare to work services as authorized in State Legislature 2001 Special Session Laws, Chapter 9, Article 17, Section 2, Subdivision 1(b) and as defined in the local Minnesota welfare to work plan. The contract period is July 1, 2001, through June 30, 2003. Program funds will be accepted upon receipt of notices of funds available and shall be deposited in Fund 268, Budget Item 6252.

Resolution 01-0688 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to execute a Minnesota trail assistance program agreement with the Minnesota department of natural resources in the sum of \$19,000 for the maintenance of the Duluth snowmobile trails for the 2001-2002 season; said agreement to be in the form of Public Document No. 01-0924-19 on file with the city clerk; the funds therefrom to be deposited in the General Fund 0100-500-1920-4233.

Resolution 01-0699 was unanimously adopted.
Approved September 24, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Carlson Brothers, Inc., be and hereby is awarded a contract to install 25 sump pumps located in Lakeside area for the utility operations division in accordance with specifications on its low specification bid of \$36,075, terms net 30, FOB job site, payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5482.

Resolution 01-0700 was unanimously adopted.
Approved September 24, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Tim's Landscaping and Sump Pump Company be and hereby is awarded a contract to install 25 sump pumps located in Lakeside area for the utility operations division in accordance with specifications on its low specification bid of \$36,000, terms net 30, FOB job site, payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5482.

Resolution 01-0701 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for rental of a rubber tire excavator for three months for the utility operations division in accordance with specifications on its low specification bid of \$17,400, terms net 30, FOB destination, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1945, Object 5415.

Resolution 01-0702 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Olive Kruger and her attorney, Robert C. Falsani, the sum of \$12,500 in full settlement of all claims arising from a motor vehicle accident with a city vehicle on January 19, 2000; payment to be made from the self insurance fund.

Resolution 01-0705 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Duane G. Millslagle the sum of \$10,772.63 in full settlement of all claims arising from an accident on June 24, 2000; payment to be made from the self insurance fund.

Resolution 01-0706 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Humes Plumbing and Heating be and hereby is awarded a contract for I&I separation/discharge to disconnect seven houses at Jay Street from 41st Avenue East to 42nd Avenue East for the utility operations division in accordance with specifications on its low specification bid of \$35,345, terms net 30, FOB job site, \$17,672.50 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5482 and \$17,672.50 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0708 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 01-0135 to Hallett Dock Company for furnishing Class 5 gravel, be amended to increase the amount by \$27,126.15 for a new total of \$83,918.08, \$11,960.55 payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5224 and \$15,165.60 payable out of Water Fund 0510, Dept./Agency 500, Organization 1945, Object 5233.

Resolution 01-0709 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Morton Salt Division c/o Hallett Dock Company be and hereby is awarded a contract for furnishing road salt for year 2001/2002 winter season for the maintenance operations division in accordance with specifications on its low specification bid of \$302,200, terms net, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 01-0711 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to City Contract No. 18939, substantially in the form of that which is on file in the office of the city clerk as Public Document No. 01-0924-20, with the Northern Communities Land Trust reducing the size of the project authorized thereunder and eliminating therefrom the sale of Lot 8, West Fifth Street, Duluth Proper, First Division.

Resolution 01-0713 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to accept grant monies of up to \$19,500 from the Minnesota department of public safety, office of traffic safety, to reimburse the police department's police overtime expenditures related to the safe & sober grant program and to execute any and all required grant agreements; all revenue to be deposited into General Fund 0100, Dept. 200, Org. 1620, Revenue Source 4253.

Resolution 01-0694 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, the Duluth City Council hereby indicates that on Tuesday, October 9, 2001, at 7:30 p.m., in the council chambers on the third floor in City Hall, the council will conduct a public hearing regarding whether to designate portions of certain streets in the vicinity of Duluth Denfeld High School as resident permit parking zones, as manifested by the map on Public Document No. 01-0924-21.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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

Resolution 01-0716 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the Minnesota department of natural resources (DNR) solicited Millennium Trail matching grant applications for proposed improvements to the Willard Munger State Trail; and

WHEREAS, the city has identified a need for off street parking along the Munger Trail at its intersection with Riverside Drive; and

WHEREAS, the DNR has approved the city's Millennium Trail grant application in the amount of \$5,000.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 01-0924-22, between the city of Duluth and the state of Minnesota, which awards the city a Millennium Trail matching grant in the amount of \$5,000 to be used for materials needed in the construction of a gravel surface parking lot adjacent to the Willard Munger State Trail at its intersection with Riverside Drive; funds to be deposited into Fund 0100-500-2010-4230.

Resolution 01-0692 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 01-0681, by Councilor Stewart, confirming appointment of Timothy Grover to tree commission replacing Nancy Nelson, was introduced for discussion.

Councilor Stewart stated he would like to table this resolution as there has been no action by the mayor to replace the other appointment to the tree commission.

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

Yeas: Councilors Gilbert, Stewart and Stover -- 3

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

Resolution 01-0681 was adopted as follows:

BY COUNCILOR STEWART:

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

TREE COMMISSION

Timothy Grover for a term expiring August 31, 2004, replacing Nancy Nelson.

Resolution 01-0681 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg and President Edwards -- 7

Nays: Councilors Stewart and Stover -- 2

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0690, by Councilor Stenberg, authorizing the acceptance of a grant in an amount not to exceed \$3,450,600 and entering into an agreement with the US economic development administration (EDA) relating to construction of an aviation incubator and related parking facility at the Duluth International Airport (the project), was introduced for discussion.

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

- - -

Resolution 01-0714, by Councilor Stenberg, approving DEDA agreement with James E. Williams pursuant to DEDA Resolution 01D-40, was introduced to discussion.

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

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 20 foot wide utility easement legally described as ten feet along the rear of Lots 6, 7, 35 and 36, Block 3, Oatka Beach Addition to Duluth; and

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

WHEREAS, the city planning commission approved unanimously the easement vacation petition at its September 11, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation described above, and as more particularly described on Public Document No. 01-0924-23.

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

Resolution 01-0717 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Jader Enterprises, Inc., in the amount of \$33,000, as approved by DEDA at its meeting of September 18, 2001, pursuant to DEDA Resolution No. 01D-042, a copy of which is on file in the office of the city clerk as Public Document No. 01-0924-24, is hereby approved.

Resolution 01-0719 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and Affordable Computer Solutions in the amount of \$28,000, as approved by DEDA at its meeting of September 18, 2001, pursuant to DEDA

Resolution No. 01D-43, a copy of which is on file in the office of the city clerk as Public Document No. 01-0925-25, is hereby approved.

Resolution 01-0720 was unanimously adopted.

Approved September 24, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0704, by Councilor Stover, designating portions of certain streets in the vicinity of Duluth Denfeld High School as resident permit parking zones; and specifying a fee for residents' parking permits, was introduced for discussion.

Councilor Eckenberg moved to table the resolution for the October 9 public hearing on this matter, which motion was seconded and unanimously carried.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STENBERG

01-030 (9503) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, TO CREATE A NEW ARTICLE XXIX TO PROVIDE FOR TRADITIONAL NEIGHBORHOOD DISTRICT.

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

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

Roger Reinert voiced support of this ordinance because it will stimulate new housing in older neighborhoods.

Councilor Stenberg moved to amend the ordinance by adding the following language to the end of Section 50-212:

"or other traditional neighborhood areas in the city with similar characteristics which the planning commission, after a public hearing, and the city council have determined are suitable for consideration under the criteria of this ordinance," which motion was seconded and unanimously carried.

Councilor Stenberg moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

01-037 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,345,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR HOGG

01-038 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$5,315,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR HOGG

01-039 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$2,700,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR STENBERG

01-036 - AN ORDINANCE TO RENAME SERVICE ROAD E/BULLIT STREET AS COUNTRY VIEW WAY (TEET).

- - -

BY COUNCILOR STOVER

01-035 - AN ORDINANCE AMENDING PARAGRAPH (D) OF SECTION 10.5 OF THE CITY CODE TO REQUIRE A FEE FOR APPEALS TO THE BUILDING APPEALS BOARD.

- - -

BY ALL CITY COUNCILORS

01-040 - AN ORDINANCE TO CREATE A NEW CHAPTER 29C FOR THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HUMAN RIGHTS; ESTABLISHING A DULUTH HUMAN RIGHTS COMMISSION; PROHIBITING CERTAIN DISCRIMINATION IN CONNECTION WITH CREDIT, EDUCATION, EMPLOYMENT, PUBLIC ACCOMMODATIONS, PUBLIC SERVICES, AND HOUSING AND REAL PROPERTY, BECAUSE OF RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, AGE, SEX, SEXUAL ORIENTATION, MARITAL STATUS, STATUS WITH RESPECT TO PUBLIC ASSISTANCE, DISABILITY AND FAMILIAL STATUS.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR ECKENBERG

01-034 (9504) - AN ORDINANCE DEDICATING A PUBLIC UTILITY EASEMENT ACROSS THE EASTERLY TEN FEET OF LOTS 11-16, BLOCK 59, NEW DULUTH FIRST DIVISION.

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

- - -

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

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

- - -

ORDINANCE NO. 9503

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, TO CREATE A NEW ARTICLE XXIX TO PROVIDE FOR TRADITIONAL NEIGHBORHOOD DISTRICT.

The city of Duluth does ordain:

Section 1. That Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

Article XXIX. Traditional Neighborhood District.

Sec. 50-211. Intent.

The Traditional Neighborhood District is provided for the revitalization or extension of existing neighborhoods, which are structured upon a network of interconnecting pedestrian oriented streets and other public spaces. The intent is to minimize traffic congestion, urban sprawl, infrastructure costs, and environmental degradation. Provisions are to adapt urban conventions which were normal in the United States from colonial times until the 1940's and historically were based on the following design principles; neighborhoods have identifiable centers and edges; edge lots are readily accessible to retail and recreation by nonvehicular means (a distance not greater than 1/4 mile); uses and housing types are mixed and in close proximity to one another; street networks are interconnected and blocks are small. Traditional Neighborhood Districts (TNDs) offer a mixture of housing types and prices, prominently sited civic or community buildings, and stores/offices/workplaces to provide a balanced mix of activities. Church and pre-school/elementary facilities are encouraged. A TND may be established by zoning ordinance map amendment for a Traditional Neighborhood District with completed TND plan including a detailed development plan to include; a regulating plan; thoroughfare standards and urban standards and other supporting material. A TND is not to be used as a vehicle for speculative zoning.

Sec. 50-212. Generally.

In order to provide for traditional neighborhood development of integrated design and function, the TND Traditional Neighborhood District is hereby established. The intent of such districts is to establish development according to an approved overall plan in which the quality of individual properties are protected through development standards. Because of varying characteristics of such neighborhoods and adjacent areas, certain standards are intended to be flexible and determined at the time of establishment of individual TNDs. Due to the nature of traditional neighborhood districts, consideration for creation of TNDs may only be considered for areas of the city located within the following census tracts: 12, 13, 14, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 31, 32, 33, 34, 37 and that portion of Census Tract 36 located between Grand Avenue and the St. Louis River, or other traditional neighborhood areas in the city with similar characteristics which the planning commission, after a public hearing, and the city council have determined are suitable for consideration under the criteria of this ordinance.

Sec. 50-213. Review and approval of neighborhood plan.

As part of any city council ordinance to establish a TND, the following shall be included, when applicable, after discussion, public hearing and recommendation of the city planning commission:

- (a) An approved general or master plan including (if applicable):
 - (1) Functional street classifications;
 - (2) Buffers at periphery (if deemed appropriate);
 - (3) General utility plan;
 - (4) Stormwater drainage plan; and
 - (5) General lot configuration;
- (b) A regulating plan including:
 - (1) Specifications for the contents of the general or master plan;
 - (2) List of permitted uses;
 - (3) List of conditional uses (if applicable):
 - (A) Standards for conditional uses;
- (c) A thoroughfare plan:

- (1) Thoroughfare standards;
- (d) Building types:
 - (1) Architectural styles;
- (e) Urban standards building types:
 - (1) Setbacks and building heights;
 - (2) Parking requirements;
- (f) Architectural standards:
 - (1) Building surface materials allowances or limitations.

Sec. 50-214. Permitted uses.

A building or premises in the district shall be used only for the purposes as provided for in the master plan and the regulating plan:

(a) Accessory buildings or uses incidental and secondary uses shall be addressed. Such accessory building shall be erected at the same time or after the construction of the principal building.

Sec. 50-215. Approval of plans for individual construction projects.

Before commencing with the construction or alteration of any building, or other structure or improvement on or to any parcel, the applicant shall first submit plans and specifications to the city building inspector for written certification that these regulations have been complied with. If the applicant or inspector are unclear as to the meaning, intent or applicability of the regulations, or if the applicant is aggrieved as to the interpretation of any official, the matter shall be submitted to the planning commission or committee thereof for clarification or determination.

- (a) A site plan as defined in this Chapter and including utilities serving the site;
- (b) Building elevation drawings, including notations as to specific building materials;
- (c) Sign elevation drawings (if applicable);

Sec. 50-216. Appeals.

(a) Appeals from administrative determinations. Any person aggrieved by an order or determination made pursuant to this Section who alleges that there has been an error made by any city administrative official in the enforcement or interpretation of this section may appeal such order or determination to the board of zoning appeals by filing written notice of appeal with the building official within 20 days after receiving notice of such order or determination. The notice of appeal shall recite the alleged error and shall set forth all other grounds for the appeal. If, after the hearing, the board of zoning appeals determines that an error has been made, it shall grant appropriate relief which is not inconsistent with the intent of this Section;

(b) Appeal to the city council. Any person aggrieved by a decision of the board of zoning appeals may appeal such decision to the city council by filing written notice of appeal with the city clerk within ten days after such decision is rendered.

Sec. 50-217. Variances.

Due to the intent, nature and standards adopted within a TND, no variances are permitted.

Sec. 50-218. Severability.

If any paragraph in these regulations or part thereof shall be invalid, illegal or inoperative for any reason, the remaining part so far as possible and reasonable shall be effective and fully operative.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 4, 2001)

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

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9
Nays: None -- 0

Passed September 24, 2001
Approved September 24, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9504

BY COUNCILOR ECKENBERG:

AN ORDINANCE DEDICATING A PUBLIC UTILITY EASEMENT
ACROSS THE EASTERLY TEN FEET OF LOTS 11-16, BLOCK 59,
NEW DULUTH FIRST DIVISION.

The city of Duluth does ordain:

Section 1. The city of Duluth does hereby dedicate for public use and benefit a utility easement in, under, over, upon, across and along the following described tract or parcel of land lying and being in the county of St. Louis, state of Minnesota. The tract or parcel is described as follows:

Lots 11 through 16, including part of vacated street adjacent to Lot 16, Block 59, New Duluth First Division;

and the utility easement is more particularly described as follows:

The easterly ten feet of Lots 11 through 16, including part of vacated street adjacent to Lot 16, Block 59, New Duluth First Division.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 4, 2001)

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

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9
Nays: None -- 0

Passed September 24, 2001
Approved September 24, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 9, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meetings held on July 9, July 23 and July 30, 2001, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-1009-01 Daniel King, et al. (20 signatures), resubmitting petition to reclassify from C-5 to R-3 property legally described as a 6.3 acre portion in Car Line Gardens. -- Assessor

01-1009-03 Semper Development, Ltd., submitting petition to vacate alley west of 45th Avenue West between Fourth Street and Grand Avenue. -- Assessor

01-1009-02 Tech Village, LLC, submitting application for concurrent use permit to install awnings on the Tech Village building on Superior Street between Lake Avenue and First Avenue East. -- Planning commission

01-1009-04 Minnesota state auditor submitting:

(a) City of Duluth management and compliance report for the year ended December 31, 2000;

(b) Western Lake Superior Sanitary District: (1) Financial report for the year ended December 31, 2000; (2) Management and compliance report for the year ended December 31, 2000;

(c) Spirit Mountain recreation area authority audit report for the years ended April 30, 2001 and 2000. -- Received

01-1009-26 Hovland Spirit Ridge, LLC, by William M. Burns, attorney, submitting communication regarding the proposed Spirit Ridge project (01-0529R and 01-0676R). -- Received

01-1009-27 The following submitting communications regarding the McQuade safe harbor project (01-0682R): (a) Minnesota department of natural resources commissioner; (b) Save Lake Superior Association. -- Received

01-1009-28 The following submitting communications regarding Minnesota Power's proposed Arrowhead 345 KV transmission line (01-0515R): (a) Terry Brown; (b) Brent Gurtek (French River, MN); (c) Cynthia Hagley; (d) Julie Klejeski; (e) Tom Kreager; (f) Richard B. Mills; (g) Connie Minowa; (h) Kriss Osbakken; (i) Jen Punzel (Superior, WI); (j) Vicki Sanville; (k) Thomas Stanley (Ashland, WI); (l) Richard R. Wentzel; (m) World Organization for Landowner Freedom (WOLF). - Received

01-1009-23 The following submitting communications regarding the proposed Denfeld High School resident permit parking zones (01-0704R): (a) Otis Anderson; (b) Julie Broman; (c) Anne Lambert; (d) Julie Maddy; (e) Linda Smith; (f) Thomas L. and Deanna L. Smith. -- Received

01-1009-24 The following submitting communications regarding the proposed human rights ordinance (01-040-O): (a) Nanette Frederick; (b) Diane Goldberg; (c) KL Lewis; (d) Rick Luck; (e) Sherry Ann Skelton; (f) Claudia Spees. -- Received

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REPORTS OF OFFICERS

01-1009-05 Assessor submitting letters of:

(a) Insufficiency of petition to reclassify from C-5 to R-3 property legally described as a 6.3 acre portion in Car Line Gardens (dated September 21, 2001);

(b) Sufficiency of petitions to:

(1) Vacate Stroll Avenue;

(2) Vacate 45th Avenue West between Fourth Street and Grand Avenue;

(3) Reclassify from C-5 to R-3 property legally described as a 6.3 acre portion in Car Line Gardens (dated October 1, 2001). -- Received

01-1009-06 Clerk submitting applications to Minnesota gambling control board for exemptions from lawful gambling licenses from:

(a) Order of Ahepa Duluth Chapter No. 267 (bingo) on November 18, 2001;

(b) Regents of the University of Minnesota (raffle) on February 17, 2002. --

Received

01-1009-25 Community development and housing division submitting 2002 CDBG funding requests. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-1009-07 Civil service board minutes of August 7, 2001, meeting. -- Received

01-1009-08 Duluth/North Shore sanitary district minutes of: (a) August 7; (b) September 11, 2001, meetings. -- Received

01-1009-09 Duluth transit authority: (a) Income statement for August 2001; (b) Minutes of: (1) June 20; (2) August 22, 2001, meetings. -- Received

01-1009-10 Planning commission minutes of August 14, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented on the poor conditions of fire escapes on Michigan Street.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 01-0515, granting a special use permit to Minnesota Power to upgrade and relocate a portion of an existing power transmission line located along the north and east sides of the Gary-New Duluth neighborhood, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to suspend the rules to consider Resolution 01-0751 at this time, which motion was seconded and unanimously carried.

Resolution 01-0751, by Councilor Stewart, denying a special use permit to Minnesota Power to upgrade and relocate a portion of an existing power transmission line located along the north and east sides of the Gary-New Duluth neighborhood, was introduced for discussion.

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

Bob Lindholm, representing Minnesota Power, spoke in support of Resolution 01-0515, cited: the volume of materials presented for the public record; the agencies that have reviewed the application; the need for the route that is being chosen; the environmental impact and the area in Gary-New Duluth is being relocated to a railroad right-of-way at a request of citizens.

Councilors inquired at great length of Mr. Lindholm for clarification to some of the issues he discussed.

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The following speakers spoke in support of Resolution 01-0751: George Crocker, executive director of the North American Water Office; Joseph Brandstrom; Mary Ann Laajala; John Miswagom; Mark Liebert; Linda Ceylor; Andrew Slade; Kay L. Lewis; Carol Overland, counsel for WOLF; Will Rhodes; Northeastern Minnesotans for Wilderness and Duluth Public Policy Alliance.

Some of the reasons cited were: there are a variety of other ways to accomplish the need of the grid's reliability and reinforcement; a number of contingency situations are worse off with this project; the security of already a brittle system would be worse off; the increased power generated would create an induced current in humans; air molecules could become so energized that breathing them in would be hazardous; this line restricts homeowners from building within 300 feet, but this can be installed as close as 100 feet to a residence; the need for this line is in question; the power for this line will not benefit those here in Duluth; this alternative is being chosen because it is the only one that is profitable for Minnesota Power; this line has been applied for previously and denied; the scenic views and trails in Western Duluth will be severely impacted; far more harm will be created than good; other agencies have not approved this yet; this is new construction, not an upgrade; the need for this has not been proven yet; this has not been approved by the environmental quality board, its just been allowed by exemption; no easement agreements have been received and this should be denied on a procedural basis and have the state of Minnesota's professional engineers review it.

Steven Chepelnik, president of the Gary-New Duluth Community Club, noted that the neighborhood supports this project.

Councilor Stenberg stated that he would not discuss or vote on this resolution, due to a conflict of interest.

Councilor Stewart felt that this a new corridor and that it should be required to meet the current standards under the code and thus be denied on procedural grounds because none of the code criteria are being met. He added that a need determination should be approved by the Minnesota public utilities commission and that the resolution of denial states legitimate standards.

Resolution 01-0515 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, Minnesota Power has submitted to the city council a request for a special use permit to upgrade the existing Arrowhead-Gary 115 kilo volt transmission line to a 345/115 kv double-circuit transmission line along the north and east sides of Gary-New Duluth; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that the state's hearing process and the findings and order of the EQB demonstrate that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, based upon the findings and conclusions of the EQB and the planning commission, which the council adopts, that a special use permit is hereby granted to Minnesota Power to allow for the upgrade of the existing Arrowhead-Gary 115 kilo volt transmission line to a 345/115 kv double-circuit transmission line along the north side and relocate to a new 100 foot wide right-of-way east of the DM&IR railroad tracks to the St. Louis River along the east side of Gary-New Duluth, on the condition that the project be limited to and constructed and maintained in accordance with the plans and documents submitted by Minnesota Power, dated June 6, 2001, including the application for exemption, 345/115-kv transmission line rebuild from Arrowhead substation to the St. Louis River, submitted to the Minnesota environmental

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

quality board; and in accordance with the ten conditions as ordered by the MEQB on March 15, 2001, as identified as Public Document No. 01-1009-11, and the record in this matter shall consist of this resolution and statement of purpose, the planning commission file, written submissions to the council, council proceedings and the findings, conclusions and order of the EQB.

Resolution 01-0515 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

Nays: Councilor Stewart -- 1

Abstention: Councilor Stenberg -- 1

Approved October 9, 2001

GARY L. DOTY, Mayor

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Resolution 01-0751 failed upon the following vote (Public Document No. 01-1009-21):

Yeas: Councilor Stewart -- 1

Nays: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

Abstention: Councilor Stenberg -- 1

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At this time, 8:30 p.m., the public hearing regarding the Denfeld resident permit parking zones began (Public Document No. 01-1009-30).

-- --

At this time, 9:23 p.m., the hearing was adjourned and the regular order of business was resumed.

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Councilor Hogg moved to suspend the rules to consider Resolution 01-0704, designating portions of certain streets in the vicinity of Duluth Denfeld High School as resident permit parking zones; and specifying a fee for residents' parking permits, by Councilor Stover, at this time, which motion was seconded and unanimously carried.

Councilor Ness moved to suspend the rules to remove the resolution from the table, which motion was seconded and unanimously carried

Councilors Hogg, Ness and Stenberg opposed the resolution for the following reasons: the majority of the problems in that area are behavioral on the part of teenagers and not just a parking problem; by passing this, the behavior of the few would be punishing the majority; many believe that having neighborhood schools is a benefit; a vast amount of residents do not want permit parking; all the parties are in this together and should be working towards a solution; more parking spaces are available this school year that were taken up from the construction last year; if other possibilities have been exhausted and a year from now the problem still exists, then there would be support for permit parking.

Resolution 01-0704 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 33-125 of the Duluth City Code, the parking areas of the sides of streets designated on the map of that portion of the city which is filed with the city clerk as Public Document No. 01-1009-13, are hereby designated as resident permit zones during each period from and including September 1 to and including June 15, between the times of 8:00 a.m. and 4:00 p.m. of any Monday through Friday therein.

RESOLVED FURTHER, that all no parking zones and other parking restrictions previously established by the city council which pertain to any parking area of any street designated as a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

resident permit parking zone or a no parking zone by this resolution shall remain in effect.

RESOLVED FURTHER, that pursuant to Section 33-126 of the Duluth City Code, the following indicated fees shall be charged by the city clerk for permits issued pursuant to Article VIII of Chapter 33 of said Code.

Resident's permit	\$3
Regular visitor's permit	\$1
Special visitor's permit	-0-

Resolution 01-0704 was adopted upon the following vote:

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

Nays: Councilors Hogg, Ness and Stenberg -- 3

Approved October 9, 2001

GARY L. DOTY, Mayor

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Councilor Stenberg moved to remove Resolution 01-0573, affirming the decision of the board of zoning appeals to deny a request to construct five dwellings on parcels of property reducing the required lot area for two dwellings from 5,000 square feet to 3,000 square feet; two dwellings to 3,500 square feet and one dwelling to 3,600 square feet; to reduce the required frontage on a maintainable street for each lot from 50 feet to 30 feet, 35 feet and 36 feet respectively; and to relax the front yard setback from 25 feet to ten feet, the corner side yard setback from 15 feet to nine feet and the aggregate side yard setback from 12 feet to ten feet on property located at 5109-5119 Ramsey Street; and Resolution 01-0574, reversing the decision of the board of zoning appeals to construct five dwellings on parcels of property reducing the required lot areas and setbacks on property located at 5109-5119 Ramsey Street, from the table, which motion was seconded and unanimously carried.

Resolution 01-0573 failed unanimously (Public Document No. 01-1009-12).

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Resolution 01-0574 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Deede Westermann, executive director of SVCNDA (Spirit Valley Citizens' Neighborhood Development Association) has appealed the decision of the board of zoning appeals to deny variances to construct five dwellings on parcels of property reducing the required lot area for two dwellings from 5,000 square feet to 3,000 square feet; two dwellings to 3,500 square feet and one dwelling to 3,600 square feet; to reduce the required frontage on a maintainable street for each lot from 50 feet to 30 feet, 35 feet and 36 feet respectively; and to relax the front yard setback from 25 feet to ten feet, the corner side yard setback from 15 feet to nine, and the aggregate side yard setback from 12 feet to ten feet; and

WHEREAS, an amended plan has been submitted proposing four single family dwellings with the same reduced lot sizes and setbacks as originally proposed; and

WHEREAS, this redesign is due to a partial vacation and rededication of the alley to the east of the subject property, which is before the council as Resolution 01-0743; and

WHEREAS, the property is located within an R-2 two-family residential zoning district; and

WHEREAS, Section 50-20.2 requires a minimum lot size of 5,000 square feet, 50 feet minimum frontage and a minimum front yard setback of 25 feet for dwellings in an R-2 zoning district; and

WHEREAS, Section 50-23(f) states that when a lot of record on July 14, 1958, is less than 50 feet in width, no side yard shall be less than five feet; and

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WHEREAS, Section 50-23(a) requires a minimum side yard setback on a corner lot of 15 feet for dwellings; and

WHEREAS, Section 50-23(i) requires a minimum aggregate side yard setback of 12 feet; and

WHEREAS, the city council has passed Article XXIX of Chapter 50 of the City Code, which authorizes traditional neighborhood district such as this proposal; and

WHEREAS, the board of zoning appeals denied the variance requests because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the building or land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the board of zoning appeals is not a legislative body and cannot rewrite current code; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the zoning code; and

WHEREAS, the tool which could allow this project, the community unit plan has been repealed; and

WHEREAS, dwellings could be built on the site which would comply with current code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning Code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of ___ (condition of land) ___, strict application of the zoning code to this property would result in ___ (practical difficulty or undue hardship) ___ to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the zoning code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity in that in 2000 the city council granted a similar variance to Northern Land Trust, and _____ that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of development of traditional neighborhoods that will become operative when Ordinance 9503 goes into effect, and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the board of zoning appeals' decision of July 24, 2001, is hereby reversed by the city council, and the appeal is granted.

Resolution 01-0574 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0690, authorizing the acceptance of a grant in an amount not to exceed \$3,450,600 and entering into an agreement with the US economic development administration (EDA) relating to construction of an aviation incubator and related parking facility at the Duluth International Airport (the project), from the table, which motion was seconded and unanimously carried.

Resolution 01-0690 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the city of Duluth hereby accepts a grant in an amount not to exceed \$3,450,600 from the EDA for the project, said funds to be deposited into Fund 0430.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a grant agreement with EDA for the project.

Resolution 01-0690 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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At this time, Councilor Hogg moved to suspend the rules to consider Resolution 01-0736, which motion was seconded and unanimously carried.

Resolution 01-0736, by Councilor Stenberg, authorizing an agreement with Stanius Johnson Architects in the amount of \$370,760 for architectural services related to an aviation incubator facility, was introduced for discussion.

Resolution 01-0736 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 01-1009-16 with Stanius Johnson Architects for architectural services related to the design and construction of an aviation incubator facility in an amount not to exceed \$370,760, payable from Fund 0430.

Resolution 01-0736 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0714, approving DEDA agreement with James E. Williams pursuant to DEDA Resolution 01D-40, from the table, which motion was seconded and unanimously carried.

Councilor Hogg opposed the resolution, because he felt that it was too expensive.

Resolution 01-0714 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and James E. Williams in the amount of \$225,000, payable from DEDA Capital Projects Fund No. 0865/District #3, as approved by the DEDA board at its meeting of October 1, 2001, pursuant to DEDA Resolution No. 01D-40, a copy of which is on file in the office of the city clerk as Public Document No. 01-1009-29, is hereby approved.

Resolution 01-0714 was adopted upon the following vote:

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

Nays: Councilor Hogg -- 1

Approved October 9, 2001

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 01-1009-14, which is levied to collect delinquent stormwater utility fees payable during the period of January 1, 2000, to December 31, 2000, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 01-0722 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Resolution 01-0044 to Inter-City Oil Company for furnishing fuel as needed during the year 2001, be amended to increase the amount by \$188,000 for a new total of \$551,150, payable out of Fleet Services Fund 0660, Dept./Agency 015, Organization 1560, Object

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

5212.

Resolution 01-0732 was unanimously adopted.
Approved October 9, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for repairs and coating of the tiger exhibit overlook deck at Lake Superior zoological gardens for the city architects division in accordance with specifications on its low specification bid of \$28,600, terms net 30, FOB job site, payable out of Special Projects Fund 0210, Dept./Agency 030, Organization 2102, Object 5401.

Resolution 01-0733 was unanimously adopted.
Approved October 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

ANIMAL HUMANE BOARD - Gerald Abelsen and Mary Jane Smythe for terms expiring October 31, 2006.

Resolution 01-0728 was unanimously adopted.
Approved October 9, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

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

WATER AND GAS SERVICE HEARING BOARD - Marsha Edgerton and Donald Mantay for terms expiring September 1, 2004.

Resolution 01-0729 was unanimously adopted.
Approved October 9, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

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

Section 1. Recitals.

1.01 The city of Duluth, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, have submitted a petition to the Minnesota pollution control agency (the MPCA) requesting creation of the Duluth/North Shore Sanitary District (the sanitary district) pursuant to Minnesota Statutes, Sections 115.18 through 115.37 (the act). (The city of Duluth, the town of Duluth and the town of Lakewood are herein referred to collectively as the municipalities.)

1.02 On January 25, 2000, the MPCA issued an order approving creation of the sanitary district (the order). The order was published in the state register on January 31, 2000.

1.03 On March 1, 2000, the time for appeal of the order having expired, a certified copy of the order was duly filed with the Minnesota secretary of state, and creation of the sanitary

district was thereupon deemed complete under the act.

1.04 The act requires that the municipalities elect a board of managers for the sanitary district (the board of managers) as soon as practicable after creation of the sanitary district.

1.05 Pursuant to Section 115.23, Subdivision 7 of the act, the municipalities may elect a board member or members by resolutions adopted by all of them separately, concurring in the election of the same person or persons.

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following persons, each of whom is a registered voter residing in the area of the sanitary district, be nominated for election to the board of managers for the terms indicated:

(a) Rick Certano of the municipality, whose term shall expire on the first business day of January, 2005;

(b) Mary Ann Sironen of the town of Duluth, whose term shall expire on the first business day of January, 2005;

Section 3. Election of board of managers. Election of the above named persons to the board of managers of the sanitary district is hereby approved and such persons are hereby elected for the terms indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions from the town of Duluth and the town of Lakewood, the clerk is directed to certify the results of this election to the secretary of the MPCA, to the auditor of St. Louis County and make and transmit to each board member elected a certificate of the board member's election.

Resolution 01-0739 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth planning department and Lincoln Park neighborhood residents have developed the Lincoln Park Restoration and rehabilitation project improvement framework for Lincoln Park city park; and

WHEREAS, a primary goal identified in the improvement framework is the restoration of the walls and bed of Miller Creek in order to improve stormwater runoff and habitat; and

WHEREAS, the state of Minnesota, through the Minnesota department of natural resources (DNR) division of waters, administers financial assistance for coastal management purposes through Minnesota's Lake Superior coastal program; and

WHEREAS, the stormwater utility of the city of Duluth and the department of planning and development desire financial assistance from the coastal management assistance program for the purpose of restoring the walls and creek bed of Miller Creek.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application to the DNR in an amount of \$120,000 for a 75 percent federal share of funding for the Lincoln Park Miller Creek restoration project, said monies, if awarded, to be deposited into Stormwater Utility Fund 535, Org. 0585, Obj. 5303.

BE IT FURTHER RESOLVED, that in the event the grant is awarded, the proper city officers are authorized to execute any and all of the grant agreements necessary for the implementation of said grant and the city of Duluth does agree to provide a local matching funds of \$40,000 from Stormwater Utility Fund 535, Org. 0585 Obj. 5303.

Resolution 01-0727 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the act), the city of Duluth, Minnesota (the city) is a suballocator of low income housing tax credits (LIHTCs); and

WHEREAS, the city's 2002 allocation of LIHTCs is estimated at \$233,000; 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 2002 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city received one application for the LIHTCs, an application of The Communities Group for its Renaissance at East Hillside project requesting an allocation of 2002 LIHTCs in the amount of \$177,790 (the project); and

WHEREAS, the application for the project has been scored in accordance with the plan; and

WHEREAS, the Duluth housing commission, at its August 16, 2001, meeting, recommended allocating LIHTCs to the project in the amount of \$177,790; and

WHEREAS, the LIHTC requested for the project does not exceed the city's estimated 2002 allocation of LIHTCs; and

WHEREAS, the city has entered into a joint powers agreement (the agreement) with the Minnesota housing finance agency (MHFA), pursuant to which MHFA has agreed to administer the allocation of the city's 2002 LIHTC in accordance with the city's plan.

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

(a) The city hereby finds and determines that the application for the project is complete in all material respects and meets the selection criteria set forth in the plan;

(b) The request for the 2002 LIHTC allocation in the amount of \$177,790 for the project does not exceed the amount which is necessary for the project's financial feasibility and viability as qualified low-income housing projects throughout the ten year credit period;

(c) In making the determination set forth above, the city considered the following with respect to the application submitted:

(1) The sources and uses of funds and the total financing planned for the project;

(2) Any proceeds or receipts expected to be generated by reason of tax benefits;

(3) The percentage of the housing credit dollar amount used for costs of the project other than the cost of intermediaries; and

(4) The reasonableness of the developmental and operational costs of the project;

(d) The selection of The Communities Group to receive \$177,790 of the city's 2002 LIHTC allocation for the project;

(e) The return to MHFA of the city's 2002 allocation of LIHTCs in excess of \$177,790 to be allocated to The Communities Group is hereby approved;

(f) Staff is authorized and directed to work with MHFA and The Communities Group to implement the terms of the agreement;

(g) Staff is additionally authorized to prepare, execute and deliver all documentation necessary or convenient to provide for the commitment, carryover and allocation and return of such credits, based on findings made in accordance with the requirements of the code at each of such steps, and subject to such conditions as the staff in their reasonable discretion deem appropriate and necessary to comply with the intent and policies set forth in the plan.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0731 was unanimously adopted.
 Approved October 9, 2001
 GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2000 CDBG accounts set forth below; and
 WHEREAS, the community development committee (CD committee) for the CDBG program has recommended funding transfers as set forth below in order to complete the Hillside streetscape project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program 0262-2000 HUD-funded CDBG accounts as set forth below:

2000 CDBG Transfers				
Project #	Project	Budget amount	New amount	Amount of decrease
6335	Contingency	\$ 33,000	\$ 28,000	\$5,000
6307	Hillside streetscape II and III	\$145,028	\$150,028	\$5,000

Resolution 01-0737 was unanimously adopted.
 Approved October 9, 2001
 GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 1999 CDBG accounts; and
 WHEREAS, the community development committee (CD committees) for the CDBG program has recommended funding transfers as set forth below in order to complete the Lower Chester improvement project.

NOW, THEREFORE BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 0262-1999 HUD-funded CDBG accounts as set forth below:

1999 CDBG Transfers				
Project #	Project	Budget amount	New amount	Amount of increase
6209	Lower Chester	\$46,600	\$61,318	\$14,718
6244	Contingency	\$16,000	\$ 1,282	\$14,718

Resolution 01-0738 was unanimously adopted.
 Approved October 9, 2001
 GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the city of Duluth did, on June 10, 1996, approve Resolution 96-0525 and did enter into a grant agreement (City Contract No. 17704) and did on August 9, 1999, unanimously adopt Resolution 99-0613 extending the agreement with the Minnesota pollution control agency for a clean water partnership grant to conduct the Miller Creek watershed preservation and restoration project; and

WHEREAS, the Miller Creek diagnostic study and implementation plan, clean water partnership Phase 1 report has been submitted to the city council for review and approval and said study and implementation plan was referred to the city planning commission for study and comment and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that the project is in the best interests of the community and the environment of Miller Creek.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the Miller Creek diagnostic study and implementation plan, clean water partnership Phase 1 report.

Resolution 01-0718 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the amendments to agreements between the Duluth economic development authority (DEDA) and HRA and DEDA and SVCNDA, as approved by the DEDA board at its meeting of September 18, 2001, pursuant to DEDA Resolution No. 01D-39, a copy of which is on file in the office of the city clerk as Public Document No. 01-1009-15, is hereby approved.

Resolution 01-0721 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to accept the donation of the below described property in St. Louis County, Minnesota, from James and Joyce R. Ekstrom and to execute all documents necessary with regard thereto:

Lots 20 through 27 inclusive, Block 17, CLIFTON HEIGHTS First Division.

FURTHER RESOLVED, that the city hereby expresses its appreciation for said donation to the Ekstroms.

Resolution 01-0723 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, on September 18, 1995, the city council approved Resolution 95-0843 granting a special use permit to Stephen E. Paulson, d.b.a. as Storage King, for a mini storage facility in an S Suburban zone on property described as: all that part of the NW1/4 of the SW1/4 of the SW1/4, Section 5, Township 50 North, Range 14 West, of the Fourth Principal Meridian, lying southerly of the public highway as now existing, according to the United States government survey thereof, situated in St. Louis County, Minnesota, containing nine acres more or less and located

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

at 4514 Rice Lake Road, which special use permit was amended pursuant to Resolution 96-0921 on November 12, 1996, and which was further amended pursuant to Resolution 97-129 on January 10, 1997; and

WHEREAS, Steven E. Paulson has submitted to the city council a request for an amendment to said special use permit for and additional building for said mini-storage facility; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the above-referenced special use permit is hereby amended to allow for the addition of an additional storage building on the above-described property, as identified on Public Document No. 01-1009-17.

Resolution 01-0740 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an alley legally described as alley adjoining Blocks 54 and 55, Bayview Addition No. 2; and

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

WHEREAS, the city planning commission approved unanimously the alley vacation petition at its September 26, 2001, 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. 01-1009-18.

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

Resolution 01-0741 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley located on the north of Ramsey Street between 51st and 52nd avenues West, legally described as the alley adjacent to Lot 16, Block 188, and Lot 16, Block 189 West Duluth Seventh Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, after due consideration, the city planning commission determined that the

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petitioners had failed to demonstrate that no future need for any alley could be shown and recommended denial unless the petitioner could dedicate alternative lands necessary to maintain a 16 feet wide easement; and

WHEREAS, the petitioner has in its control lands sufficient to maintain a 16 foot alley easement located five feet to the east of its current location and petitioner is willing to dedicate these lands for alley easement purposes, such dedication contingent upon the city's vacation of the westerly five feet of said right-of-way adjacent to Lot 16, Block 189, West Duluth Seventh Division; and

WHEREAS, such relocation of the alley easement will not have a negative effect on the city's ability to use the easement in the future; and

WHEREAS, the city planning commission approved unanimously the vacation petition with retention of a utility easement and replacement roadway easement at its August 14, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the westerly five feet of the alley described above and as more particularly described on Public Document No. 01-1009-19.

BE IT FURTHER RESOLVED, that the westerly five feet of the alley vacation described above be retained as a utility easement.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the alley to be vacated and the portion retained as a utility easement.

BE IT FURTHER RESOLVED, that the city council accepts the dedication of an alley easement as more particularly described on Public Document No. 01-1009-19 and authorizes the appropriate city officials to accept title documents in substantially the form of said public document and record the same.

Resolution 01-0743 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Corporation for A Skilled Workforce, to provide strategic planning facilitation services, including pre and post planning and expenses, to the Duluth Workforce Council, Inc., for a one day (7.5 hour) planning session to occur during the month of October 2001, at a cost not to exceed \$2,350. One third of such costs (\$783) to be reimbursed by the governor's workforce development council. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 01-1009-20.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Item 6240.

Resolution 01-0724 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to accept \$171,427 in Workforce Investment Act adult funds from the Minnesota department of economic security in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

accordance with City Contract No. 18880, Resolution No. 01-0250, passed April 9, 2001. Said monies to be used to provide work force development services to adults under the Workforce Investment Act, as defined in the program year 2001-2002 local plan for adult services, from July 1, 2001, through June 30, 2003. Funds received will be deposited in Fund No. 268, Budget Item 6248.

Resolution 01-0725 was unanimously adopted.
Approved October 9, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, the Spirit Mountain recreation area was established by legislation in 1973 to develop a wide range of recreational facilities to serve local residents and tourists; and

WHEREAS, direct tourist spending attributable to visits to Spirit Mountain recreation area have an impact in excess of \$7.7 million annually; and

WHEREAS, enhancement of the facilities at Spirit Mountain will provide significant positive impacts on the local, regional and state economies; and

WHEREAS, enhancement of Spirit Mountain facilities will contribute to increased use of the facility and corresponding increase in local and tax revenue attributable to tourist spending; and

WHEREAS, the facilities most in need of improvement include a new chair lift, expansion of family skiing area, renovation and expansion of snow making equipment and remodeling of the chalet and banquet facilities;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth respectfully requests the state of Minnesota provide an allocation of general obligation bond proceeds to finance improvements to facilities at the Spirit Mountain recreation area.

FURTHER RESOLVED, that a bond allocation in the amount of \$3,175,000 be provided to be matched by a like sum from nonstate sources on a dollar-for-dollar basis to cover the costs of improving facilities at the Spirit Mountain recreation area.

Resolution 01-0748 was unanimously adopted.
Approved October 9, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city has received a petition from owners of 89.91 percent of the abutting property to construct a bituminous surfacing of 103rd Avenue West concrete alley between McGonagle Street and 102nd Avenue West.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 01-0726 was unanimously adopted.
Approved October 9, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that Humes Plumbing and Heating be and hereby is awarded a contract for I&I separation/discharge to disconnect nine houses at West Mankota Street from Elysian Avenue to Kolstad Avenue for the utility operations division in accordance with specifications on its low specification bid of \$42,660, terms net 30, FOB job site, \$21,330 payable out of Sewer Fund 0530, Dept./Agency 500, Organization 1970, Object 5482 and \$21,330 payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0735 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

BE IT RESOLVED, that the proper city officials are authorized to pay to Donna L. Jourdain, her attorney, Gary Stoneking, and the state of Minnesota the sum of \$24,000 in full settlement of all claims arising from an accident on December 3, 1998; payment to be made from the self insurance fund.

Resolution 01-0744 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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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 Great Lakes coastal restoration grant program;

NOW, THEREFORE, BE IT RESOLVED, as follows:

(a) That the Duluth City Council approves of and supports the city administration in filing an application to Minnesota's Lake Superior coastal management program for financial assistance toward the remediation of the Sargent's Creek dump site in Gary-New 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; and

(c) That the city of Duluth does agree to obligate the funds required to satisfactorily complete the proposed remediation project and become eligible for reimbursement under the terms and conditions of the Great Lakes coastal restoration grant program. Matching funds to come from the city's Self Insurance Fund 0605.

Resolution 01-0745 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0715, by Councilor Stenberg, denying a concurrent use permit to Carla Blumberg for a deck in the right-of-way of 19th Avenue East adjacent to 1902 East Eighth Street, was introduced for discussion.

Councilor Stenberg moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0742, by Councilor Stenberg, vacating Robin Avenue between Rainbow Street and Walnut Street in Duluth Heights (Boyer), was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Bruce Boyer requested support for the resolution.

Resolution 01-0742 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Robin Avenue legally described as Robin Avenue adjoining Lot 1, Block 2, and Lot 32, Block 2, Birch Hill Division, and Lot 12, Block 3, Duluth Heights Garden Tracts; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the street vacation petition at its September 26, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation described above and as more particularly described on Public Document No. 01-1009-22.

BE IT FURTHER RESOLVED, that the full 66 foot right-of-way be retained as a utility and pedestrian easement.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated and the portion retained as a utility and pedestrian easement.

Resolution 01-0742 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR FENA:

WHEREAS, the Aerial Lift Bridge in Duluth is a unique Minnesota landmark and one of the state's leading tourist attractions; and

WHEREAS, deterioration with age of electrical, mechanical and structural features of the bridge has required a complete rehabilitation of this landmark; and

WHEREAS, the total cost of the rehabilitation project is \$10.3 million; and

WHEREAS, the city has invested \$6.5 million in rehabilitation of the bridge to date without seeking special appropriations from the state; and

WHEREAS, the city has directed a substantial amount of its state aid funding which would otherwise be used on citywide street improvement projects toward the bridge rehabilitation project; and

WHEREAS, the remaining cost to complete the rehabilitation of the Aerial Lift Bridge is \$3.8 million; and

WHEREAS, the city of Duluth will commit an additional \$1,900,000 to match state funds to complete the rehabilitation of the Aerial Lift Bridge;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth respectfully requests that the state of Minnesota provide an allocation of general obligation bond proceeds to finance a portion of the costs to complete rehabilitation of the Aerial Lift Bridge.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

FURTHER RESOLVED, that a bond allocation in the amount of \$1,900,000 be provided to be matched by a like sum from local sources on a dollar-for-dollar basis to cover the remaining costs of rehabilitating the Aerial Lift Bridge.

Resolution 01-0747 was unanimously adopted.

Approved October 9, 2001

GARY L. DOTY, Mayor

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Resolution 01-0730, by Councilor Eckenberg, of intent to construct a permanent design bituminous alley in 61st Avenue West Alley between Bristol Street and Greene Street (City Job No. 0076TR), was introduced for discussion.

Council Hogg expressed his concern that a minority of property owners can start the process for street improvements but that a majority of property owners is needed to stop it.

Resolution 01-0730 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, the city has received a petition from owners of 46.31 percent of the abutting property to construct a permanent design bituminous alley in 61st Avenue West Alley between Bristol Street and Greene Street.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 01-0730 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: Councilor Hogg -- 1

Approved October 9, 2001

GARY L. DOTY, Mayor

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Resolution 01-0746, by Councilor Eckenberg, awarding contract to Quality Underground Services for construction of gas main in Aspenwood pocket conversion areas in the amount of \$77,623, was introduced for discussion.

Councilor Hogg stated that his residence is in this area, so he would be abstaining from voting.

Resolution 01-0746 was adopted as follows:

BY COUNCILOR ECKENBERG:

RESOLVED, that Quality Underground Services be and hereby is awarded a contract for construction of a three inch and two inch plastic gas main in Aspenwood pocket conversion areas for the utility operations division in accordance with specifications on its low specification bid of \$77,623, terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 01-0746 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Approved October 9, 2001
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

01-042 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CARLA BLUMBERG FOR A DECK IN THE RIGHT-OF-WAY OF 19TH AVENUE EAST LOCATED ADJACENT TO 1902 EAST EIGHTH STREET.

- - -

BY COUNCILOR STENBERG

01-043 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NUMBER 23 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE NORTH SIDE OF TRINITY ROAD WEST OF 2528 TRINITY ROAD (DULUTH KEYSTONE LLC).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

01-037 (9505) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,345,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimous vote.

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BY COUNCILOR HOGG

01-038 (9506) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$5,315,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimous vote.

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BY COUNCILOR HOGG

01-039 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$3,000,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Hogg noted that there is more information coming on this project and moved to table the ordinance, which motion was seconded and unanimously carried.

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BY COUNCILOR STENBERG

01-036 (9507) - AN ORDINANCE TO RENAME SERVICE ROAD E/BULLIT STREET AS COUNTRY VIEW WAY (TEET).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Councilor Stenberg moved passage of the ordinance and the same was adopted upon a unanimous vote.

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BY COUNCILOR STOVER

01-035 - AN ORDINANCE AMENDING PARAGRAPH (D) OF SECTION 10-5 OF THE CITY CODE TO REQUIRE A FEE FOR APPEALS TO THE BUILDING APPEALS BOARD.

Councilor Stewart noted that more information has been requested and moved to table the ordinance, which motion was seconded and unanimously carried.

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BY COUNCILORS ECKENBERG, EDWARDS, FENA, GILBERT, HOGG, NESS, STENBERG, STEWART AND STOVER

01-040 (9508) - AN ORDINANCE TO CREATE A NEW CHAPTER 29C FOR THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HUMAN RIGHTS; ESTABLISHING A DULUTH HUMAN RIGHTS COMMISSION; PROHIBITING CERTAIN DISCRIMINATION IN CONNECTION WITH CREDIT, EDUCATION, EMPLOYMENT, PUBLIC ACCOMMODATIONS, PUBLIC SERVICES, AND HOUSING AND REAL PROPERTY, BECAUSE OF RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, AGE, SEX, SEXUAL ORIENTATION, MARITAL STATUS, STATUS WITH RESPECT TO PUBLIC ASSISTANCE, DISABILITY AND FAMILIAL STATUS.

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At this time, 10:55 p.m., the rules were unanimously suspended to extend the meeting until 11:15 p.m.

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The rules were suspended upon a unanimous vote to hear from speakers on the ordinance. Max Dakota, CJ Bird, Mary Ness and Kay L. Lewis spoke in support of the ordinance because this is one of the most important actions the council has addressed and this help from the city is needed.

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At this time, 11:13 p.m., the rules were unanimously suspended to extend the meeting until 11:30 p.m.

- - -

Gina DeVaney, Chuck Cox, Henry Koski and Paul Charles opposed specific references in the ordinance relative to sexual orientation.

Councilor Hogg moved to amend the subparagraph 29C-5(e) of the ordinance by:

- (a) Deleting the word "reports" and inserting the phrase "an annual written report";
- (b) Deleting the phrase "as requested by the city council" and inserting the phrase "which report shall also be released directly to the community and local news media," which motion was seconded and unanimously carried.

The amended ordinance was adopted upon a unanimous vote.

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The meeting was adjourned at 11:25 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9505

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,345,000 GENERAL OBLIGATION REVENUE

BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Sections 115.46 and 444.075 and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue general obligation sewer utility revenue bonds in the maximum amount of \$1,345,000 for the purpose of paying costs of the improvement program and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city has heretofore issued and sold general obligation sewer utility revenue bonds dated June 1, 1995, now outstanding in the amount of \$1,450,000; dated June 1, 1995, now outstanding in the amount of \$590,000; dated December 1, 1995, now outstanding in the amount of \$290,000; dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$475,000; dated December 1, 1998, now outstanding in the amount of \$900,000; dated December 1, 1999, now outstanding in the amount of \$1,675,000; and dated December 1, 2000, now outstanding in the amount of \$570,000. Under the provisions of the ordinances authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated June 1, 1995, December 1, 1995, May 1, 1998, December 1, 1998, December 1, 1999, and December 1, 2000.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds of the city of Duluth in the maximum amount of \$1,345,000 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 15, 2001)

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 9, 2001
Approved October 9, 2001
GARY L. DOTY, Mayor

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ORDINANCE NO. 9506

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$5,315,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL GAS UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal gas utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal gas utility pledged for their payment.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal gas utility, and determines it is necessary to issue general obligation gas utility revenue bonds in the maximum amount of \$5,315,000 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 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation gas utility revenue bonds of the city of Duluth in the maximum amount of \$5,315,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal gas utility. Net revenues are defined as sums from time to time within the gas utility operating account within the gas utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal gas utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.04 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal gas utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal gas utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. Terms of bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such manner and at such time or times as shall be deemed in the public

interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475, and other applicable laws.

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal gas utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Certification of proceedings.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds, as such facts appear from the official books and records in the officers' custody and are otherwise known to them. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 14, 2001)

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 9, 2001
Approved October 9, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9507

BY COUNCILOR STENBERG:

AN ORDINANCE TO RENAME SERVICE ROAD E/BULLIT STREET
AS COUNTRY VIEW WAY (TEET).

The city of Duluth does ordain:

Section 1. That the following public thoroughfare shall be and is hereby renamed Country View Way, that roadway located in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼), Section 26, Township 51 North, Range 13 West, St. Louis County, Minnesota, located

south of and along the northern westerly right-of-way of Minnesota Highway No. 61 and lying west of McDonald Road.

Section 2. That the city clerk, upon passage of this ordinance, shall:

- (a) Notify the director of public works and utilities to proceed with the erection of street signs relating to such change;
- (b) Notify the property owners within 300 feet of the street; and
- (c) Notify the following agencies and utilities of the specific changes:
 - (1) Business office of QWest Communications;
 - (2) Manager of delivery and collection, main post office;
 - (3) County auditor, St. Louis County;
 - (4) President, Minnesota Power;
 - (5) Chief, Duluth fire department;
 - (6) Chief, Duluth police department;
 - (7) Director, department of public works and utilities;
 - (8) City assessor;
 - (9) Voter registration department;
 - (10) Minnesota department of transportation;
 - (11) St. Louis County 911 agency.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: November 18, 2001)

Councilor Stenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 9, 2001
Approved October 9, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9508

BY COUNCILORS ECKENBERG, EDWARDS, FENA, GILBERT, HOGG, NESS, STENBERG, STEWART AND STOVER:

AN ORDINANCE TO CREATE A NEW CHAPTER 29C FOR THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO HUMAN RIGHTS; ESTABLISHING A DULUTH HUMAN RIGHTS COMMISSION; PROHIBITING CERTAIN DISCRIMINATION IN CONNECTION WITH CREDIT, EDUCATION, EMPLOYMENT, PUBLIC ACCOMMODATIONS, PUBLIC SERVICES, AND HOUSING AND REAL PROPERTY, BECAUSE OF RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, AGE, SEX, SEXUAL ORIENTATION, MARITAL STATUS, STATUS WITH RESPECT TO PUBLIC ASSISTANCE, DISABILITY AND FAMILIAL STATUS.

The city of Duluth does ordain:

Section 1. That a new Chapter 29C be added to the Duluth City Code, 1959, as amended, to provide as follows:

CHAPTER 29C.
HUMAN RIGHTS.

Article I.

Sec. 29C-1. Declaration of policy and purpose.

The city council of the city of Duluth finds that discrimination because of race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, status with respect to public assistance, disability and familial status and discrimination in connection with real property financing or loans because of the social, economic or environmental conditions in which the real property is located, adversely affects the welfare of persons in the city of Duluth. Such discrimination detracts from the dignity and morale of persons in the city and adversely affects the functioning of democracy in the city. The principal purpose of this Chapter is to establish and further certain human rights in the situations hereinafter described. This Chapter shall be construed to set a public standard which is enforceable through compliance actions by the city of Duluth. Discriminatory practices which violate such rights are hereby declared to be unlawful and the adoption of this Chapter is deemed to protect such rights.

The policies and purposes inherent in this Chapter are:

- (a) To encourage all persons in the city to join in the establishment and preservation of certain human rights;
- (b) To declare that all persons in the city shall have, as certain civil and human rights, opportunities for obtaining credit, education, employment, public accommodations, public services and housing and real property, without regard to race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, status with respect to public assistance, disability and familial status;
- (c) To prohibit and prevent discriminatory practices based on race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, status with respect to public assistance, disability and familial status;
- (d) To protect all persons from unfounded charges of discrimination;
- (e) To effectuate the aforesaid policies and purposes by providing information, education, mediation, conciliation and enforcement;
- (f) To resolve complaints in an expeditious manner and to support the ability of parties to resolve complaints through dispute resolution processes.

Nothing in this Chapter shall be interpreted to restrict or prohibit the implementation of any positive or affirmative action program which is authorized by any law or court order to counter discrimination.

Sec. 29C-2. Definitions.

For the purposes of this Chapter, the definitions contained in Minnesota Statutes Section 363.01 are incorporated by reference into this Section. In addition, the following words and phrases shall have the meanings given them.

Commission. The Duluth human rights commission.

Complainant. The charging party.

Authorized community organization. A community organization selected and trained by the commission which agrees to work cooperatively with the commission and to undertake investigations consistent with the requirements of this Chapter.

Respondent. A person against whom a complaint has been filed or issued.

Rules. Rules to implement the provisions of this Chapter, and adopted by the human rights commission.

Sec. 29C-3. Duluth human rights commission - created.

There is hereby created a permanent Duluth human rights commission which shall consist of 15 members, who shall be appointed by the mayor and be subject to the approval of the city council.

Sec. 29C-4. Same--Terms of office, qualifications, compensation.

The 15 persons first appointed and approved for membership on the commission shall be appointed for the following terms: five persons shall be appointed for a term of three years, one of whom shall be selected as chairperson; five persons shall be appointed for a term of two years; and five persons shall be appointed for a term of one year. Thereafter, any person appointed to the commission shall be appointed for a term of three years. Any member or former member may be reappointed. Members shall serve without compensation.

Sec. 29C-5. Same--Powers and duties generally.

The commission shall have the following powers and duties:

(a) To receive any complaint of a violation of this Chapter within one year after the occurrence of the alleged violation;

(1) Complaint. The commission may accept complaints for action consistent with this Chapter. All complaints must be verified and made in writing on forms provided by the commission and signed by a complainant (the complainant). When any complaint is accepted by the commission, the commission shall serve notice to the complainant, as required by Section 363.116 of Minnesota Statutes, as to the complainant's options and rights relative to the Minnesota Human Rights Act and any time limitations for exercising those rights;

(2) Priority case. The commission shall give priority to investigating and processing those complaints in which there is evidence of irreparable harm if immediate action is not taken. If, at any time after the acceptance of a complaint, the human rights officer has reason to believe that a respondent has engaged in any unfair discriminatory practice, the human rights officer may file a petition in the district court seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this Chapter, including an order or decree restraining the respondent from doing or procuring an act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have the power to grant temporary relief or a restraining order as it deems just and proper. No relief or order extending beyond the time required to properly investigate the complaint and allow the commission to determine whether there is probable cause to believe a violation occurred shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice;

(3) Notice to respondent and answer. When a complaint is accepted, the commission shall within ten days serve a copy of the complaint on the party alleged to be making the discriminatory practice (the respondent) personally or by mail and shall include a statement of the respondent's procedural rights and obligations under this Chapter and a form for the filing of an answer to the complaint. An answer shall be filed by the respondent within 20 days of service of

the complaint on the respondent. Failure to file an answer by a respondent may be considered an admission of the allegations in the complaint;

(4) Transfer to state. The commission may transfer any complaint to the state commissioner of human rights for further proceedings. Unless or until such complaint is so transferred, the commission may investigate such complaint and may determine whether there is probable cause to believe that a violation has occurred. The filing of a complaint with the commission shall preclude the option of filing the same charge with the state and the filing of a charge with the state shall preclude the option of filing the same complaint with the commission;

(5) Delegation to authorized community organization. The commission may delegate to an authorized community organization the authority to investigate a complaint consistent with the requirements of this Chapter;

(6) Investigation. The human rights officer, or any agency or person designated by the commission, shall utilize the office of the city attorney to subpoena persons and documents in its investigation. The human rights officer, or any agency or person designated by the commission, shall commence its investigation upon accepting the complaint and shall complete its investigation within 60 days following the acceptance of the complaint;

(7) Mediation. At any time, including prior to the acceptance of a complaint, either party may request that mediation be undertaken or the human rights officer or commission may direct the parties to undertake mediation. Mediation may be conducted by any appropriate neutral third party and may include any form of alternative dispute resolution, including binding or nonbinding arbitration. The commission may establish rules for the conduct of mediation and the formation of conciliation agreements;

(8) Probable cause. Within 30 days following completion of the investigation, the commission or such members of the commission as may be designated, but not fewer than five commissioners, shall meet and determine whether there is probable cause to believe a violation has occurred. The human rights officer shall present the evidence obtained during the investigation. The commission shall adopt rules to govern the conduct of hearings held to review evidence and make a finding of probable cause. Any determination that there is probable cause to believe that a violation of this Chapter has occurred can be achieved only by a concurrence of not less than a majority of the members of the commission as have been designated to make such determination;

If the probable cause determination is not made within 100 days following the acceptance of the complaint, the complainant shall be informed in writing of the reasons why the determination has not been made;

(9) Conciliation agreement. If probable cause is found, the commission shall attempt to obtain voluntary compliance with the applicable provisions of this Chapter. Any conciliation agreement shall be signed by both parties and approved by the commission. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this Chapter;

(10) Referral to Duluth human rights commission or commissioner of the department of human rights. Any determination that there is probable cause to believe that a violation of this Chapter has occurred which relates to discrimina-

tion in connection with credit, education, employment, public accommodations and public services may be referred by the human rights officer to the commissioner of human rights pursuant to Section 363.116 of Minnesota Statutes;

(11) Action by commission. Housing and real property complaints. Any determination that there is probable cause to believe that a violation of this Chapter has occurred which relates to discrimination in connection with housing and real property may be prosecuted by the commission. If the commission determines that, as to complaints involving housing and real property, it cannot obtain voluntary compliance or if the respondent refuses to participate in alternative dispute resolution procedures within 30 days after a finding of probable cause, the human rights officer may prosecute the complaint and seek civil remedies pursuant to this Chapter. The city attorney or a qualified attorney-at-law designated by the commission shall serve as legal counsel to assist the human rights officer in fulfilling the duties of this Chapter. Any final action taken by the commission under this Chapter is subject to judicial review upon application of an aggrieved party;

(12) Staff. The city shall provide administrative and investigative personnel, through the city's general budgetary process, to undertake the requirements of this Chapter;

(b) To promote cooperation among all persons and groups for the purpose of effectuating the purposes and policies of this Chapter;

(c) To confer with and advise the city's equal opportunity representative;

(d) To recommend legislation to the mayor and the city council which will further equal opportunity in the city;

(e) To make an annual written report of its activities to the city council and the mayor, which report shall also be released directly to the community and local news media;

(f) To establish rules and procedures for the conduct of its business;

(g) The Duluth human rights commission shall have any of the powers and duties of a local commission, as defined in Chapter 363 of Minnesota Statutes. Sec. 29C-6. Human rights officer.

There is hereby established the position of human rights officer, which position shall have the following powers and duties:

(a) Directing, coordinating and overseeing the process used for receiving complaints of discrimination under this ordinance;

(b) Investigating discrimination complaints;

(c) Presenting evidence obtained during an investigation to the commission in order to enable the commission to determine if there is probable cause to believe that a violation of this Chapter has occurred which relates to discrimination;

(d) At any time after a complaint is filed, facilitating mediation or other alternative dispute resolution procedures between the complainant and the respondent;

(e) Taking any actions necessary to secure compliance with this Chapter, including litigation;

(f) Supervising staff; administering programs related to discrimination and affirmative action; providing resources to public and private organizations about

discrimination and remedies; preparing budgets and grant proposals and administering grants.

The human rights officer shall possess the following minimum employment qualifications:

A combination of education/experience which demonstrates proficiency in the following knowledge, skills and abilities:

- (a) Knowledge of regulations related to equal employment opportunity, affirmative action, discrimination and harassment;
- (b) Ability to read and interpret government documents;
- (c) Ability to communicate effectively in writing and speaking, including the ability to speak before large audiences;
- (d) Ability to maintain confidentiality;
- (e) Ability to work cooperatively with community groups;
- (f) Ability to collect, assemble and interpret data, and to make recommendations based on findings;
- (g) Ability to maintain effective working relationships with other staff members, the public and elected officials;
- (h) Ability to work with diverse groups and communities of color.

The human rights officer shall be appointed by the mayor with the approval of the city council and may only be removed by the mayor with the approval of the city council. The mayor shall consult with representatives of the human rights commission in the appointment process. The human rights officer shall be appointed solely on basis of the ability to perform the duties and functions of the office, as set forth in this Chapter.

Sec. 29C-7. Unfair discriminatory practices.

Section 363.03 of Minnesota Statutes, as it may be amended from time to time, is hereby incorporated by reference into this Section.

Sec. 29C-8. Violations.

- (a) No person shall commit an unfair discriminatory practice;
- (b) No person shall intentionally engage in any economic or other reprisal against any person because that person has opposed any conduct forbidden under this Chapter or has filed a complaint, testified, assisted or participated in any investigation, proceeding, or hearing under this Chapter, or because that person has associated with a person or group of persons of a certain or different race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, status with respect to public assistance or disability;
- (c) No person shall intentionally aid, abet, incite, compel or coerce a person to engage in any conduct forbidden by this Chapter;
- (d) No person shall intentionally attempt to aid, abet, incite, compel or coerce a person to engage in any conduct forbidden by this Chapter;
- (e) No person shall intentionally obstruct or prevent any person from complying with any provision of this Chapter, or resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of a duty under this Chapter.

Sec. 29C-9. Civil remedies.

(a) After a finding of probable cause, and in addition to criminal penalties, the commission may refer the matter to the city attorney or any other qualified attorney to maintain a civil action on behalf of the complainant;

(b) Any violation of this Chapter may be redressed in a civil action in district court. Any such action shall be heard by a judge without a jury. The court may grant any of the following relief:

(1) Temporary or preliminary relief pending final disposition if such relief is necessary to carry out the purposes of this Chapter;

(2) Order the defendant to pay compensatory damages to the person who was discriminated against, including damages for mental anguish or mental suffering, in an amount of up to three times the amount for all such damages sustained;

(3) Order the defendant to pay punitive damages, in the amount not to exceed \$8,500, to the person who was discriminated against;

(4) Order the defendant to refrain from violating the provisions of this Chapter which it finds the defendant to have violated;

(5) Order the defendant to act affirmatively so as to effectuate the purposes of this Chapter;

(6) Allow a prevailing complainant reasonable attorney's fees and costs;

(c) After a finding of probable cause, the commission may so certify to a licensing or regulatory agency and, if the respondent does not cease to engage in such discriminatory practice, the licensing or regulatory agency may take appropriate administrative action including suspension or revocation of the respondent's license;

(d) As provided in Section 363.117 of Minnesota Statutes and notwithstanding the provisions of any law or ordinance to the contrary, a person who has filed a complaint with the commission may bring a civil action at the following times:

(1) Within 45 days after receipt of notice that the commission has determined that there is no probable cause to credit the allegations contained in the complaint; receipt of notice is presumed to be five days from the date of service by mail of the written notice; or

(2) After 45 days from the filing of the complaint if a hearing has not been held or if the commission has not entered into a conciliation agreement to which the complainant is a signatory. The complainant shall notify the commission of an intention to bring a civil action, which shall be commenced within 90 days of giving the notice.

The commission shall terminate all proceedings relating to the complaint upon receipt of a copy of a civil action brought by a complainant. A complainant shall provide to the commission a copy of the summons and complaint in the civil action by registered or certified mail.

Sec. 29C-10. Exemptions.

The exemptions set forth in Section 363.02 of Minnesota Statutes apply to this Chapter except that any exception therein which would substantially reduce the coverage of housing accommodations as compared to Section 803 of the federal Fair Housing Act shall not apply to this Chapter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Section 2. That this ordinance shall take effect and be in force six months from and after its passage and publication. (Effective date: April 20, 2002)

Councilor Fena moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 9, 2001
Approved October 9, 2001
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special Duluth City Council meeting held on Monday, October 15, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fena, Gilbert, Hogg, Stewart, Stover and President Edwards -- 6

Absent: Councilors Eckenberg, Ness and Stenberg -- 3

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MOTIONS AND RESOLUTIONS

BY COUNCILOR FENA:

WHEREAS, in Resolution 01-0109 the Duluth City Council authorized a memorandum of understanding between the city of Duluth, the Minnesota pollution control agency, the Western Lake Superior Sanitary District, the University of Minnesota-Duluth, the University of Minnesota sea grant, and Apprise Technologies, Inc., as a prerequisite to a grant application to the U.S. environmental protection agency to monitor and study streams running through Duluth and to disseminate the information to the public; and

WHEREAS, the U.S. environmental protection agency has considered said grant application and is willing to fund the project in an amount of \$351,999;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute a grant agreement in the form of the document filed with this resolution as Public Document No. 01-1015-01, with the United States environmental protection agency for a environmental monitoring for public access and community tracking (EMPACT) program to monitor and collect and disseminate data about streams located in the city of Duluth.

RESOLVED FURTHER that all monies received under this grant be deposited in Special Project Fund 0210, Agency 030, Org. 2141, Revenue Source 4210.

Resolution 01-0765 was unanimously adopted.

Approved October 15, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to enter into Mn/DOT Agreement No. 82513, filed as Public Document No. 01-1015-02, with the state of Minnesota, department of transportation, for the following purposes:

to provide for Mn/DOT acting as the city's agent to receive federal aid funds estimated at \$64,000 to be used in a freeze-free research project on Second Avenue West from Fourth Street to Mesaba Avenue identified as State Project No. 118-138-11, said funds to be deposited in P.I. Fund 0411.

RESOLVED FURTHER, that the city's share, which is estimated at \$16,000, shall be paid from the P.I. fund, reimbursable from Fund 0252.

Resolution 01-0763 was unanimously adopted.

Approved October 15, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Polyphase Electric Company be and hereby is awarded a contract for installing a complete operational de-icing system on Second Avenue West from Fourth Street to Mesaba Avenue for the engineering division in accordance with specifications on its low

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

specification bid of \$77,335, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2148, Object 5530; to be reimbursed with \$61,868 (80 percent) federal highway funds and \$15,467 (20 percent) municipal state aid funds.

Resolution 01-0764 was unanimously adopted.

Approved October 15, 2001

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:10 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 22, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Absent: None -- 0

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The minutes of the council meeting held on August 13, 2001, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-1022-01 Donna Mae Anne Gilberg, et al. (18 signatures), submitting petition to construct a sanitary sewer along Decker Road beginning at a point approximately 1,300 feet north of the intersection of Anderson Road and Decker Road to a point 1,660 feet northerly along Decker Road. -- Assessor

01-1022-02 George Hovland, et al. (two signatures), submitting petitions to construct:

(a) Sanitary sewer along Rice Lake Road beginning at a point approximately 260 feet northwest of the intersection of Rice Lake Road and Persons Street to a point 620 feet northwesterly along Rice Lake Road;

(b) Watermain along Rice Lake Road beginning at a point approximately 780 feet northwest of the intersection of Rice Lake Road and Persons Street to a point 100 feet northwesterly along Rice Lake Road. -- Assessor.

01-1022-03 Steven Walsh submitting petition to vacate Basswood Avenue between Walnut Street up to 75 feet south of Morgan Avenue and Walnut Street between Bryant Avenue and Wilson Avenue in Arlington Place Addition to Duluth Heights. -- Assessor

01-1022-14 Barb Olson Browne submitting copy of communication from Glenn Maxham regarding department of natural resources lease agreement for safe harbor at McQuade Road (01-0682R). -- Received

01-1022-04 The following submitting communications regarding Denfeld High School resident permit parking zones (01-0704R and 01-0775R): (a) Otis and Linda Anderson; (b) Mary Ann Jeanette; (c) Robert Silvernale. -- Received

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REPORTS OF OFFICERS

01-1022-05 Assessor submitting:

(a) For confirmation the reinstatement of assessment rolls levied to defray the assessable portions of Parkwood (Contract Nos. 4982; 1188121; 1188122) (\$59,860.80); Parkwood II (Contract Nos. 5034; 1190011; 1190012) (\$29,518.24); Parkwood III (Contract Nos. 5243; 1192131; 1192132) (\$282,147.24);

(b) Letters of sufficiency of petitions to:

(1) Construct a sanitary sewer along Rice Lake Road beginning at a point approximately 260 feet northwest of the intersection of Rice Lake Road and Persons Street to a point 620 feet northwesterly along Rice Lake Road;

(2) Vacate the utility easement on Lots 3, 4 and 5, Block 1, Helstrom Rearrangement. -- Received

01-1022-06 Community development and housing division manager submitting HRA housing rehabilitation report for September 2001. -- Received

01-1022-07 Engineering division submitting monthly project status report of October 1, 2001. -- Received

01-1022-15 Public works division submitting letter of sufficiency of petition to construct a ten inch watermain along Rice Lake Road from 900 feet to 1,000 feet northwesterly of Persons Street. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-1022-08 Charter commission minutes of July 11, 2001, meeting. -- Received

01-1022-09 Duluth airport authority minutes of: (a) August 21; (b) August 31, 2001, meetings. -- Received

01-1022-10 Housing and redevelopment authority of Duluth minutes of: (a) August 28; (b) September 7, 2001, meetings. -- Received

01-1022-11 Parking commission minutes of September 11, 2001, meeting. -- Received

01-1022-12 Seaway Port authority of Duluth minutes of: (a) July 26; (b) August 29, 2001, meetings. -- Received

01-1022-13 Tree commission minutes of September 17, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Elijah voiced concern that the police department does not enforce basic traffic violations but has the time to harass the young people who are Downtown.

- - -

Dorothy Wolden voiced concern that it has been nearly a year since the sewer problems of Debbie Isabel and there has been no resolution to this matter. She questioned what can be done to bring this situation to a close with a reasonable settlement.

To councilor questions, City Attorney Brown replied that there are some disputed claim items and the valuation of those items. He continued by saying that if Ms. Isabel is willing to go to mediation, the city would be willing to get that process going.

Debbie Isabel stated she wants and needs to get resolution for her past claims as she needs to get her home and business back in order. She continued by saying that it is the city's responsibility to fix the sewer and she does not understand why they will not, and therefore, is willing to go to mediation.

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Jill Jacobi expressed delight that there is a proposed living water garden for the Bayfront plan and requested help from the city administration for city staff to write two grants for the living gardens as the deadline for the grants is early November.

- - -

Will Rhodes voiced his excitement about green space and the arboretum at Bayfront but felt that the new presentation from BRW included too much shopping and parking lots.

- - -

Roger Reinert congratulated the council on doing a good job and on their ability to work together.

- - -

Janet Green stated that the McQuade safe harbor project has been downsized from the original plan because of the lack of funding and, after talking to the deputy commissioner of the department of natural resources (DNR), the council needs to make a substantial commitment to a lease or else the DNR will go forward with what they feel they need to do to acquire the land starting on November 1.

Councilor Hogg stated that since the council is not sure what the exact terms of the lease are and what the project has been scaled down to, the council needs to decide if they should vote tonight or wait two weeks to see if the DNR will present a new plan.

Mr. Brown reviewed that city staff had worked out a tentative lease agreement with the DNR which had a term of 25 years and, more recently, the DNR sent a new version of the lease that has a term of 20 years.

- - -

KL Lewis stated that the schools are not being filled and a way to defray expenses and keep schools open would be to have private or public daycare in schools' empty spaces.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 01-0682, authorizing 25 year lease to the DNR of property adjacent to Congdon Boulevard for the McQuade Road safe harbor project, by President Edwards and Councilor Stenberg, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg reviewed that the sole purpose of the resolution was to engage the council in discussion as to what terms they would like to see in a lease or let the DNR proceed into eminent domain on the property, but the only discussion that the council has debated was whether to try and stop the project.

To questioning from Councilor Ness, Mr. Brown replied that in absence of some indication from the council that the city will lease the land, the DNR's response will be to acquire the land by any means necessary.

Councilor Gilbert stated that it would be irresponsible for the council to act on a vague lease agreement and questioned if the city has exhausted all of the legal avenues available.

President Edwards and Councilor Stenberg reviewed that the project originally was to be funded with \$8 million, but since the council has voted the project down, the state will only be spending the \$4.5 million it has received for the project and therefore all the extra amenities to the project had to be eliminated.

Councilor Ness stated that it is good public process for the council to vote on this resolution that will state clearly what the position is of this council as to whether or not to negotiate a lease agreement with the DNR before the November 1 deadline.

Councilor Ness moved to amend the resolution to read as follows:

"RESOLVED, that the proper city officials are hereby authorized to enter into a lease for a term of 20 years or more, a copy of which is on file in the office of the city clerk as Public Document No. _____, with the state of Minnesota department of natural resources leasing to the state, for nominal consideration, property on Lake Superior at the intersection of McQuade Road and Congdon Boulevard for the McQuade Road safe harbor project, which lease shall have terms to acceptable to the city council before it is executed," which motion was seconded for discussion.

Councilor Hogg questioned if the council is willing to negotiate a lease with the DNR since previous resolutions have been passed opposing the project. He moved to call the question on the amendment, which motion was seconded and unanimously carried.

The amendment was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: Councilor Hogg -- 1

Resolution 01-0682, as amended, failed upon the following vote (Public Document No. 01-1022-16):

Yeas: Councilors Fena, Ness, Stenberg and President Edwards -- 4

Nays: Councilors Eckenberg, Gilbert, Hogg, Stewart and Stover -- 5

- - -

Councilor Stenberg moved to remove Resolution 01-0715, denying a concurrent use permit to Carla Blumberg for a deck in the right-of-way of 19th Avenue East adjacent to 1902 East Eighth Street, from the table, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR STENBERG

01-042 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CARLA BLUMBERG FOR A DECK IN THE RIGHT-OF-WAY OF 19TH AVENUE EAST LOCATED ADJACENT TO 1902 EAST EIGHTH STREET.

Councilor Stenberg moved to consider Ordinance 01-042 at this time, which motion was seconded and unanimously carried.

Councilor Stenberg moved to return Resolution 01-0715 back to the planning commission, which motion was seconded and unanimously carried.

Councilor Stenberg moved to table the ordinance, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)

Councilor Stenberg moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY PRESIDENT EDWARDS:

WHEREAS, ARC Northland and the Duluth Art Institute have applied to the Minnesota gambling control board for lawful gambling exemptions (raffles); and

WHEREAS, the Duluth City Council has received a copy of said exemption applications to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption applications; and

WHEREAS, the city council approves of the exemption applications and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing lawful gambling exemptions to ARC Northland and the Duluth Art Institute 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 01-0767 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth alcohol, gambling and tobacco commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Licensee	Gambling Site	Date Application Filed
Northland Vietnam Veterans Association	Kom-On-Inn	September 18, 2001
Northland Vietnam Veterans Association	Western Tavern	September 18, 2001

Resolution 01-0769 was unanimously adopted.
Approved October 22, 2001
GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor dancing license for the period ending August 31, 2002, subject to departmental approvals:

Pizza Lucé III, Inc. (Pizza Lucé), 11 East Superior Street.

Resolution 01-0770 was unanimously adopted.
Approved October 22, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of West 12th Street and slope easements along the right-of-way, legally described as that portion of West 12th Street (Marks Avenue) adjoining Lots 22 through 33, Block 46, and Lots 19 through 28, Block 51, Harrison's Brookdale Division, and those slope easements for cut and fill in Blocks 46 and 51, Harrison's Brookdale Division, as same were condemned by the city of Duluth on September 26, 1927, and recorded on page 134, Miscellaneous Record No. 39, St. Louis County, Minnesota; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission unanimously approved the vacation petition at its September 11, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of slope easements for cut and fill described above and as more particularly described on Public Document No. 01-1022-17.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BE IT FURTHER RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of West 12th Street (Marks Avenue) described above and as more particularly described on Public Document No. 01-1022-17.

BE IT FURTHER RESOLVED, that the city council of the city of Duluth reserves for pedestrian and utility purposes, an easement ten feet on each side of the centerline of the vacated street easement described above.

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 vacation of the slope easements and the portion of the street to be vacated.

Resolution 01-0752 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that Resolution 93-0518 is amended in its entirety to read as follows:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 20 foot wide waterline easement across Lots 19 and 21, Block 4, Airport Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its June 8, 1993, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the 20 foot wide waterline easement across Lots 19 and 21, Block 4, Airport Division.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the easement to be vacated.

Resolution 01-0756 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Third Avenue East between 14th and 15th Streets, legally described as Third Avenue East adjoining Lots 47 and 48, Block 197, Duluth Proper Third Division, and Lots 49 and 50, Block 198, Duluth Proper Third Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the street vacation petition at its October 9, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

the vacation of Third Avenue East described above and as more particularly described on Public Document No. 01-1022-18.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated.

Resolution 01-0757 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials are hereby authorized to purchase the old Branding Iron property, said property being located in St. Louis County, Minnesota, and being legally described below, from St. Louis County, for the sum of \$8,311.40, payable from Public Utility Bond Construction Fund 0522, Agency 500, Object 5510: Lots 82 and 84 and the northerly two inches of Lot 86, all in Block 40, PLAT OF RICES POINT.

Resolution 01-0766 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, it appears that it may be necessary to construct a watermain in Rice Lake Road from 900 feet to 1,000 feet northwesterly of Persons Street.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 01-0760 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Rice Lake Road from 380 feet to 1,000 feet northwesterly of Persons Street.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 01-0761 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the city of Duluth desires to provide a sidewalk and lighting project adjacent to UMD on Junction Avenue, Buffalo Street, St. Marie Street and East University Circle; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Salo Engineering, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$24,900, will be payable from the Permanent Improvement Fund 0411, Dept./Agency 035, Organization 2155, Object 5530. UMD will reimburse the city for this public improvement project.

Resolution 01-0762 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking 2:00 a.m. to 6:00 a.m. zone is hereby established: both sides of Michigan Street from 150 feet west of 21st Avenue West to 18th Avenue West.

BE IT FURTHER RESOLVED, that the no parking and two hour parking restrictions now in effect are hereby rescinded.

Resolution 01-0753 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, the following segments of Michigan Street are no longer one way streets:

Michigan Street from 21st Avenue West westerly 150 feet;

Michigan Street between 17-1/2 Avenue West and 18th Avenue West.

BE IT FURTHER RESOLVED, that this resolution is to become effective only after said streets have been posted with proper signs indicating the change in designation.

Resolution 01-0754 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following one hour parking, 8:00 a.m. to 4:00 p.m., Monday through Sunday zone is hereby established on the south side of West Third Street from 29th Avenue West westerly 200 feet.

Resolution 01-0758 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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BY COUNCILOR STOVER:

BE IT RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following two hour parking, 8:00 a.m. to 4:00 p.m., Monday through Friday zone is hereby established on the south side of Fourth Street from 75 feet west of 11th Avenue East to 11th Avenue East.

Resolution 01-0759 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to make a loan of \$32,600 to the Lower Chester Hockey and Skating Association to be used for the purchase of hockey rink dasher boards.

RESOLVED FURTHER, that said loan shall be for a term of six years at no interest and shall be drawn from General Fund 0100.

Resolution 01-0755 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0772, by Councilor Gilbert, establishing the procedure for review and approval of the comprehensive plan, was introduced for discussion.

Councilor Gilbert moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR FENA:

WHEREAS, the city administration and council wish to establish a clear set of priorities for legislative action during the 2002 legislative session; and

WHEREAS, there have been several meetings devoted to discussing city legislative concerns and priorities; and

WHEREAS, the focus of the 2002 legislative session will be on setting the state capital budget for the next two years (fiscal years 2003 and 2004); and

WHEREAS, the administration and council choose to express support for a number of projects which will benefit the community while indicating whether the city will assume a lead role or a supporting role or will simply express its support for a funding request.

NOW, THEREFORE, BE IT RESOLVED, that the primary legislative objectives of the city of Duluth for the year 2002 are to secure state bond proceeds to complete the renovation of the aerial lift bridge and to make infrastructure improvements at the Spirit Mountain recreation area, and to secure legislation to restore the statewide hazardous materials response program that the state has discontinued, including restoration of the regional haz-mat team that operated out of Duluth.

FURTHER RESOLVED, that city staff and elected officials will take the lead role in advancing these initiatives during the 2002 legislative session.

FURTHER RESOLVED, that city staff is to support the following funding requests:

Port development assistance administered by the Minnesota department of transportation;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Redevelopment account administered by the department of trade and economic development;

Wastewater infrastructure funding administered by the public facilities authority (DTED) and the Minnesota pollution control agency;

Greater Minnesota regional parks funding administered by the department of natural resources.

FURTHER RESOLVED, that the administration and council express support for the initiatives advanced by the Minnesota state colleges and universities system for design funds for a health and wellness facility at Lake Superior College and by the University of Minnesota for funds to construct a new science center on the University of Minnesota Duluth campus and recognize the importance of these institutions to the social, cultural and economic vitality of the community.

FURTHER RESOLVED, that the administration and council express support for the proposed improvements to the state office building located at Second Street and Fourth Avenue West.

Resolution 01-0749 was unanimously adopted.

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0771, by Councilor Eckenberg, authorizing reassessment of canceled street and utility assessment for Parkwood Division, Parkwood Division Phase II and Parkwood Phase III, was introduced for discussion.

Councilor Eckenberg moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR ECKENBERG:

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. 01-1022-19, with Aspenwood Condominiums of Duluth, Inc., accepting the grant of an easement for the extension of natural gas lines through the Aspenwood properties, said easement being more particularly described in said agreement, for nominal consideration.

Resolution 01-0774 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0775, by councilors Ness and Stover, amending Resolution 01-0704, changing the effective date and requesting a review, was introduced for discussion.

Councilors Ness and Stover reviewed that the purpose of this resolution is to set a firm and decisive date for the implementation of the residential permit parking zones around Denfeld High School; it will put the burden of proof on the students to improve the situation during the rest of the school year; it gives the city time to put up the appropriate signs during the summer; it makes a reasonable compromise of the two sides, and would like to have a report in April to see if there has been improvement by the students.

Councilor Eckenberg reminded councilors that the residents in the Denfeld neighborhood have wanted these permit parking zones for the last five years and questioned what has changed to make the councilors consider changing the implementation of the zones. He also stated that the neighbors are not aware that this resolution is before the council and are expecting this to start at the beginning of the year.

Councilor Stewart stated that these zones are not the whole solution to the problem around the high school, but should help. He added that to wait to implement this does nothing to get things moving towards improvement.

President Edwards said she could not support this resolution, as the neighbors have gone through the petitioning and public hearing process, the council approved the zones and no one has notified the residents in that area that there is another vote on the issue tonight delaying the project for almost a year.

Resolution 01-0775 was adopted as follows:

BY COUNCILORS NESS AND STOVER:

BE IT RESOLVED, that Resolution 01-0704 is amended by adding the following language at the end of the resolution:

BE IT FURTHER RESOLVED, that the city council is requested to, in June 2002, review the parking circumstances in the area and that this Resolution 01-0704 shall become effective and shall be implemented on September 1, 2002.

Resolution 01-0775 was adopted upon the following vote:

Yeas: Councilors Fena, Gilbert, Hogg, Ness, Stenberg and Stover -- 6

Nays: Councilors Eckenberg, Stewart and President Edwards -- 3

Approved October 22, 2001

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY COUNCILOR HOGG

01-039 (9509) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$3,000,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Hogg moved remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the ordinance to replace "\$3,000,000" with "\$3,400,000" in the title, Section 1.03 and statement of purpose, which motion was seconded and unanimously carried.

Councilor Hogg moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR STENBERG

01-044 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-5 PLANNED COMMERCIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF PALM STREET (CURRY BRANDAW ARCHITECTS).

- - -

BY COUNCILOR ECKENBERG
01-032 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LESTER PARK
TO JACK G. AND LEE K. HAGADORN.

- - -

BY COUNCILOR ECKENBERG
01-033 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LESTER PARK
TO RICHARD J. AND MARY M. LEDOUX.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STENBERG
01-043 (9510) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE
1959, AS AMENDED, ZONING DISTRICT MAP NUMBER 23 AS CONTAINED IN THE
APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B,
SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED
ON THE NORTH SIDE OF TRINITY ROAD WEST OF 2528 TRINITY ROAD (DULUTH
KEYSTONE LLC).

Councilor Stenberg moved passage of the ordinance and the same was adopted upon a
unanimous vote.

- - -

The meeting was adjourned at 9:05 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9509

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND
DELIVERY OF GENERAL OBLIGATION BONDS OF THE CITY OF
DULUTH IN AN AMOUNT NOT TO EXCEED \$3,400,000 UPON
TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS
OF THE CITY COUNCIL AND LEVYING TAXES FOR THE
PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 The city council has determined it to be necessary and expedient and in the public
interest that the city participate in the development of an airplane manufacturing industry incubator
project (the project) at the Duluth International Airport. The project consists of renovation of
existing facilities and constructing an approximately 63,000 square foot manufacturing facility
which will be leased to Cirrus Industries, Inc. (the lease). The city has applied for and accepted
a federal grant of \$3,450,600 (the grant) from the U.S. department of commerce, economic
development administration, to pay a portion of the estimated \$5,751,000 cost of the project. The
city is required by such grant to provide its local share to match the grant funds.

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the city council may by
ordinance provide for the issuance of general obligation bonds to provide the funds necessary to
match state, private or federal grant funds for projects within the city's boundaries, which bonds
are to be supported by the full faith and credit of the city and are to be issued subject to the

provisions of Minnesota Statutes, Chapter 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60 percent of the total project cost where such contribution is used to match state or federal grants, or 70 percent where it is used to match government and private grants, or 80 percent where it is used to match private grants alone. The project is of the nature contemplated by said law. Based on the grant, the amount of the city's contribution for the project from the proceeds of bonds, as further described in Section 1.03 below, or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the city council authorizes and directs the issuance and sale of general obligation bonds of the city to finance a portion of the construction costs of the project, capitalized interest and costs of issuance of the bonds in an amount not to exceed \$3,400,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. Terms of bonds.

2.01 The city council shall by resolution or resolutions provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and sell such bonds, in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 3. Revenues and accounts.

3.01 All or a portion of the proceeds of the bonds, as provided by council resolution, shall be credited to a separate account within Capital Improvement Fund No. 430 (Cirrus expansion project fund), together with any additional funds which may be available and are appropriated for the project or which may be advanced to such account on condition that such amounts be reimbursed from bond proceeds.

3.02 The city council shall, by resolution or resolutions, establish such further funds or accounts and credit monies from the proceeds of the bonds herein authorized to funds or accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Tax levy.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate account in the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said fund. If the balance in such separate account of the debt service fund is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from the debt service fund when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such accounts. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the city council in any year shall make an

irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. Rental payments under the lease shall be used, as established by resolution of the council, and any other pledges of revenue shall be for payment of principal and interest on the bonds issued pursuant to this ordinance. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

Section 5. Certificate of proceedings.

5.01 The city clerk is directed to file with the county auditor of St. Louis County, a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 The office of the city clerk is authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such acts appear from the official books and records in the officer's custody or are otherwise known to him. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 6. Effective date.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 25, 2001)

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Nays: None -- 0

Passed October 22, 2001
Approved October 22, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9510

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NUMBER 23 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE NORTH SIDE OF TRINITY ROAD WEST OF 2528 TRINITY ROAD (DULUTH KEYSTONE LLC).

The city of Duluth does ordain:

Section 1. That Plate Number 23 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

[MAP]
[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 25, 2001)

Councilor Stenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 22, 2001
Approved October 22, 2001
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, November 13, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

Absent: Councilors Stenberg and Stewart -- 2

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-1113-18 City of Duluth submitting petition to vacate all of Taylor Circle adjacent to Lot 1, Block 5, and Lots 4, 16, 17, 18, 19 and 20, plat of Airport Division. -- Assessor

01-1113-01 University of Minnesota submitting petition to vacate streets, alleys and pedestrian and utility easements on University of Minnesota - Duluth campus, in Oakland Park Addition; Superior View Addition, First Division; Superior View Addition, Second Division; Clover Hill Division; Motor Line Division; Motorline Park Division; Nortondale Development, First Division; Nortondale Development, Second Division; and Kent Road Division. -- Assessor

01-1113-19 Evensen Dodge, Inc., submitting presale analysis regarding sale of \$6,630,000 G.O. gas and sewer utilities revenue bonds, Series 2001F; \$1,075,000 G.O. improvement refunding bonds, Series 2001G; \$630,000 G.O. tax increment refunding bonds, Series 2001H; \$1,075,000 G.O. equipment certificates of indebtedness, Series 2001 (01-0806R). -- Received

01-1113-02 Hovland Spirit Ridge, LLC, submitting:

(a) Letter and copy of letter from Dr. James Balogh, consultant, regarding review of the Spirit Mountain rare plant survey;

(b) Waiver of any statutory requirements which would require a final decision on work permits for consideration of hotel and golf course through February 28, 2002 (01-0529R and 01-0685R). -- Received

01-1113-21 KBJR-TV submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9501 on September 10, 2001. -- Received

01-1113-03 Nisichawayasihk Cree Nation submitting letter regarding a special use permit to Minnesota Power to upgrade and relocate a portion of an existing power transmission line (01-0515R). -- Received

01-1113-20 Russell and Herder, Inc., submitting letter regarding professional services agreement with DoDaDay (01-0783R). -- Received

01-1113-04 University of Minnesota - Duluth submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9500 on August 13, 2001. -- Received

01-1113-05 The following submitting letters regarding the Denfeld High School resident permit parking zones (01-0704R and 01-0775R): (a) Susan Jones; (b) Alan Sisto; (c) Ed Montgomery; (d) Earl Johnson. -- Received

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REPORTS OF OFFICERS

01-1113-22 Mayor Doty submitting copies of letters from Minnesota department of natural resources advising city of Duluth of initiation of eminent domain proceedings for city of Duluth land for the McQuade Road safe harbor project. -- Received

01-1113-06 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings by special assessment board on Tuesday, November 13, 2001, at 4:30 p.m., Room 106A, City Hall, regarding:

(1) Eight inch sanitary sewer along Rice Lake Road from 380 feet to 1,000 feet northwesterly of Persons Street (estimated cost - \$39,425);

(2) Ten inch watermain along Rice Lake Road from 900 feet to 1,000 feet northwesterly of Persons Street (estimated cost - \$9,500). -- Clerk

(b) Letters of sufficiency of petitions for the:

(1) Construction of a sanitary sewer along Decker Road beginning at a point approximately 1,300 feet north of the intersection of Anderson Road and Decker Road to a point 1,660 feet northerly along Decker Road;

(2) Reclassification from R-2 to commercial or R-3, Gary First Division, Lots 1 and 2, Block 36;

(3) Vacation of Basswood Avenue between Walnut Street up to 75 feet south of Morgan Avenue; and Walnut Street between Bryant Avenue and Wilson Avenue in Arlington Place Addition to Duluth Heights. -- Received

01-1113-07 Building official submitting appeal of the board of zoning appeals' denial of variances to construct a 23 foot 11 inch by 33 feet six inch L-shaped office addition to residence at 217 North 59th Avenue West for the purpose of expansion of a business in an R-3 zoning district (Lake Superior Agencies of the Twin Port Cities). -- Committee 2 (Physical development)

01-1113-08 Clerk submitting application to Minnesota gambling control board for exemption from lawful gambling license from Rotary Club of Duluth on February 28, 2002. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-1113-09 Board of zoning appeals minutes of September 25, 2001, meeting. -- Received

01-1113-10 Community development committee minutes of August 28, 2001, meeting. -- Received

01-1113-11 Duluth airport authority: (a) Minutes of: (1) September 20; (2) October 9, 2001, meetings; (b) Unaudited balance sheet of August 31, 2001. -- Received

01-1113-12 Duluth housing commission minutes of: (a) August 16; (b) September 6; (c) September 13, 2001, meetings. -- Received

01-1113-13 Duluth/North Shore sanitary district board minutes of October 2, 2001, meeting. -- Received

01-1113-14 Duluth transit authority: (a) Financial statement summary of August 2001; (b) Minutes of August 22, 2001, meeting. -- Received

01-1113-15 Heritage preservation commission minutes of August 8, 2001, meeting. -- Received

01-1113-16 Housing and redevelopment authority of Duluth minutes of September 25, 2001, meeting. -- Received

01-1113-17 Spirit Mountain recreation area authority minutes of: (a) June 27; (b) July 18; (c) August 22, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Patricia Berg, Peggy Hiestand, Jack Smith, John Soderlund spoke in favor of the Denfeld residential parking permit zones for the following reasons: the residents have been trying for five

years to get the zones around Denfeld; parking gets worse each year; the students have little or no regard for the residents living there; there's no enforcement of parking laws; there are huge amounts of litter; the school has had five years to fix this problem with no results so how much longer will it take for them to fix it; the council reconsidered the issue without notifying the residents; concern for the senior citizens and the streets get so narrow in the winter clogged by snow and cars that homeowners can barely get out of their driveways.

Councilor Eckenberg reviewed that the students at Denfeld are going to try and make this litter problem go away and if the student body does not fulfill its promise, then the zone will go into effect.

Councilor Ness stated that the resolution they passed just delayed the implementation of the permit zone; 68 percent of the survey were opposed to these permit zones; the boundaries were not appropriate for this area and council needs to look at this issue; people would have to pay to park in front of their own house; there are businesses in the zones and they wonder how parking will be handled; the earliest the signs could go up this year is in winter when it would be hard to put the signs up and this is an advance warning to students that this will be going into effect next September.

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Elijah praised the two recreation areas in the city, Bayfront and Spirit Mountain, as Duluth needs more things for the young people to do in the city. He also stated that the Soft Center is needed for full time jobs for the young people.

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Bonnie Hallsten questioned if they order food into their bar, can they still operate as a bar and how much time do they have before the smoking in public places amendment goes into effect. She requested help with some answers on what the status is of the new smoking ordinance.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 01-0639, declaring intent to proceed with public utilities facilities project and to issue general obligation utilities revenue bonds in an approximate amount of \$7,250,000 to finance the costs thereof, from the table, which motion was seconded and unanimously carried.

Resolution 01-0639 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth (the city) public works and utilities department has considered, and the administration is proposing, to construct and equip a public utilities facility on city property on Garfield Avenue to provide garage and office facilities for the gas utility, the water utility, the sewer utility and the storm water utility (the project); and

WHEREAS, the city is authorized, under and pursuant to the provisions of Section 55 of the City Charter and Chapter 475 of the Minnesota Statutes (the act) and other pertinent provisions of said Charter and Statutes, to issue its general obligation revenue bonds to provide funds for the construction, extension and improvement of public utility plants, which bonds shall be a specific lien upon such plants and are payable primarily from net revenues to be derived from operations from such utilities pledged for their payment.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city, as follows:

Section 1. The city council hereby declares its intent to proceed with the project.

Section 2. The city council hereby declares its intent to issue general obligation revenue bonds pursuant to the City Charter and the act in the amount of approximately \$7,250,000 to

provide for the costs of constructing and equipping the project and to pay the costs of issuance of the bonds.

Section 3. The city council hereby authorizes the city staff to proceed with the project and to work with the city's financial adviser and bond counsel to begin the process for the financing. Final terms of the development of the project and the issuance of the bonds shall be set forth in resolutions of the city council.

Section 4. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to reimburse expenditures with respect to the project being financed.

Resolution 01-0639 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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The rules were suspended upon a unanimous vote to hear from speakers on tabled Resolution 01-0685, authorizing the acquisition of land for an addition to Spirit Mountain recreation area authority, authorizing settlement of compliance issues with Minnesota department of natural resources, authorizing execution of a contract with Spirit Mountain recreation area authority and Hovland Spirit Ridge, LLC., by Councilor Hogg.

Peggy Marrin voiced concern that a letter had been sent by Assistant City Attorney Asleson that gave the wrong impression that the conversion request had come from the city and questioned if that letter had been corrected.

Travis Patten stated that the property at Spirit Mountain is great because of the wilderness and should not be destroyed for a golf course.

Elijah voiced concern that the proposed golf course at Spirit Mountain will benefit only the tourists and not local citizens.

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Councilor Gilbert moved to remove Resolution 01-0772, establishing the procedure for review and approval of the comprehensive plan, from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend resolution as per Councilor Stenberg's amendment, by deleting the fourth paragraph, which motion was seconded and unanimously carried.

Resolution 01-0772, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the legislature of the state of Minnesota has, by enacting M.S.A. Sections 462.351-462.364, established the policy and procedure under which Duluth may create a comprehensive municipal plan; and

WHEREAS, pursuant to Section 462.353 of the act, a municipality may carry on comprehensive municipal planning activities for guiding the future development and improvement of the municipality and may prepare, adopt and amend a comprehensive municipal plan and implement such plan by ordinance and other official actions in accordance with the provisions of the act; and

WHEREAS, the council of the city of Duluth (the city) has entered into a contract with Smith Group JJR (the consultant) pursuant to which the consultant will assist in the preparation of a comprehensive municipal plan in accordance with the act (the comprehensive plan); and

WHEREAS, if the council is asked to adopt measures to implement all or a portion of the comprehensive plan without having adopted the entire comprehensive plan, controversies which the comprehensive plan was intended to decrease will be as numerous as ever; and

WHEREAS, the northwest corner plan has not been brought back to council after suggested changes, thereby minimizing the benefits of such plan, a situation the council desires to avoid with respect to the comprehensive plan.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council that in fulfillment of its duties and powers under the act, the council sets forth the following procedure which must be followed by the Duluth city planning department and the planning commission in the preparation of, recommendation to and approval by the council of the comprehensive plan:

Section 1. The planning commission is authorized and directed to work with the consultant to prepare the comprehensive plan.

Section 2. The planning commission must recommend adoption of the land use provisions of the comprehensive plan to the council.

Section 3. The council authorizes the city planning department, in compliance with M.S.A. Section 462.355, subd. 2, to promptly transmit the comprehensive plan documents to the council in their entirety for approval and adoption after approval by the planning commission and before requests are made to implement the comprehensive plan. Further, this council will not consider any portion of the comprehensive plan to be in effect nor will it consider implementing actions based on such portion until the council has adopted the comprehensive plan or applicable portion thereof.

Section 4. Before adopting the comprehensive plan or any section of the plan, the planning agency must hold at least one public hearing thereon. A notice of the time, place and purpose of the hearing must be published once in the official newspaper of the city at least ten days before the day of the hearing.

Section 5. The proposed comprehensive plan or any portion thereof will not be acted upon by the council until it has received the recommendation of the planning agency or until 60 days have elapsed from the date an amendment proposed by the council has been submitted to the planning agency for its recommendation. The council may by resolution by a two-thirds vote of all of its members adopt and amend the comprehensive plan or portion thereof as the official municipal plan upon such notice and hearing as may be prescribed by ordinance.

Resolution 01-0772, as amended, was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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Councilor Eckenberg moved to remove Resolution 01-0636, authorizing a consultant agreement with Damberg, Scott, Gerzina, Wagner for providing certain architectural services to the city of Duluth in connection with the construction of a new public works and utilities maintenance facility on Garfield avenue in an amount not to exceed \$397,000, from the table, which motion was seconded and unanimously carried.

Resolution 01-0636 was adopted as follows:

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Damberg, Scott, Gerzina, Wagner for the sum of not to exceed \$397,000, from utility bond construction fund, Ag. 500, Obj. 5532, Job #S9620, for providing certain architectural design services to the city of Duluth in connection with the consolidated public works and utilities maintenance facility on Garfield Avenue, 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. 01-1113-23.

Resolution 01-0636 was unanimously adopted.

Approved November 13, 2001
GARY L. DOTY, Mayor

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Councilor Eckenberg moved to remove Resolution 01-0771, authorizing reassessment of canceled street and utility assessment for Parkwood Division, Parkwood Division Phase II and Parkwood Phase III, from the table, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

John Hedtke reviewed that he and his neighbor bought a lot between their houses and although it technically is a buildable lot, it is a swamp area and would be hard to build a house on it. He continued by saying that he has appeared before the special assessment board and had the land revalued, but this resolution would put assessments on the property that will never benefit from the water, sewer and gas hookup. Mr. Hedtke requested the council have the administration review this problem.

Councilor Eckenberg moved to retable the resolution, which motion was seconded and unanimously carried.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)

Councilor Hogg moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY PRESIDENT EDWARDS:

WHEREAS, Pawn America Minnesota, LLC, has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 339 East Central Entrance; and

WHEREAS, the Duluth City Council has received a copy of the license application from the director of licensing of the department of commerce and can object to the issuance of said license; and

WHEREAS, the Duluth City Council has no objection to the issuance of said license to transact the business of a currency exchange.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a license to conduct the business of a currency exchange at 339 East Central Entrance to Pawn America Minnesota, LLC.

Resolution 01-0773 was unanimously adopted.

Approved November 13, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Resolution 01-0107 to General Cleaning Corporation for furnishing janitorial services at Washington Center for year 2001, be amended to increase the amount by \$9,000 for a new total of \$36,500, payable out of General Fund 0100, Dept./Agency 015, Organization 2500, Object 5319.

Resolution 01-0787 was unanimously adopted.

Approved November 13, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Environmental Systems Research Institute (ESRI) be and hereby is awarded a contract for furnishing and delivering arc view server with processor for Oracle and license for the M.I.S. division in accordance with specifications on its low specification bid of \$13,632, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR01, Object E105.

Resolution 01-0790 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

WHEREAS, Cash Station, LLC, dba Money Xchange, has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 101 East Superior Street; and

WHEREAS, the Duluth City Council has received a copy of the license application from the director of licensing of the department of commerce and can object to the issuance of said license; and

WHEREAS, the Duluth City Council has no objection to the issuance of said license to transact the business of a currency exchange.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a license to conduct the business of a currency exchange at 101 East Superior Street to Cash Station LLC, dba Money Xchange.

Resolution 01-0800 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

WHEREAS, the Lake Superior Medical Society Auxiliary has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth City Council has received a copy of said exemption application to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption application; and

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Lake Superior Medical Society Auxiliary 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 01-0816 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

COMMUNITY DEVELOPMENT COMMITTEE - Joseph Perfetti (at large) for a term expiring March 1, 2002, replacing Lorna Mangan who resigned.

Resolution 01-0801 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District - Vicki Spragg for a term expiring July 1, 2004, replacing George Gerorgeorge.

Resolution 01-0803 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

DULUTH AIRPORT AUTHORITY - James Laumeyer for a term expiring July 1, 2004, replacing Kenneth Sunnarborg.

Resolution 01-0807 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

PARKS AND RECREATION COMMISSION - John Cummings (District 8) for a term expiring February 13, 2003, replacing Eric Larson who resigned.

Resolution 01-0808 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, Western Lake Superior Sanitary District has submitted to the city council a request for a special use permit for a solid waste transfer station and materials recovery facility on city of Duluth property described as the easterly 800 feet of the SW Quarter, Section 31, T51N, R14W, and located at 4587 Ridgeview Road; and said permit application was duly referred to the city planning commission for a study, report and public hearing; and the city planning commission has subsequently reported its unanimous approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Western Lake Superior Sanitary District to operate a solid waste transfer station and materials recovery facility at 4587 Ridgeview Road, on the following conditions:

(a) That the facility be developed, operated and maintained in general compliance with the plans submitted by Barr Engineering, entitled Rice Lake Transfer Station and Materials Recovery Facility, Project No. 23/69-614-CAA, dated 06/05/01, identified as Public Document No. 01-1113-24;

(b) That the facility maintain perpetual compliance with Minnesota pollution control agency permits.

Resolution 01-0792 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, Christopher P. Priley has submitted to the city council, a request for a special use permit for a residential care facility for up to ten residents on property described as Lots 17, 19 and 21, Block 2, Superior View Addition to Duluth, and located at 1010 Brainerd Avenue; and said permit application was duly referred to the city planning commission for a study, report and public hearing; and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Christopher P. Priley to operate a residential care facility for up to ten residents at 1010 Brainerd Avenue, subject to the following conditions:

(a) That the permit be limited to not more than ten residents;

(b) That the permit shall not be valid until the applicant secures all necessary fire, health and building department permits, code compliance needs and approvals;

(c) That the applicant shall maintain perpetual compliance with all state of Minnesota licensing requirements.

Resolution 01-0793 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement legally described as a 16-foot wide utility easement on Lots 3, 4, 5, Block 1, of the Helstrom Rearrangement; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission unanimously approved the vacation petition at its October 24, 2001, meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility easement described above and as more particularly described on Public Document No. 01-1113-25.

BE IT FURTHER RESOLVED , that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the easement to be vacated.

Resolution 01-0794 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STENBERG:

WHEREAS, Linda Larson has submitted to the city council a request for a special use permit for a home beauty salon for property located at 5101 Crosley Avenue and described as: Lots 1055, 1056, 1057, 1058 and 1059, Crosley Park Addition; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Linda Larson to operate a home beauty salon at 5101 Crosley Avenue, on the following conditions that:

- (a) The operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 01-1113-26;
- (b) The necessary inspections are received;
- (c) The term of the permit run for ten years, at which time renewal may be considered.

Resolution 01-0795 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to submit a local service unit plan amendment for the provision of employment and training services to residents of the city of Duluth which is coordinated with St. Louis County's L.S.U. (local service unit) for state fiscal years 2002 and 2003 (July 1, 2001, through June 30, 2003). Said amendment modifies services to meet the requirements of Special Session Laws of Minnesota 2001, Chapter 9, Article 10, adds a supported work service component to Duluth's service delivery plan and requests \$35,221 in additional revenue to operate the supported work component. Revenue to be deposited in Fund 268. A copy of this plan will be on file in the city clerk's office as Public Document No. 01-1113-27.

Resolution 01-0779 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District 709 for the services of one .5 FTE teacher to provide basic education instructional services to Workforce Investment Act program participants at the Duluth Workforce

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Center for the period September 1, 2001, through June 30, 2002, at costs not to exceed \$27,559. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 01-1113-28.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Items 6247 and 6248.

Resolution 01-0814 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Marlene G. Glad and her attorney, A. Blake MacDonald, the sum of \$18,500 in full settlement of all claims arising from an accident on November 3, 1999; payment to be made from the self insurance fund.

Resolution 01-0777 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a \$20,871.34 subgrant from the Minnesota department of public safety, division of emergency management, acting in conjunction with the federal emergency management agency, and to execute the subgrant contract, filed as Public Document No. 01-1113-29, for the city of Duluth storm and flood related infrastructure repairs.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into Fund 0510, Agency 500, Revenue Source 4698.

Resolution 01-0780 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Decker Road beginning at a point 1,300 feet north at the intersection of Anderson Road and Decker Road to a point 1,660 feet northerly along Decker Road.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 01-0782 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

WHEREAS, the city of Duluth desires to complete engineering services; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for detailed design for the sanitary sewer improvement for the reconstruction of Mesaba Avenue (TH194) between Superior Street and Fourth Street; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$9,991, will be payable from the Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532.

Resolution 01-0789 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement (Public Document No. 01-1113-30) between the city of Duluth and St. Louis County for the maintenance of various roadways within the parties' respective road jurisdictions. The city's cost under this agreement is payable from Fund 0100, Agency 500, Org. 1920, Object 5410.

Resolution 01-0798 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that effective with the meter readings on or after January 1, 2002, all customers of the Duluth Steam Utility Division No. 1 of the public works and utilities department, gas division, whose steam supply is measured by meter, shall be charged for such steam in accordance with the following formula for establishing costs established by this resolution as follows:

Energy charge: variable monthly operating cost ÷ (system total monthly steam sold Mlbs.) x (Mlbs. purchased during the month);

Capacity charge: annual budgeted fixed costs ÷ previous year Mlbs. sold = average;
Previous year steam purchased Mlbs.:

0 -	999	
1,000 -	4,999	
5,000 -	9,999	
10,000 -	14,999	average
15,000 -	24,999	
25,000 -	39,999	
over -	40,000	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

The capacity charge is to be calculated annually for each customer and shall be payable in 12 equal monthly installments.

Resolution 01-0799 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, effective with the water meter readings after January 1, 2002, all customers of the water utility of the city of Duluth, whose water supply is measured by meter, shall be charged for such water in accordance with the schedule of rates established by this resolution as follows:

Monthly Metered Volume

	effective January 1, 2002 rate \$/CCF	effective January 1, 2001 rate \$/CCF
first 4,000 cubic feet, per 100 cubic feet	\$1.73	\$1.49
next 96,000 cubic feet, per 100 cubic feet	1.13	0.97
next 900,000 cubic feet, per 100 cubic feet	0.94	0.81
over 1,000,000 cubic feet, per 100 cubic feet	0.78	0.67.

For consumers requiring water at an elevation in excess of 290 feet above Lake Superior, the rate for all water in excess of 100,000 cubic feet per month shall be effective January 1, 2002, \$1.13 per 100 cubic feet (effective January 1, 2001, \$0.97).

Monthly fixed charges are as follows:

meter size	effective January 1, 2002	effective January 1, 2001
1 inch & under	\$ 3.50	\$ 2.50
1 1/2 inch	6.13	4.38
2 inch	10.50	7.50
3 inch	38.50	27.50
4 inch	49.00	35.00
6 inch	73.50	52.50
8 inch	101.50	72.50
10 inch	133.00	95.00.

Water metered at or beyond the city limits, for use by individual customers located outside the corporate limits of the city of Duluth:

All water, per 100 cubic feet	\$2.61 effective 1/1/02
	\$2.25 effective 1/1/01.

Rates charged for water furnished to political subdivisions or state or federal government installations located outside the corporate limits of the city will be by individual contract, using the following schedule:

Hermantown	Proctor	Rice Lake
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

first 100,000 cubic feet,	\$1.93	\$2.10	\$1.75	effective 1/1/01
per 100 cubic feet	2.24	2.44	2.03	effective 1/1/02
next 200,000 cubic feet,	1.71	1.86	1.55	effective 1/1/01
per 100 cubic feet	1.98	2.16	1.80	effective 1/1/02
over 300,000 cubic feet,	1.54	1.68	1.41	effective 1/1/01
per 100 cubic feet	1.79	1.95	1.64	effective 1/1/02
(Proctor 300,001-500,000 cubic feet)				
over 500,000 cubic feet,	n/a	1.33	n/a	effective 1/1/01
per 100 cubic feet	n/a	1.54	n/a	effective 1/1/02

RESOLVED FURTHER, any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 01-0804 was unanimously adopted.
 Approved November 13, 2001
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, pursuant to Sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purpose of increasing the revenue of the sewer utility, there is established and shall be collected beginning with the meter readings made on January 2, 2002, and thereafter, a customer charge and user charges, based upon the volume of waste water discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

customer charge	\$ 5.89 per month
user charge - Class I	\$ 3.25/ccf
user charge - Class II	\$ 4.53/ccf
user charge - Class III	\$ 5.65/ccf
Miles, Inc.	\$10.45/ccf
Chroma	\$ 6.23/ccf
Kemp	\$ 7.02/ccf.

BE IT FURTHER RESOLVED, that the rate regulations established and approved by Resolution 00-0863 are rescinded as of January 1, 2002.

Resolution 01-0805 was unanimously adopted.
 Approved November 13, 2001
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 01-0279 to Wagner Construction, Inc., for construction of year 2001 street improvement project at Cody Street North, be amended to increase the amount by \$156,600 for a new total of \$503,584.69, payable out of Street Improvement Program Fund 0440, Dept./Agency 038, Organization 0102, Object 5530.

Resolution 01-0815 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 01-0319 to United Piping, Inc., for construction of gas mains at various locations throughout the city, be amended to increase the amount by \$102,074.50 for a new total of \$229,999.50, payable out of Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0817 was unanimously adopted.
Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 00-0766 to D.C. Enterprises, Inc., for furnishing demolition of five structures, be amended to increase the amount by \$16,935 for a new total of \$53,135, payable out of General Fund 0100, Dept./Agency 100, Organization 1504, Object 5453.

Resolution 01-0788 was unanimously adopted.
Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are authorized to accept a grant of up to \$88,491 from the U.S. department of justice under its local law enforcement block grant program for the period of October 1, 2001, through December 31, 2003.

RESOLVED FURTHER, that grant monies received pursuant to this grant shall be deposited in Police Grant Programs Fund 0215, Agency 200, Org. 2464.

Resolution 01-0797 was unanimously adopted.
Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that E/S Support Services be and hereby is awarded a contract for furnishing computer hardware and software maintenance for a one-year period beginning January 1, 2002, through December 31, 2002, for the police department in accordance with specifications on its proposal of \$16,000, terms net 30, FOB job site, payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5404; to be encumbered out of year 2002 budget.

Resolution 01-0810 was unanimously adopted.
Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that St. Louis County department of communications be and hereby is awarded a contract for furnishing computer aided dispatch system access during the year 2002 for the police department in accordance with specifications on its low specification bid of \$25,440, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5441, to be encumbered out of year 2002 budget.

Resolution 01-0811 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Stratus Computer Company be and hereby is awarded a contract for furnishing and delivering 12 months of maintenance covering computer hardware and software during the year 2002 for the police department in accordance with specifications on its low specification bid of \$23,480, terms net 30, FOB destination, payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5404; to be encumbered out of year 2002 budget.

Resolution 01-0812 was unanimously adopted.

Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the Minnesota department of natural resources, which agreement is on file in the office of the city clerk as Public Document No. 01-1113-31, under which agreement the city will receive up to \$2,200 to reimburse it for costs incurred in maintaining cross country ski trails in the city of Duluth during the 2001-2002 ski season. The reimbursement should be deposited in General Fund 0100, Agency 500, Org. 1920, Revenue Source 4232.

Resolution 01-0781 was unanimously adopted.

Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the city council hereby authorizes the Duluth transit authority to enter into a one month extension of its current management agreement with ATE Management of Duluth, Inc., which extension agreement is on file in the office of the city clerk as Public Document No. 01-1113-32.

Resolution 01-0785 was unanimously adopted.

Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of natural resources so as to enable the city to receive \$304,000 from said department for use at the Lake Superior Zoo; a copy of which agreement is filed with the city clerk as Public Document No. 01-1113-33, which funds shall be deposited in Special Project Fund 0210, Agency 030, Org. 2102, Revenue Source 4230. These grant dollars are for a two year period beginning July 1, 2001, and ending June 30, 2003.

Resolution 01-0791 was unanimously adopted.

Approved November 13, 2001
GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR HOGG:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(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) \$6,630,000 general obligation gas and sewer utilities revenue bonds, Series 2001F, are hereby authorized and shall be issued pursuant to Ordinance Nos. 9505 and 9506, adopted October 9, 2001, Minnesota Statutes, Chapter 475, and Section 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal gas utility and the municipal sewer utility;

(2) General obligation improvement refunding bonds, Series 2001G, in the approximate principal amount of \$1,075,000, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the city's general obligation improvement bonds dated October 1, 1993;

(3) General obligation tax increment refunding bonds, Series 2001H, in the approximate principal amount of \$630,000, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the city's general obligation tax increment bonds dated October 1, 1993; and

(4) \$1,075,000 general obligation equipment certificates of indebtedness, Series 2001 (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.

The \$6,630,000 general obligation gas and sewer utilities revenue bonds, Series 2001F, the general obligation improvement refunding bonds, Series 2001G, and the general obligation tax increment refunding bonds, Series 2001H, are hereinafter referred to as the bonds;

(b) Issuance and sale of bonds and certificates. The terms and conditions of the bonds and certificates and the sales thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 01-1113-36. 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 certificates and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds and certificates;

(c) Competitive sale of bonds and certificates. Evensen Dodge, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sales of the bonds and certificates in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolution. The form, specifications and provisions for repayment of the bonds and certificates shall be set forth in subsequent resolutions of this city council.

Resolution 01-0806 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

WHEREAS, on November 6, 2001, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(Public Document No. 01-1113-34) at 7:00 p.m., November 13, 2001, and ascertained the number of ballots cast at said election and thereby declared that at said election there were cast 30,076 votes, said votes having been cast in the following manner:

THAT for the offices of councilor at large, Herb W. Bergson, Jr., received 15,384 votes, Marcia Hales received 10,521 votes, Nancy Nelson received 11,946 votes, Jim Stauber received 13,122 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, second district, Greg Gilbert received 3,115 votes, Pat Spott received 2,514 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, fourth district, Neill A. Atkins received 2,959 votes, Roger J. Reinert received 2,929 votes and candidates receiving write-in votes as indicated on the canvassing board report;

NOW, THEREFORE, BE IT RESOLVED, that Herb W. Bergson, Jr., and Jim Stauber, 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 Greg Gilbert, having received the majority of all votes cast at said election for the office of councilor, second district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Neill A. Atkins, having received the majority of all votes cast at said election for the office of councilor, fourth district, is hereby duly elected for a term of four years.

Resolution 01-0820 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

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Resolution 01-0802, by President Edwards, confirming appointment of Virgil Swing to planning commission replacing S.C. Welles, was introduced for discussion.

President Edwards moved to table the resolution, which motion was seconded and unanimously carried.

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Resolution 01-0778, authorizing a professional services agreement with CDC Associates in an amount not to exceed \$7,800 in connection with the Soft Center incubator; and Resolution 01-0783, authorizing a professional services agreement with DoDaDay in an amount not to exceed \$48,900 in connection with the Soft Center incubator, by Councilor Ness, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolutions.

Steve Greenfield questioned how the resolution was awarded to a company without any bids sent to other Duluth companies who have the same expertise. He requested the council to table these resolutions so other companies could submit proposals so that spending \$50,000 will be worth every dollar.

In response to Councilor Ness' question, Administrative Assistant Winson replied there are no requirements for getting proposals as they are professional services contracts, but that the city tries to do so.

Councilor Gilbert stated that he will be abstaining from voting on these resolutions.

Councilor Hogg moved to table the resolutions, which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Yeas: Councilors Fena, Hogg, Ness and President Edwards -- 4

Nays: Councilors Eckenberg and Stover -- 2

Absent: Councilors Stenberg and Stewart -- 2

Abstention: Councilor Gilbert -- 1

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BY COUNCILOR NESS:

WHEREAS, the city of Duluth is the owner of all property adjacent on either side to that street on the Plat of AIRPORT DIVISION platted as Taylor Circle and the spur street to the northwest thereof constituting all of the lineal frontage thereof; and

WHEREAS, the above-referenced property is either leased to Cirrus Design, Inc. (Cirrus), or is vacant and the most likely user of said vacant property is Cirrus; and

WHEREAS, the city council has determined that there is no present public need and necessity to maintain the easement for Taylor Circle and said spur street as public street easements if an easement for utilities is retained on the west side of the westerly leg of Taylor Circle; and

WHEREAS, the city has been negotiating with Cirrus and has reached conceptual agreement with said corporation for the development of an aviation incubator facility at the airport; and

WHEREAS, after reviewing all reasonable alternatives, the city has determined that said aviation incubator facility should be constructed in such a location as to necessitate the vacation of said Taylor Circle and spur street; and

WHEREAS, there is a need to proceed with the construction of said aviation incubator facility on an immediate basis in order to avoid the costs and delays related to winter construction and to insure the completion of said incubator facility in a timely manner and within the time frames required by the project's funding sources.

RESOLVED, that subject to the procedures contained in Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, and to the signing of any documents which the city deems necessary for the construction and operation of said aviation incubator facility, the city council hereby expresses its intention to vacate that street and street easement platted as Taylor Circle and the spur street easement generally at the northwest corner thereof on the PLAT OF AIRPORT DIVISION, on file in the office of the register of titles for St. Louis county, Minnesota, subject to the reservation of an easement for utility purposes along the westerly side of the westerly leg of said Taylor Circle, which retained utility easement shall have been approved by the city engineer.

RESOLVED FURTHER, that the city's building official is hereby authorized to issue permits for the construction of the footings and foundations of said aviation incubator facility on the property currently occupied by the easement for said Taylor Circle, subject to the compliance of the plans therefore with the Minnesota State Building Code.

Resolution 01-0824 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0819, by Councilor Eckenberg, allowing Duluth steam cooperative to participate in the city's self insurance pool, was introduced for discussion.

Councilor Eckenberg moved to return the resolution to the administration, which motion was seconded and unanimously carried.

- - -

Resolution 01-0813, by Councilor Stover, authorizing the expenditure for approximately \$40,000 for the boarding of prisoners at the St. Louis County jail, was introduced for discussion.

Councilor Fena moved to table the resolution, which motion was seconded and unanimous-

ly carried.

- - -

Resolution 01-0784, by Councilor Ness, in support of a grant application to Minnesota's Lake Superior coastal program for matching funds toward the acquisition of the Stewart Creek headwaters site, not to exceed \$100,000, was introduced for discussion.

Councilor Fena moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR NESS:

RESOLVED, that pursuant to Laws of Minnesota, 1969, Chapter 720, the Duluth transit authority is hereby authorized to execute an agreement with First Transit, Inc., providing for the management of the transit system for a five year period commencing November 1, 2001, which agreement is on file in the office of the city clerk as Public Document No. 01-1113-35.

Resolution 01-0786 was unanimously adopted.

Approved November 13, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0796, by Councilor Ness, approving the transfer of ownership of in-place, city-owned playground equipment to St. Michael's Church and Duluth Bible Church, was introduced for discussion.

Councilor Ness moved to table the resolution, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STOVER

01-035 (9511) - AN ORDINANCE AMENDING PARAGRAPH (D) OF SECTION 10-5 OF THE CITY CODE TO REQUIRE A FEE FOR APPEALS TO THE BUILDING APPEALS BOARD.

Councilor Stover moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Stover 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 STENBERG

01-045 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 5, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE NORTHEAST CORNER OF 101ST AVENUE WEST AND MCGONAGLE STREET (LANTHIER).

- - -

BY COUNCILOR ECKENBERG

01-041 - AN ORDINANCE AUTHORIZING NONPROVISION OF WATER OR GAS SERVICES TO PROPERTY CONDEMNED FOR HABITATION OR NOT HAVING A CERTIFICATE OF OCCUPANCY, AMENDING SECTION 48-183 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read of the second time:

BY COUNCILOR NESS (introduced by Councilor Stenberg)

01-044 (9512) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-5 PLANNED COMMERCIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF PALM STREET (CURRY BRANDAW ARCHITECTS).

Councilor Ness moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR ECKENBERG

01-032 (9513) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LESTER PARK TO JACK G. AND LEE K. HAGADORN.

Councilor Eckenberg moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR ECKENBERG

01-033 (9514) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN LESTER PARK TO RICHARD J. AND MARY M. LEDOUX.

Councilor Eckenberg moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 9:05 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9511

BY COUNCILOR STOVER:

AN ORDINANCE AMENDING PARAGRAPH (D) OF SECTION 10-5 OF THE CITY CODE TO REQUIRE A FEE FOR APPEALS TO THE BUILDING APPEALS BOARD.

The city of Duluth does ordain:

Section 1. That paragraph (d) of Section 10-5 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 10-5. Building appeal board.

(a) There is hereby established a building appeal board, which shall hear and determine appeals under the state building and fire codes and Duluth Housing Code. Such board shall consist of 12 members who shall be appointed by the mayor, subject to the approval of the city council and who shall serve without compensation. The Duluth fire chief and building official shall be appointed as ex officio members of the board. The building official shall act as secretary of the board. One member of the board shall work in the area of finance; one member shall be a registered architect; one member shall be a registered engineer working in the area of building construction design; one member shall be engaged in the business of residential building construction; one member shall be engaged in the business of commercial building construction; one member shall work in the area

of building materials supply; one member shall be a member of a building trade union; one member shall be a realtor or real estate manager; and two members shall be appointed from the general citizenry of the city of Duluth. Of the first persons appointed for membership on the board, four shall be appointed for three years, four shall be appointed for two years, and three shall be appointed for one year. Thereafter, all appointments shall be for a term of three years, except that vacancies caused by death, resignation or otherwise may be filled for the remaining unexpired term;

(b) Within 30 days after the initial appointments, the board shall meet and elect a chairman and vice chairman. Thereafter, the board shall meet at stated intervals fixed by resolution of the board, or at the call of the chairman or of any three members of the board. The board may adopt reasonable rules and regulations for conducting its investigations and hearings;

(c) The board shall have jurisdiction to perform the following functions:

(1) To hear appeals from decisions made by the building official interpreting the State Building Code where such interpretation involves points not clearly covered by said Code, the appropriateness of alternate methods of construction, or the appropriateness of the use of alternate materials;

(2) To hear appeals from decisions made by the building official in enforcing or interpreting the Duluth Housing Code, Chapter 29A, of the Duluth City Code;

(3) To hear appeals from decisions of the fire chief which arise under Chapter 21 of the Duluth City Code;

(d) Any person who wishes to appeal a decision of the building official or fire marshal shall serve written notice of appeal upon the building official within 15 days after receiving notice of such decision, which appeal shall be accompanied by a fee of \$120. The notice of appeal shall contain a complete statement of the matter in controversy and relief requested. If the appeal is from a refusal to grant a permit authorizing the use of an alternate material or method of construction, the notice of appeal shall contain a guarantee of payment of all expenses of any tests made or ordered by the board. If the appeal is from a decision of the fire chief, the building official shall forward a copy of the notice of appeal to the fire chief. The building official shall notify the appellant of the time and place of the hearing. If the appellant withdraws his or her appeal in writing prior to the date and time set therefore, the building official shall refund the aforesaid fee. At the hearing, the board shall hear all relevant evidence and arguments. After due deliberation, the board shall render its decision in writing and notify the appellant of its decision by certified mail or personal service. Decisions involving the State Building Code shall be mailed to the state building inspector within 15 days after they are rendered. The building official shall keep an indexed record of decisions of the board;

(e) In making its decisions, the board shall use the following criteria:

(1) Building code appeals. The board shall approve alternate materials or methods of construction only if reasonable proof is presented that such material or method is at least equivalent to State Building Code standards in quality, strength, effectiveness, durability, fire resistance and safety;

(2) Housing code appeals. The board may remedy any error it has found the building official has made in the interpretation of the housing code. The

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

board may also grant such relief as it deems reasonable from strict compliance with each provision of the housing code, but no relief shall be granted unless it is found that:

(A) There is substantial compliance with the provisions of the housing code;

(B) No detriment to public health or safety will result from granting such relief;

(C) The intent of the housing code is not compromised;

(3) Variances from the minimum requirements of the fire code may be recommended to the state fire marshal only if:

(A) There is substantial compliance with the provisions of the fire code;

(B) The safety of the building occupants and general public will not be jeopardized;

(C) Undue hardship will result to the applicant if relief is not granted;

(f) Any person aggrieved by a decision of the board which involves a housing code matter may appeal such decision to the city council by filing a notice of appeal with the building official within 15 days after receiving notice of the board's decision. Such notice of appeal shall be addressed to the city council and shall state the grounds upon which the appeal is taken. The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. The building official shall file all appeal notices with the city council. The city council shall hear the appeal within 30 days after the notice of appeal is filed and shall affirm, modify or reverse the decision of the board.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 21, 2001)

Councilor Stover moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

Nays: None -- 0

Absent: Councilors Stenberg and Stewart -- 2

Passed November 13, 2001
Approved November 13, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9512

BY COUNCILOR NESS (INTRODUCED BY COUNCILOR STENBERG):

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM C-5 PLANNED COMMERCIAL TO R-3 APARTMENT RESIDENTIAL, PROPERTY LOCATED SOUTH OF PALM STREET (CURRY BRANDAW ARCHITECTS).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Section 1. That Plate No. 28 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]
[see page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 21, 2001)

Councilor Ness moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

Nays: None -- 0

Absent: Councilors Stenberg and Stewart -- 2

Passed November 13, 2001
Approved November 13, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9513

BY COUNCILOR ECKENBERG:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN LESTER PARK TO JACK G. AND LEE K. HAGADORN.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Jack G. and Lee K. Hagadorn for the sum of \$1,400 and to execute all documents necessary with regard to said conveyance:

The westerly 1/2 of Lot 3, Block 4, EDGEBROOK DIVISION OF DULUTH.

Funds to be deposited in General Fund 0100-700-1418-4640.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 21, 2001)

Councilor Eckenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

Nays: None -- 0

Absent: Councilors Stenberg and Stewart -- 2

Passed November 13, 2001
Approved November 13, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9514

BY COUNCILOR ECKENBERG:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN LESTER PARK TO RICHARD J. AND MARY M. LEDOUX.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis county, Minnesota, by quit claim deed, to Richard J. and Mary M. LeDoux for the sum of \$1,400 and to execute all documents necessary with regard to said conveyance:

The easterly 1/2 of Lot 3, Block 4, EDGEBROOK DIVISION OF DULUTH.

Funds to be deposited in General Fund 0100-700-1418-4640.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 21, 2001)

Councilor Eckenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stover and President Edwards -- 7

Nays: None -- 0

Absent: Councilors Stenberg and Stewart -- 2

Passed November 13, 2001
Approved November 13, 2001
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 26, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart and President Edwards -- 9

Absent: Councilor Stover -- 1

- - -

The minutes of the council meetings held on August 26, September 6, 10, 17 and 24, 2001, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-1126-15 The following submitting communications regarding Spirit Ridge, LLC (01-0529R, 01-0676R and 01-0685R): (a) Sterling Devine; (b) National Wildlife Federation; (c) Dane Odden. -- Received

- - -

REPORTS OF OFFICERS

01-1126-01 Assessor submitting letter of sufficiency of petition to vacate all of Taylor Circle adjacent to Lot 1, Block 5, and Lots 4, 16, 17, 18, 19 and 20 in the plat of Airport Division. -- Received

01-1126-02 Engineering division submitting monthly project status report of November 1, 2001. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-1126-03 Building appeal board minutes of September 12, 2001, meeting. -- Received

01-1126-04 Commission on disabilities minutes of October 3, 2001, meeting. -- Received

01-1126-05 Duluth/North Shore sanitary district minutes of November 6, 2001, meeting. -- Received

01-1126-06 Heritage preservation commission minutes of September 25, 2001, meeting. -- Received

01-1126-07 Parking commission minutes of October 9, 2001, meeting. -- Received

01-1126-08 Planning commission minutes of: (a) April 10; (b) September 26; (c) October 9, 2001, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis commented (Public Document No. 01-1126-16) on: bus stops at the mall, safety in the alley east of city hall, poor attendance of minority input at the district five planning meetings, not supporting a marina at McQuade Road and the proposed Spirit Mountain golf course.

- - -

Peggy Hiestand presented her opposition to delaying the implementation of the Denfeld parking permit zones (Public Document No. 01-1126-17).

- - -

Elijah commented on how the environment is sacrificed for the sake of business development.

- - -

Peggy Marrin expressed her displeasure with the firing of the consultant that was hired to assist with the comprehensive plan.

- - -

RESOLUTIONS TABLED

Councilor Stenberg moved to remove Resolution 01-0778, authorizing a professional services agreement with CDC Associates in an amount not to exceed \$7,800 in connection with the Soft Center incubator; and Resolution 01-0783, authorizing a professional services agreement with DoDaDay in an amount not to exceed \$48,900 in connection with the Soft Center incubator, from the table, which motion was seconded and unanimously carried.

- - -

Councilor Ness moved to suspend the rules to consider Resolution 01-0825 at this time, which motion was seconded and unanimously carried.

Resolution 01-0825, by Councilor Stenberg, endorsing the Soft Center strategic plan dated September 20, 2001, and supporting the preliminary budget for use of legislative funding for the Duluth Technology Village, was introduced for discussion.

Councilor Stewart expressed his concern in principle over targeting a subsidy for relocation of a business.

Councilor Hogg moved to amend the Resolution 01-0825 by deleting the words "endorsing the Soft Center Strategic plan dated September 20, 2001, and" in the title of the resolution and deleting the words "endorse the Soft Center Strategic plan dated September 20, 2001, and" in the body of the resolution, which motion was seconded and discussed.

Councilor Hogg noted that it is only the strategic options and not the strategic plan that is being supported.

The amendment carried unanimously.

Resolution 01-0825, as amended, was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the proper city officials hereby support the preliminary budget for the use of legislative funding for the Duluth Technology Village as requested by the administration and endorsed by Commissioner Rebecca Yanisch of the Minnesota department of trade and economic development.

Resolution 01-0825, as amended, was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

The rules were suspended upon a unanimous vote to hear a speaker on the resolutions. Elijah felt that the brainstorming groups, within a system, could be better used instead of consultants.

Resolution 01-0778 was adopted as follows:

BY COUNCILOR STENBERG (introduced by Councilor Ness):

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 01-1126-09, with CDC Associates for professional services related to the Soft Center incubator, in an amount not to exceed \$7,800, payable from Fund 0255.

Resolution 01-0778 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0783 was adopted as follows:

BY COUNCILOR STENBERG (introduced by Councilor Ness):

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 01-1126-10 with DoDaDay for professional services related to Soft Center, in an amount not to exceed \$48,900, payable from Fund 0255.

Resolution 01-0783 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart and President Edwards -- 7

Nays: None -- 0

Absent: Councilor Stover -- 1

Abstention: Councilor Gilbert -- 1

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

Councilor Eckenberg moved to remove Resolution 01-0771, authorizing reassessment of canceled street and utility assessment for Parkwood Division, Parkwood Division Phase II and Parkwood Phase III, from the table, which motion was seconded and unanimously carried.

Resolution 01-0771 was adopted as follows:

BY COUNCILOR ECKENBERG:

WHEREAS, on January 22, 1990, the city council approved Resolution No. 90-0032 assessing the property referred to therein as Parkwood Development for the cost of street and utility improvements to the property, at least \$59,860.80 of which remains unpaid; and

WHEREAS, on March 2, 1992, the city council approved Resolution No. 92-0167 assessing the property referred to therein as Parkwood Division Phase II for the cost of street and utility improvements to the property, at least \$29,518.24 of which remains unpaid; and

WHEREAS, on May 15, 1995, the city council approved Resolution No. 95-0322 assessing the property referred to therein as Parkwood Phase III for the cost of street and utility improvements to the property, at least \$282,147.24 of which remains unpaid; and

WHEREAS, the property referred to in said resolutions as Parkwood Development, Parkwood Development Phase II and Parkwood Phase III subsequently was forfeited to the state of Minnesota for nonpayment of real estate taxes but has since been returned to private ownership; and

WHEREAS, the city has held a hearing regarding the reassessment of said sums against said properties after notice to all necessary parties, said hearing and notice thereof complying with the requirements of Section 62 of the Duluth City Charter and Section 45-79 of the Duluth City Code, 1959, as amended; and

WHEREAS, the city council has determined that the work for which the assessments were originally levied have benefitted the respective properties by amounts at least equal to or in excess of the amounts originally assessed against each such property, including the amounts to be reassessed hereunder.

RESOLVED, that pursuant to the authorization of Laws of Minnesota, 1997, Chapter 231, Article 2, Section 53, the following, previously canceled assessments are hereby reassessed in the amounts set forth below and that this reassessment role is hereby confirmed:

Parkwood Development	\$ 59,860.80
Parkwood Division Phase II	\$ 29,518.24

Parkwood Phase III	<u>\$282,147.24</u>
Total	\$371,526.28

Resolution 01-0771 was unanimously adopted.
Approved November 26, 2001
GARY L. DOTY, Mayor

- - -

Councilor Ness moved to remove Resolution 01-0784, in support of a grant application to Minnesota's Lake Superior coastal program for matching funds toward the acquisition of the Stewart Creek headwaters site, not to exceed \$100,000, from the table, which motion was seconded and unanimously carried.

Resolution 01-0784 was adopted as follows:

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 Great Lakes coastal restoration grant program.

NOW, THEREFORE, BE IT RESOLVED, as follows:

(a) That the Duluth City Council approves of and supports the city administration in filing an application to Minnesota's Lake Superior coastal management program for financial assistance toward the acquisition of the Stewart Creek site in Midway Township;

(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 provide all information and documentation as required to become eligible for possible funding assistance; and

(c) That the city of Duluth does agree to obligate the funds required to satisfactorily complete the proposed acquisition project and become eligible for reimbursement under the terms and conditions of the Great Lakes coastal restoration grant program. The matching funds would come from the 2002 Capital Improvement Fund 0450-015.

Resolution 01-0784 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)

President Edwards moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the permanent street improvements for Harding Avenue from Central Entrance to Palm Street (Contract #5341, total assessable - \$40,368.25), is hereby confirmed.

Resolution 01-0838 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY PRESIDENT EDWARDS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premise permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth alcohol, gambling, and tobacco commission; and

WHEREAS, the city council approves of the issuance of said licenses;

NOW, THEREFORE, BY IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premise permits to the following organizations.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Licensee	Gambling site	Date application filed
Elks Lodge #133	4250 Haines Road	October 15, 2001
Elks Lodge #133	Country Lanes North	October 15, 2001
Climb, Inc.	Rustic Bar	November 6, 2001
Climb, Inc.	Shotz Bar	November 6, 2001

Resolution 01-0826 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY PRESIDENT EDWARDS:

RESOLVED, that Northern Business Products, Inc., be and hereby is awarded a contract for furnishing and delivering office components for the human resources division, in accordance with specifications on its low specification bid of \$44,351.25, terms net 30, FOB destination, payable out of Capital Improvements Fund 0450, Dept./Agency 015, Organization 2001, Object C109.

Resolution 01-0828 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

DULUTH HOUSING COMMISSION - Richard Whiteman (HRA) for a term expiring November 8, 2004, replacing Janet Carter who resigned.

Resolution 01-0599 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

DULUTH PUBLIC ARTS COMMISSION - Timothy Meyer and Cecilia Von Rabenau for terms expiring September 30, 2004.

Resolution 01-0821 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

HUMAN RIGHTS COMMISSION - Robert Jansen, Cruz Mendoza and Terese Tomanek for terms expiring March 1, 2004.

Resolution 01-0822 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following reappointment by Mayor Doty be and the same is hereby confirmed:

SISTER CITY COMMISSION - Judith Oleson for a term expiring March 30, 2004.

Resolution 01-0823 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

DULUTH HOUSING COMMISSION - Frank Jewell (at large) for a term expiring November 8, 2004, replacing Wilfred Anderson.

Resolution 01-0834 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Stroll Avenue south of Palm Street and a portion of Overland Avenue between Blackman and Harding avenues legally described as: Stroll Avenue adjoining Lot 8, Block 3, and Lots 5, 6, 9, 10 and 11, Block 4, Car Line Gardens and Lots 9 through 16, Asiala's Garden Tracts; and Overland Avenue adjoining Lots 8, 9, 10 and 11, Block 3, and Lots 3, 4, and 5, Block 4, Car Line Gardens and Lot 16, Asiala's Garden Tracts; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved, unanimously, the vacation petition at its November 13, 2001, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of Stroll Avenue and a portion of Overland Avenue described above, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

as more particularly described on Public Document No. 01-1126-12.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the streets to be vacated.

Resolution 01-0832 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for reconstruction of Lift Station Number 22 located at Walnut Street and Lift Station Number 41 located at Joshua Avenue and Ideal Street for the sewer division in accordance with specifications on its low specification bid of \$278,701.50, terms net 30, FOB job site, payable out of Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532.

Resolution 01-0830 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of Lincoln Park slope stabilization and Ninth Street storm sewer for the engineering division in accordance with specifications on its low specification bid of \$59,222, terms net 30, FOB job site, payable out of Stormwater Utility Fund 0535, Dept./Agency 500, Organization 1905, Object 5533; to be partially reimbursed by FEMA.

Resolution 01-0835 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

RESOLVED, that the proper city officers are hereby authorized to accept a \$25,509.28 subgrant from the Minnesota department of public safety, division of emergency management, acting in conjunction with the federal emergency management agency and to execute the subgrant contract, filed as Public Document No. 01-1126-14, for the city of Duluth storm cleanup costs at the Enger Park golf course as a result of the April 2001 ice storm.

RESOLVED FURTHER, that grant monies accepted pursuant to this resolution shall be deposited into General Fund 0100, Agency 500, Org. 1920.

Resolution 01-0836 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that St. Luke's Hospital Occupational Medicine be and hereby are awarded contract for furnishing physical examinations for the police and fire departments public safety employees in accordance with specifications on their proposal and unit cost for a total of \$33,331.68, terms net 30, FOB destination, \$5,000 payable out of General Fund 0100, Dept./Agency 200, Organization 1610, Object 5305; \$15,057 payable out of General Fund 0100,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Dept./Agency 100, Organization 1503, Object 5305; \$13,274.68 payable out of General Fund 0100, Dept./Agency 100, Organization 1505, Object 5305.

Resolution 01-0829 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth City Council hereby establishes rates for the use of municipal golf courses as set forth in Exhibit A on file in the office of the city clerk as Public Document No. 01-1126-13, effective upon the passage of this resolution, and does further rescind all former inconsistent golf and golf cart rates.

FURTHER RESOLVED, that all such fees collected shall be deposited in the Golf Budget No. 503.

Resolution 01-0837 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the state of Minnesota, department of natural resources, division of waters, administers financial assistance for coastal management purposes, through Minnesota's Lake Superior coastal program; and

WHEREAS, the city has a lease agreement with the Hartley Nature Center Corporation; and

WHEREAS, Hartley Nature Center Corporation desires financial assistance from said coastal program for its pervious surface demonstration project.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of and supports the filing of an application by Hartley Nature Center Corporation on the city's behalf to the Minnesota Lake Superior coastal program for financial assistance in the form of matching funds for the pervious surface demonstration project.

Resolution 01-0839 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

BY PRESIDENT EDWARDS:

WHEREAS, on November 6, 2001, there was held in the city of Duluth, pursuant to provisions of Laws of Minnesota, 1973, Chapter 281, a general municipal election for the purpose of electing certain officers; and

WHEREAS, a recount of the returns for the Fourth Councilmanic District was requested by candidate Roger Reinert and such recount was held on November 26, 2001, pursuant to provisions of Minnesota Statutes, Section 204C.36; and

WHEREAS, the city council, acting as a canvassing board for the recount, has certified the results of the recount (Public Document No. 01-1126-11) and determined the results to be as follows:

For the office of councilor for the Fourth Council District, Neill A. Atkins received 2,958 votes and Roger Reinert received 2,940 votes.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that Neill A. Atkins, having received the majority of all votes cast at said election for the office of councilor, fourth district, is hereby declared duly elected for a term of four years.

Resolution 01-0847 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0840, by Councilor Stewart, confirming appointment of Jane Maddy to human rights commission replacing Judith Gillen, was introduced for discussion.

Councilor Stewart moved to table the resolution for an interview, which motion was seconded and unanimously carried.

- - -

Resolution 01-0818, by Councilor Stenberg, denying a concurrent use permit to A and L Development, Inc., Pizza Lucé, Duluth Technology Village, 11 East Superior Street, for awnings into and over the easement for the right-of-way of East Superior Street, was introduced for discussion.

Councilor Ness moved to table the resolution for further review, which motion was seconded and unanimously carried.

- - -

Resolution 01-0827, by Councilor Stenberg, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale to the Duluth economic and development authority (DEDA) certain tax forfeited parcels now withheld from sale in conservation, was introduced for discussion.

Councilor Stenberg moved to table the resolution for further review, which motion was seconded and unanimously carried.

- - -

Resolution 01-0833, by Councilor Stenberg, granting a special use permit to RJR Communications, Inc./KBJR TV-6 for daytime use of strobe lights on the tower located at 410 West Tenth Street, was introduced for discussion.

Councilor Stenberg moved to table the resolution for further information and that it be sent to the environmental advisory council for review, which motion was seconded and unanimously carried.

- - -

Resolution 01-0841, by Councilor Stenberg, ordering the temporary closure of Niagara Street between Junction Avenue and Brainerd Avenue and creating a task force to study traffic problems adjacent to the University of Minnesota-Duluth campus (Erlemeier, et al.), was introduced for discussion.

Councilor Stenberg moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Jim Erlemeier, Pat Thompson and John Krebs expressed their support for the resolution for the reasons of: neighbors support this; after a trial period, it will show that this is the right thing to do; all other entrances to UMD are wider; UMD has another 300 room resident hall opening soon that will add to the traffic issues and with no sidewalk in this area, the safety for pedestrians is most important.

Resolution 01-0841 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a petition, signed by more than 90 residents, representing 51 property addresses of the Brainerd Avenue and Buffalo Street neighborhood, was filed with the city clerk requesting the closure of Niagara Street between Junction and Brainerd Avenues; and

WHEREAS, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission, at its October 24, 2001, meeting, unanimously recommended the temporary closure of Niagara Street and the creation of a task force for the study of traffic issues in and around the University of Minnesota- Duluth campus.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth directs the public works and utilities to physically close Niagara Street at a point between Junction and Brainerd Avenues, the exact location to be determined by the appropriate city personnel.

BE IT FURTHER RESOLVED, that the planning commission traffic committee is hereby directed to facilitate a task force consisting of the appropriate city and county personnel, UMD representatives, and neighborhood representatives to study and report to the planning commission and city council for determination on permanent closure of Niagara Street as well as any other traffic and street improvements in and around the UMD campus by June 1, 2002.

Resolution 01-0841 was unanimously adopted.

Approved November 26, 2001

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STENBERG

01-042 (9515) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CARLA BLUMBERG FOR A DECK IN THE RIGHT-OF-WAY OF 19TH AVENUE EAST LOCATED ADJACENT TO 1902 EAST EIGHTH STREET.

Councilor Stenberg moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Hogg stated that his opposition is that, while historically this area had commercial businesses in this building and surrounding area, with this deck the character of the neighborhood would change to an entertainment district.

Councilor Stenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg, Stewart and President Edwards -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Stover -- 1

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR HOGG

01-047 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2002 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY COUNCILOR HOGG

01-048 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2002.

- - -

BY COUNCILOR HOGG

01-049 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY FOR THE YEAR 2002.

- - -

BY COUNCILOR HOGG

01-050 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, SEAWAY PORT AUTHORITY FOR THE YEAR 2002.

- - -

BY COUNCILOR STENBERG

01-046 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO A AND L DEVELOPMENT, INC., PIZZA LUCÉ, DULUTH TECHNOLOGY VILLAGE, 11 EAST SUPERIOR STREET FOR AWNINGS INTO AND OVER THE EASEMENT FOR THE RIGHT-OF-WAY OF EAST SUPERIOR STREET.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STENBERG

01-045 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 5, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE NORTHEAST CORNER OF 101ST AVENUE WEST AND MCGONAGLE STREET (LANTHIER).

Councilor Stenberg moved to table the ordinance for further information, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR ECKENBERG

01-041 (9516) - AN ORDINANCE AUTHORIZING NONPROVISION OF WATER OR GAS SERVICES TO PROPERTY CONDEMNED FOR HABITATION OR NOT HAVING A CERTIFICATE OF OCCUPANCY, AMENDING SECTION 48-183 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Eckenberg moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:15 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9515

BY COUNCILOR STENBERG:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO CARLA BLUMBERG FOR A DECK IN THE RIGHT-OF-WAY OF 19TH AVENUE EAST LOCATED ADJACENT TO 1902 EAST EIGHTH STREET.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations, and restrictions hereinafter set forth, permission is hereby granted to Carla Blumberg, her successors and interests, referred to

herein as the permittee, to occupy, erect, and maintain a series of decks in that part of 19th Avenue East as the same was dedicated to the use of the public and the plat of Highland Park Addition to Duluth, on file, and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

the easterly ten feet of 19th Avenue East adjacent to Lot 1, Block 25, Highland Park Addition to Duluth.

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, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittee for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittee six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittee shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittee shall remove said decking and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittee, and without right on the part of the permittee to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby agrees to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittee, and agree that such decking 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 19th Avenue East and agree that the city of Duluth shall not be liable for damage caused to such decking while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such in said 19th Avenue East.

Section 6. That the permittee shall further observe the following conditions:

- (a) All required building permits shall be obtained;
- (b) The city engineering department shall approve, in writing, all building permits.

Section 7. That this ordinance shall not be valid if the above cited permits in Section 6 are not issued and improvements completed within 12 months from the effective date of this ordinance.

Section 8. The term of this permit shall expire with the sale of the property by this permittee and said decking and all fixtures and pertinencies of every kind whatsoever attached thereto shall be removed from the tract of land described above within 60 days, unless the new property owner applies for and receives a replacement ordinance within said 60 days.

Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 6, 2002)

Councilor Stenberg moved passage of the ordinance and the same was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stenberg, Stewart and President Edwards -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Stover -- 1

Passed November 26, 2001
Approved November 26, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9516

BY COUNCILOR ECKENBERG:

AN ORDINANCE AUTHORIZING NONPROVISION OF WATER OR GAS SERVICES TO PROPERTY CONDEMNED FOR HABITATION OR NOT HAVING A CERTIFICATE OF OCCUPANCY, AMENDING SECTION 48-183 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 48-183 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 48-183. Same--grounds for disapproval.

Any application for installation of meters may be disapproved for premises:

(a) Whose applicant is in arrears to the department for lawful charges for gas or water supply, street services, or other commodities, supplies or services;

(b) For which premises any regulations as to house piping, house service, street service or inspection remain uncomplined with;

(c) When charges for water or gas consumed on such premises remain unpaid;

(d) For which an enforceable order condemning said premises for habitation is in effect and the city building official has not approved the application because of requirements for repair or safety; or

(e) For which no valid certificate of occupancy is in effect and the city building official has not approved the application because of requirements for repair or safety.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 6, 2002)

Councilor Eckenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart and President Edwards -- 8

Nays: None -- 0

Absent: Councilor Stover -- 1

Passed November 26, 2001
Approved November 26, 2001
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 29, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Fena, Gilbert, Hogg, Stenberg, Stewart, Stover and Vice President Ness -- 8

Absent: President Edwards -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-1129-01 Evensen Dodge, Inc., submitting:

(a) Preliminary official statement regarding sale of \$6,630,000 G.O. gas and sewer utilities revenue Bonds, Series 2001F; \$1,075,000 G.O. improvement refunding bonds, Series 2001G; \$630,000 G.O. tax increment refunding bonds, Series 2001H; and \$1,075,000 G.O. equipment certificates of indebtedness, Series 2001;

(b) Bid results regarding sale of \$6,630,000 G.O. gas and sewer utilities revenue Bonds, Series 2001F, and \$1,075,000 G.O. equipment certificates of indebtedness, Series 2001.

-- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 01-0842, providing for the issuance, sale and delivery of \$6,630,000 general obligation gas and sewer utilities revenue bonds, Series 2001F; establishing the terms and form thereof; and awarding the sale thereof; and Resolution 01-0843, providing for the issuance, sale and delivery of \$1,075,000 general obligation equipment certificates of indebtedness, Series 2001; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; by Councilor Hogg, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolutions.

Wayne Burggraaff, was present on behalf of Evensen Dodge, Inc., financial consultants, and stated that the city still has A1 and A+ ratings with Moody's Investors Service and Standard & Poor Ratings Group, respectively.

Resolutions 01-0842 and 01-0843 were adopted as follows:

BY COUNCILOR HOGG:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal gas utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the gas utility and are payable primarily from net revenues to be derived from the operation of the municipal gas utility and pledged for their payment.

1.02 The city council has, by Ordinance No. 9506 adopted October 9, 2001, ordered the issuance, sale and delivery of general obligation gas utility revenue bonds in the maximum amount of \$5,315,000 of the City, for the payment of the costs of improvements to the municipal gas utility and for payment of part of the interest cost of the Bonds. \$5,300,000 of the Bonds (the "Gas Portion of the Bonds") are hereby allocated to the municipal gas utility.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

1.03 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal sewer utility (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon the sewer utility and are payable primarily from net revenues to be derived from the operation of the municipal sewer utility and pledged for their payment.

1.04 The city council has, by Ordinance No. 9505 adopted October 9, 2001, ordered the issuance, sale and delivery of general obligation sewer utility revenue bonds in the maximum amount of \$1,345,000 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. \$1,330,000 of the Bonds (the "Sewer Portion of the Bonds") are hereby allocated to the municipal sewer utility.

1.05 The city council has determined that it is necessary and expedient that the City issue such municipal utilities bonds in a single issuance of \$6,630,000 General Obligation Gas and Sewer Utilities Revenue Bonds, Series 2001F (the "Bonds").

1.06 Evensen Dodge, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the Bonds are hereby ratified and approved.

1.07 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Morgan Stanley Dean Witter, Inc., of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$6,550,440, plus accrued interest on the total principal amount from December 1, 2001, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated December 1, 2001, 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	Gas Portion of the Bonds	Sewer Portion of the Bonds	Total	Interest Rate
2003	\$235,000	\$60,000	\$295,000	4.000%
2004	280,000	70,000	350,000	4.125%
2005	290,000	75,000	365,000	4.125%

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Year	Gas Portion of the Bonds	Sewer Portion of the Bonds	Total	Interest Rate
2006	300,000	75,000	375,000	4.125%
2007	310,000	80,000	390,000	4.125%
2008	325,000	80,000	405,000	4.250%
2009	335,000	85,000	420,000	4.250%
2010	350,000	85,000	435,000	4.250%
2011	360,000	90,000	450,000	4.350%
2012	375,000	95,000	470,000	4.450%
2013	395,000	100,000	495,000	4.550%
2014	410,000	105,000	515,000	4.650%
2015	425,000	105,000	530,000	4.750%
2016	445,000	110,000	555,000	4.750%
2017	465,000	115,000	580,000	4.750%

2.02 The Bonds maturing in the years 2003 through 2010 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2011 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2010, and on any date thereafter, in whole or in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2002. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile

of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete, and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 GAS AND SEWER UTILITIES REVENUE BOND
SERIES 2001F

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2001	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 1, 2001, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2002. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the

Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$6,630,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted on November 29, 2001, by the governing body of the City (the "Resolution"). The Bonds consist of two issues:

(i) That portion of the Bonds (\$5,300,000) issued for improvements to the municipal gas utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9506 adopted on October 9, 2001, for the purpose of providing funds for improvements to the municipal gas utility and for payment of part of the interest cost of said bond issue. That portion of the Bonds issued for improvements to the municipal gas utility are payable primarily from the net revenues to be derived from the operation of the municipal gas utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal gas utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the gas utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the gas utility.

(ii) That portion of the Bonds (\$1,330,000) issued for improvements to the municipal sewer utility are issued pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Sections 115.46 and 444.075 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9505 adopted October 9, 2001, for the purpose of providing funds for improvements to such municipal sewer utility and for payment of part of the interest cost of such bond issue. That portion of the Bonds issued for the municipal sewer utility are payable from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the sewer utility, and has covenanted and agreed that it will

impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the sewer utility.

The Bonds of this series maturing in the years 2003 through 2010 are not subject to redemption before maturity, but those maturing in the year 2011 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2010, and on any date thereafter upon 30 days' notice, in whole or in part, in such order of maturities as selected by the City and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank Minnesota, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank Minnesota, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date
12/___/01

Registered Owner
Cede & Co.
c/o The Depository Trust Company
55 Water Street
New York, NY 10041
Federal Taxpayer I.D. No.: 13-2555119

Signature of
Bond Registrar

BOND COUNSEL OPINION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Revenues, Accounts and Covenants.

3.01 Gas Portion of the Bonds.

A. The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal gas utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Gas Portion of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal gas utility in a separate Gas Utility Operating Account within the Public Utility Gas Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal gas utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all gas utility bonds when due.

B. The City has created a separate construction account within the Public Utility Gas Fund to which there shall be credited \$5,300,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the gas utility and costs of the issuance of the Gas Portion of the Bonds.

C. Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Gas Debt Service Fund") in the Public Utility Gas Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Gas Portion of the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the gas utility. The treasurer shall credit to the Gas Debt Service Fund all proceeds of the Gas Portion of the Bonds in excess of \$5,300,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Gas Portion of the Bonds. The treasurer shall transfer from the Gas Utility Operating Account to the Gas Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Gas Portion of the Bonds, and a pro rata portion of all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

D. Surplus utility revenues from time to time received in the Gas Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Gas Utility Operating Account and in the Gas Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal gas utility, for the prepayment and redemption of bonds constituting a lien on the municipal gas utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.02 Sewer Portion of the Bonds.

A. The city council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Sewer Portion of the Bonds and on all other bonds heretofore or hereafter issued and

made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Utility Sewer Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

B. The City has created a separate construction account within the Public Utility Sewer Fund to which there shall be credited \$1,330,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the utility and costs of the issuance of the Sewer Portion of the Bonds.

C. Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Sewer Debt Service Fund") in the Public Utility Sewer Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Sewer Portion of the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. The treasurer shall credit to the Sewer Debt Service Fund all proceeds of the Sewer Portion of the Bonds in excess of \$1,330,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Sewer Portion of the Bonds. The treasurer shall transfer from the Sewer Utility Operating Account to the Sewer Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Sewer Portion of the Bonds, and a pro rata portion of all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

D. Surplus utility revenues from time to time received in the Sewer Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Sewer Utility Operating Account and in the Sewer Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.03 If the balances in either the Gas Debt Service Fund or the Sewer Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Funds when the balances therein are sufficient. It is estimated that the net revenues herein pledged and

appropriated to said Debt Service Funds will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Funds shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 01-0842 was unanimously adopted.

Approved November 29, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Certificate Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Sections 410.32 and 412.301 and Minnesota Statutes, Chapter 475 (collectively, the "Act"), and the City Charter, the City is authorized to issue its general obligation capital equipment certificates of indebtedness to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the certificates of indebtedness.

1.02 The city council adopted Resolution No. 01-0806 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,075,000 to finance the purchase of capital equipment authorized by the Act. It is hereby certified that the amount of

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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 \$1,075,000 General Obligation Equipment Certificates of Indebtedness, Series 2001, of the City (the "Certificates") to provide funds to purchase capital equipment authorized by the Act, to pay certain expenses incurred in the issuance of the Certificates and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Certificates will have a useful life of more than five years.

1.04 Evensen Dodge, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Evensen Dodge, Inc., to be prospective bidders on the Certificates at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Certificates. All actions of the mayor, the clerk and Evensen Dodge, Inc., taken with regard to the sale of the Certificates are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Certificates, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of UBS PaineWebber, Inc., of Chicago, Illinois (the "Purchaser"), to purchase the Certificates at a cash price of \$1,067,384.15, plus accrued interest on the total principal amount from December 20, 2001, to the date of delivery of the Certificates and upon condition that the Certificates mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such bid reasonable and proper and the bid of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms, Execution and Delivery of the Certificates.

2.01 The Certificates to be issued hereunder shall be dated December 20, 2001, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Certificates shall mature on December 20 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2002	\$200,000	3.00%
2003	210,000	3.00%
2004	215,000	3.00%
2005	220,000	3.35%
2006	230,000	3.65%

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 20 and December 20 in each year (each referred to herein as an "Interest Payment Date"), commencing June 20, 2002. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar

designated below shall make all interest payments with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business 15 days next preceding the Interest Payment Date (whether or not a business day) at such owners' addresses shown on such bond registration records.

2.04 The Certificates shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Certificates shall cease to be an officer before delivery of the Certificates, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Certificate, together with a certificate to be signed by the manual or facsimile signature of the city clerk in substantially the form set forth in the form of the Certificate. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The city council hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Certificates (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk. No Certificate shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Certificate, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Certificates need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Certificate shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Certificates eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) All of the Certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Certificate registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City of each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by Certificate holders and payments on the Certificates are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Certificates and the registration of transfers of the Certificates entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be

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maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any 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 2001

R-____ \$_____

Interest			
Rate	Maturity Date	Date of Original Issue	CUSIP
%	December 20, ____	December 20, 2001	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 20, 2001, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is

payable semiannually on June 20 and December 20 of each year (each referred to herein as an "Interest Payment Date") commencing on June 20, 2002. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this 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 \$1,075,000, 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, 2001 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Certificates, as such principal and interest respectively come due. The Certificates are not subject to redemption and prepayment before maturity.

The Certificates of this series are issued as fully registered obligations without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Certificate is transferable by the registered owner hereof upon surrender of this Certificate for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Certificate in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do

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exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest thereon when due, without limitation as to rate or amount; and that the issuance of this Certificate does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.

This Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Certificate to be executed in its name by the facsimile signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Certificate registered in the name of the owner named above, in the principal amount stated above, and this Certificate is one of the Certificates of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Certificates, dated as of the original date of delivery of and payment for the Certificate.

City Clerk

REGISTRATION CERTIFICATE

This Certificate must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank Minnesota,

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National Association, as Bond Registrar. No transfer of this Certificate shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Certificate and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/20/01	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Certificate and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Certificate on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

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3.01 The City has created a separate acquisition account within the Capital Equipment Fund to which there shall be credited \$1,075,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, from the proceeds for the Certificates, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for "capital equipment," as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least five years, and costs of issuance of the Certificates, as such payments become due.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Certificates as such principal and interest respectively become due as follows:

Levy Year	Collection Year	Tax Levy
2001	2002	\$246,241
2002	2003	250,441
2003	2004	249,076
2004	2005	247,554
2005	2006	250,315

(b) A separate debt service account is hereby created and designated as the "2001 G.O. Equipment Certificates Debt Service Account" (the "Debt Service Fund") within the City's debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Certificates; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited all of the proceeds of the Certificates in excess of \$1,075,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Certificates.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Certificates, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into the Debt Service Fund. Said taxes shall be irrevocable until the Certificates and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and the amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Certificates and the interest thereon, in accordance with the terms set forth in this resolution.

3.05 Proceeds of the Certificates on deposit in the acquisition account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Section 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Certificates when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Certificates that the City will (i) take all action on its part necessary to assure that the interest on the Certificates will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Certificates and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Certificates to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Certificates and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Certificates shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Certificates were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Certificates or \$100,000. To this effect, any proceeds of the Certificates and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Certificates) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Certificates and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Certificates, or to cause or permit them to be used, in such a manner as to cause the Certificates to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Certificates, the following schedule will be met: (i) at least 15% of the gross proceeds of the Certificates will be allocated to expenditures for the governmental purpose of the Certificates within six months of the date of issue of the Certificates; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the

Certificates, and that 100% of the available proceeds of the Certificates will be allocated within 30 months from the date of issue of the Certificates.

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Certificates. To provide for the public availability of certain information relating to the Certificates and the security therefor and to permit underwriters of the Certificates to comply with the Rule, which will enhance the marketability of the Certificates, the mayor and the clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the city clerk.

Section 6. Certificates of Proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the Certificates herein authorized have been duly entered on the county auditor's register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City pertaining to the authorization, issuance, and sale of the Certificates and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Certificates, as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Certificates and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

6.04 In the event of the absence or disability of the mayor or the city clerk, such officers as in the opinion of the City attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Certificates, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Resolution 01-0843 was unanimously adopted.

Approved November 29, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0845, providing for the issuance, sale and delivery of \$630,000 general obligation tax increment refunding bonds, Series 2001H; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 01-0846, providing for the issuance, sale and delivery of \$1,075,000 general obligation improvement refunding bonds, Series 2001G; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by Councilor Hogg, were introduced for discussion. interest rates being too high, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 5:25 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 3, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Fena, Gilbert, Hogg, Stenberg, Stewart, Stover and Vice President Ness -- 8

Absent: President Edwards -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-1203-01 Robert Smith, et al. (six signatures), submitting petition to extend the public sewer main to serve properties located on Woodland Avenue north of the Pleasant View Road intersection. -- Assessor

- - -

REPORTS OF BOARDS AND COMMISSIONS

01-1203-02 Board of zoning appeals minutes of October 23, 2001, meeting. -- Received

01-1203-03 Duluth transit authority: (a) September 2001 financial statement; (b) Minutes of September 26, 2001, meeting. -- Received

01-1203-04 Special assessment board minutes, findings and recommendations regarding the proposed watermain extension along Rice Lake Road from 900 feet to 1,000 feet northwesterly of Persons Street and sanitary sewer extension along Rice Lake Road from 380 feet to 1,000 feet northwesterly of Persons Street. -- Received

- - -

At this time, 7:05 p.m., the public hearing regarding the 2002 budget and levy; Seaway Port authority levy, was called to order.

No one appeared who wished to be heard and the public hearing was closed at 7:10 p.m.

- - -

At this time, 7:10 p.m., the public hearing regarding a business subsidy amendment (01-0860R) was called to order.

No one appeared who wished to be heard and the public hearing was closed at 7:15 p.m.

- - -

Councilor Hogg moved to consider Resolution 01-0860 at this time, which motion was seconded and unanimously carried.

Resolution 01-0860, by Councilor Fena, amending Resolution 00-0731 relating to business subsidy criteria, was introduced for discussion.

Resolution 01-0860 was adopted as follows:

BY COUNCILOR FENA:

WHEREAS, the Duluth City Council passed Resolution 00-0333(a) on May 22, 2000, adopting criteria that apply to a business that requests a business subsidy from the city of \$25,000 or more; and

WHEREAS, the Duluth City Council passed Resolution 00-0522 on July 31, 2000, exempting from the requirements of the above-referenced resolution federal community development block grant program assistance until the assistance has been repaid to, and reinvested by, the city; and

WHEREAS, the Duluth City Council passed Resolution 00-0731 on October 23, 2000, exempting from the requirements of the above-referenced resolution Federal emergency shelter grant (ESG) and HOME investment partnership program assistance until the assistance has been repaid to, and reinvested by, the city; and Minnesota housing finance agency - community

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

revitalization fund and innovative housing loan program (Resolution 00-0333(a), Resolution 00-0522, and 00-0731 hereinafter referred to as the "business subsidy resolution"); and

WHEREAS, the Duluth City Council passed Resolution 01-0241 on March 19, 2001, exempting from the requirements of the above-referenced resolution assistance for housing in the form of a loan at an interest rate not generally available to the borrower in the commercial lending market for the extension of streets and utilities received by the borrower pursuant to authorization under Chapter IX of the Duluth City Charter (Resolution 00-0333(a), Resolution 00-0522, Resolution 00-0731 and Resolution 01-0241 hereinafter referred to as the business subsidy resolution); and

WHEREAS, the Duluth City Council desires to further amend the business subsidy resolution in order to exempt affordable housing projects that comply with the housing policy of the Duluth economic development authority (DEDA).

NOW, THEREFORE, BE IT RESOLVED, that the business subsidy resolution is amended to read as follows:

"BE IT RESOLVED, that the Duluth City Council adopts, effective May 22, 2000, the following mandatory and preferential criteria for businesses receiving assistance from the city of \$25,000 or more. The following assistance shall be exempt from the requirements of this resolution:

(a) Federal community development block grant program assistance until the assistance has been repaid to, and reinvested by, the city;

(b) Federal emergency shelter grant (ESG) and HOME investment partnership program assistance until the assistance has been repaid to, and reinvested by, the city;

(c) Minnesota housing finance agency - community revitalization fund and innovative housing loan program.

(d) Assistance for housing in the form of a loan at an interest rate not generally available to the borrower in the commercial lending market for the extension of street and utilities received by the borrower pursuant to authorization under Chapter IX of the Duluth City Charter;

(e) All affordable housing projects that comply with DEDA's housing policy.

_____Mandatory criteria. All projects receiving assistance of \$25,000, or more, must satisfy the following seven criteria:

(a) Public purpose criteria. The project must meet two of the following five public purpose criteria:

(1) High quality jobs. If the project results in the creation of new jobs, then the jobs must be predominantly full-time jobs that pay at least a living wage (as defined by Duluth's living wage ordinance) and provide health insurance and other benefits;

(2) Job retention. If the recipient can demonstrate that job loss is imminent without a business subsidy, then the recipient must present a plan which shows that a significant number of the existing jobs will be retained for at least five years after completion of the subsidy;

(3) Economic diversity. The project must contribute to the economic diversity of the city by reducing dependency upon declining industries, participating in fast growing industries, or supporting existing industries of manufacturing, education, health care, retail sales, tourism and service and technology;

(4) Quality of life. The project must enhance the quality of life of the city's residents by investing in neglected neighborhoods or business areas, utilizing in-fill areas rather than contributing to urban sprawl, benefitting the environment, or redeveloping blighted or polluted areas;

(5) Tax base. The city must realize a reasonable rate of return on its public investment in the project in the form of an increase in tax base or other monetary return;

(b) Specific goals. The project will have measurable, specific and tangible goals as they relate to the stated public purpose;

(c) Equal opportunity. The recipient will abide by all local, state and federal laws prohibiting discriminatory hiring and employment practices and agree to affirmatively seek out participation in the project by members of protected classes;

(d) Project feasibility and disclosure. The recipient must demonstrate to the satisfaction of the city that it has adequate financing for the project and that the project will be completed in a timely fashion;

(e) Wage policy. If the project results in the creation of any job, the wage for each part-time and full-time job created must be in compliance with Duluth's living wage ordinance and at least equal to the prevailing wage for like or similar projects within the area or such greater amount as required by the city for a specific project;

(f) Report to the council. At the time the city council reviews a project development agreement calling for assistance of \$25,000 or more, a report shall be submitted to councilors summarizing the information necessary for them to exercise their due diligence, as determined by the city council;

(g) Applicable laws. The recipient will agree to satisfy all requirements of Minnesota's business subsidy law as defined in Minnesota Statutes §116J.993-§116J.995 and Duluth's living wage ordinance, as amended, in Article 26, Chapter 2 of the Duluth City Code.

Preferential criteria. Businesses that meet any or all of the following criteria shall be given preference for receiving assistance over other businesses that meet the mandatory criteria but not any of the preferential criteria.

(a) Locally owned businesses. Preference shall be given to locally owned businesses or to projects that make extensive use of local businesses for support;

(b) Hiring low-income people. Preference shall be given to businesses with a commitment and plan to hire people earning at or below 200 percent of the poverty line;

(c) Protected class business owners. Preference shall be given to businesses owned in whole or in part by members of protected classes;

(d) Quality of life businesses. Preference shall be given to businesses that are environmentally responsible and enhance the overall quality of live in the city."

Resolution 01-0860 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Anthony Grandi questioned why the smoking ordinance hinders bars that make their own food by not allowing smoking versus the bars that have frozen prepacked food. He continued by saying that he has lost customers because of the smoking ordinance and his business should not have to compete with other bars just because he serves food. Mr. Grandi stated the ordinance should make an even playing field for all bars, either they all allow smoking or none of the bars allowing smoking.

- - -

KL Lewis expressed appreciation to the parks and recreation department for doing a great job cleaning up the damage from the storm on the boardwalk; she hoped that the comprehensive planning community meetings continue, and that eminent domain by the city should not happen

as a means for private development on property.

- - -

Peggy Marrin reviewed that Duluth's legislators did not support the McQuade safe harbor project.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 01-0840, confirming appointment of Jane Maddy to human rights commission replacing Judith Gillen, from the table, which motion was seconded and unanimously carried.

Resolution 01-0840 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

HUMAN RIGHTS COMMISSION - Jane Ellen Maddy for a term expiring March 1, 2002, replacing Judith Gillen who resigned.

Resolution 01-0840 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

Councilor Stenberg moved to remove Resolution 01-0818, denying a concurrent use permit to a and L Development, Inc., Pizza Lucé, Duluth Technology Village, 11 East Superior Street, for awnings into and over the easement for the right-of-way of East Superior Street, from the table, which motion was seconded and unanimously carried.

Councilor Stenberg moved to retable the resolution, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)

Councilor Hogg moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water quality specialist, which were approved by the civil service board on July 3, 2001, and which are filed with the city clerk as Public Document No. 01-1203-05, 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 30, pay rate of \$3,027 to \$3,618 per month to Pay Range 31, pay rate of \$3,162 to \$3,759. 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 01-0683 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following reappointment by Mayor Doty be and the same is hereby

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

confirmed:

DEFERRED COMPENSATION PLAN COMMISSION - Jean Mattson for a term expiring December 31, 2005.

Resolution 01-0855 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

JOINT AIRPORT ZONING BOARD - James Mohn and John Morrison for terms expiring January 2, 2005.

Resolution 01-0856 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

ENVIRONMENTAL ADVISORY COUNCIL - James Harvie (environmental) and Kenneth Norenberg (environmental) for terms expiring January 5, 2005.

Resolution 01-0857 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the following reappointment by Mayor Doty be and the same is hereby confirmed:

PLANNING COMMISSION - Ruth Ann Eaton for a term expiring December 31, 2005.

Resolution 01-0859 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the administrative assistant has appointed Leslie W. Bass as director of finance effective January 1, 2002, and the mayor has approved such appointment; and

WHEREAS, such appointment is subject to city council approval.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the appointment of Leslie W. Bass as director of finance.

Resolution 01-0869 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to execute mortgage loan riders and amendments to the CDBG program loan agreement (City Contract No. 18817), and the HOME program loan agreement (City Contract No. 18817) with Center City Windwood Partners,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

LP (Center City), substantially in the form of those on file in the office of the city clerk as Public Document Nos. 01-1203-06(a) and 01-1203-06(b), relating to Windwood Townhomes.

Resolution 01-0861 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, by Resolution of Intent numbered 01-0761 the council did request the administration to prepare plans and specifications for the construction of 620 feet of sanitary sewer main along Rice Lake Road from 380 feet to 1,000 feet northwesterly of Persons Street (City Job No. 0186SN) at an estimated cost of \$58,900; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$58,900, payable from Special Assessment Fund 0410, Agency 038, Organization 5344, Object 5530 and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board; and which report is on file in the office of the city clerk as Public Document No. 01-1203-04; and which description is hereby incorporated herein by reference to Public Document No. 01-1203-04; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 01-0848 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ECKENBERG:

WHEREAS, by Resolution of Intent numbered 01-0760 the council did request the administration to prepare plans and specifications for the construction of 100 feet of watermain along Rice Lake Road from 900 feet to 1,000 feet northwesterly of Persons Street (City Job No. 0186WA) at an estimated cost of \$9,500; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

made; that the estimated total cost of said improvement as estimated by the city engineer is \$9,500, payable from Special Assessment Fund 0410, Agency 038, Organization 5343, Object 5530 and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board and which report is on file in the office of the city clerk as Public Document No. 01-1203-04; and which description is hereby incorporated herein by reference to Public Document No. 01-1203-04; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 01-0849 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY VICE PRESIDENT NESS:

WHEREAS, the city of Duluth entered into an agreement with the state of Minnesota Lake Superior coastal program which granted matching funds totaling up to \$8,600 for the Park Point sand dune restoration project; and

WHEREAS, the city entered into a separate agreement assigning project responsibility to the Park Point Community Club and authorizing reimbursement of eligible expenses up to the total grant award of \$8,600; and

WHEREAS, said project cannot be completed by the project termination date of November 30, 2001, and

WHEREAS, the state of Minnesota Lake Superior coastal program has authorized a project time extension to May 31, 2002.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute agreement amendments extending only the project completion date to May 31, 2002, filed as Public Document Nos. 01-1203-07(a) and 01-1203-07(b), with the state of Minnesota Lake Superior coastal program and Park Point Community Club to allow for the completion of the sand dune restoration project and expenditure of all coastal grant funds.

RESOLVED FURTHER, that all other terms and conditions of each existing agreement shall remain unchanged and in full force until the expiration date of May 31, 2002.

Resolution 01-0858 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

The following entitled resolutions were also considered:

Resolution 01-0851, by Councilor Hogg, distributing the estimated 2002 tourism taxes of hotel-motel and food and beverage, was introduced for discussion.

Councilor Hogg moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HOGG:

RESOLVED, that the operating budget for the fiscal year January 1, 2002, to December 31, 2002, in the amount of \$2,758,114 for the Duluth airport authority is hereby approved.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 01-0852 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 2002, to December 31, 2002, in the amount of \$9,501,993 for the Duluth transit authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 01-0853 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the operating budget for the fiscal year January 1, 2002, to December 31, 2002, for Duluth Steam District No. 2 in the amount of \$7,401,619 is hereby approved.

Resolution 01-0854 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0863, by Councilor Hogg, approving DEDA's general, debt service, capital projects and storefront loan fund budgets for 2002, was introduced for discussion.

Councilor Hogg moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the reimbursement by Duluth economic development authority (DEDA) to the city of Duluth in the amount of \$50,000, as approved by the DEDA board at its meeting of November 27, 2001, pursuant to DEDA Resolution No. 01D-54, a copy of which is on file in the office of the city clerk as Public Document No. 01-1203-08, is hereby approved.

Resolution 01-0864 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the agreement between the Duluth economic development authority (DEDA) and the Spirit Valley Citizens Neighborhood Development Association (SVCNDA) in the amount of \$87,500, as approved by the DEDA board at its meeting of November 27, 2001, pursuant to DEDA Resolution No. 01D-56, a copy of which is on file in the office of the city clerk as Public Document No. 01-1203-09, is hereby approved.

Resolution 01-0865 was unanimously adopted.

Approved December 3, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0870, by Councilor Eckenberg, approving the final layout and project report for the improvement of a part of Trunk Highway Number 53 renumbered as Trunk Highway 106 (Piedmont Avenue) within the corporate limits of the city of Duluth from south of Fourth Street to 0.25 miles north of Skyline Parkway, was introduced for discussion.

Councilor Eckenberg moved to table the resolution for a public hearing, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR STENBERG

01-045 (9517) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 5, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE NORTHEAST CORNER OF 101ST AVENUE WEST AND MCGONAGLE STREET (LANTHIER).

Councilor Stenberg moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Stenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilor Eckenberg, Fena, Hogg, Stenberg, Stewart and Stover and Vice President Ness -- 7

Nays: None -- 0

Absent: President Edwards -- 1

Abstention: Councilor Gilbert -- 1

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HOGG

01-047 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2002 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Hogg moved to table the ordinance, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HOGG

01-048 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2002.

Councilor Hogg moved to table the ordinance, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HOGG

01-049 (9518) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY FOR THE YEAR 2002.

The rules were suspended upon a unanimous vote to hear from a speaker on the ordinance.

Elijah voiced concern that young people are not staying in Duluth because the cost of housing is too high and encouraged councilors to vote against rising property values and the cost of living.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR HOGG

01-050 (9519) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, SEAWAY PORT AUTHORITY FOR THE YEAR 2002.

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR STENBERG

01-046 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO A AND L DEVELOPMENT, INC., PIZZA LUCÉ, DULUTH TECHNOLOGY VILLAGE, 11 EAST SUPERIOR STREET FOR AWNINGS INTO AND OVER THE EASEMENT FOR THE RIGHT-OF-WAY OF EAST SUPERIOR STREET.

Councilor Stenberg moved to table the ordinance, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 8:05 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9517

BY COUNCILOR STENBERG:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 5, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, TWO FAMILY RESIDENTIAL, TO R-3, APARTMENT RESIDENTIAL, PROPERTY LOCATED ON THE NORTHEAST CORNER OF 101ST AVENUE WEST AND MCGONAGLE STREET (LANTHIER).

The city of Duluth does ordain:

Section 1. That Plate No. 5 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

[See page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 13, 2002)

Councilor Stenberg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Stenberg, Stewart, Stover and Vice President Ness -- 7

Nays: None -- 0

Absent: President Edwards -- 1

Abstention: Councilor Gilbert -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 3, 2001
Approved December 3, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9518

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH
TRANSIT AUTHORITY FOR THE YEAR 2002.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2002 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$272,300 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be levied for transit operations the sum of \$272,300.

Section 3. That this ordinance shall take effect and be in force January 1, 2002.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Stenberg, Stewart, Stover and Vice President Ness -- 8

Nays: None -- 0

Absent: President Edwards -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 3, 2001
Approved December 3, 2001
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9519

BY COUNCILOR HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR THE SPECIAL TAXING DISTRICT, SEAWAY PORT
AUTHORITY FOR THE YEAR 2002.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2002 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$526,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing the Seaway Port authority special taxing district the sum of \$526,100.

Section 3. That this ordinance shall take effect and be in force January 1, 2002.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Stenberg, Stewart, Stover and Vice President Ness -- 8

Nays: None -- 0

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Absent: President Edwards -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 3, 2001
Approved December 3, 2001
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 17, 2001, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Eckenberg, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Absent: Councilor Fena -- 1

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The minutes of council meetings held on October 9, 15, 22, November 13, 26 and 29, 2001, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

01-1217-01 Housing and Redevelopment Authority of Duluth, et al. (four signatures), submitting petition to extend the public sewer main to serve properties with street addresses 1007, 1011, 1016 and 1018 North 14th Avenue East. -- Assessor

01-1217-02 Michael Fitzsimmons submitting communication regarding the proposed vacation of a portion of alley located west of 45th Avenue West between Fourth Street and Grand Avenue (01-0866R). -- Received

01-1217-03 The following submitting communications regarding proposed development and work permits of Spirit Ridge LLC (01-0685R, 01-0529R and 01-0676R): (a) Nathan Bahls; (b) John Bell; (c) Christina Bellert; (d) Erin Blomquist; (e) Ken Borchert; (f) Johnna Bossuot; (g) Caroline Carlson; (h) Jon Choi; (i) Tim Colburn; (j) Sky Davey; (k) Heather Driscoll; (l) Bo Ekmark; (m) Phil Fitzpatrick; (n) Christian Fortin; (o) Erika Frykman; (p) Melosa Granda; (q) Janet Green; (r) Hovland Spirit Ridge, LLC, by William Burns, attorney; (s) Warren Howe; (t) William Hurst; (u) Marianna Jablonski; (v) Christopher F. James; (w) Deborah Kirpach; (x) Julie C. Klejeski; (y) Dawn Koenig; (z) Carol Kondrath and Steve Johnson; (aa) Caleb Korzenowski; (bb) Barb Koth; (cc) Nicholas Lamon; (dd) Diane Lings; (ee) Brady Mattsson; (ff) Glenn Maxham; (gg) Julie McDonnell; (hh) James McNulty; (ii) Richard Mills; (jj) Minnesota department of natural resources; (kk) Ken Nebel; (ll) Paul Ojanen; (mm) Wells Patten; (nn) Candice Richards; (oo) Jim Richardson; (pp) Robert Schadel; (qq) Carin Skoog; (rr) Spectrum Research, Inc.; (ss) Anna Splady; (tt) Thomas A. and Julie A. Szendrey; (uu) Kevin Tellinghuisen; (vv) Connie Wanek-Dentinger; (ww) Deede Westermann; (xx) Warner B. Wirta (copy of letter sent to national park service). -- Received

01-1217-14 The following submitting communications regarding the board of zoning appeals' denial of variances to construct a 23 foot 11 inch by 33 feet six inch L-shaped office addition to residence at 217 North 59th Avenue West for the purpose of expansion of a business in an R-3 zoning district (Richard Laumeyer of Lake Superior Agencies of the Twin Port Cities) (01-0867R and 01-0868R): (a) Duluth Area Chamber of Commerce; (b) Western Area Business and Civic Club. -- Received

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REPORTS OF OFFICERS

01-1217-04 Assessor submitting:

(a) Letters of sufficiency regarding petitions for the:

(1) Extension of the public sewer main to serve properties on Woodland Avenue north of the Pleasant View Road intersection;

(2) Vacation of various parts of city streets, alleys, pedestrian easements and utility easements on the University of Minnesota-Duluth campus, except for map reference No. 31, which is insufficient. -- Received

(b) Affidavits of mailing of notices of public hearings of the special assessment board to be held on Tuesday, December 11, 2001, Room 106A, City Hall, at:

(1) 4:00 p.m. - proposed resurfacing of 103rd Avenue West Alley between McGonagle Street and 102nd Avenue West;

(2) 4:14 p.m. - proposed improvement of 61st Avenue West alley between Bristol Street and Greene Street;

(3) 4:45 p.m. - reassessment of costs for various projects;

(4) 5:00 p.m. - reassessment of costs for development in Parkwood. --

Clerk

01-1217-05 Building official submitting appeal of Roger F. Larson, by Dale W. Lucas, attorney, of the building appeal board's denial for an extension of time on the condemnation for habitation order of September 19, 2001. -- Physical development committee

01-1217-06 Engineering division submitting monthly project status report of December 1, 2001. -- Received

01-1217-07 Parks and recreation department director submitting Lake Superior zoological society minutes of September 19, 2001, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

01-1217-08 Duluth airport authority: (a) Minutes of October 16, 2001, meeting; (b) Un-audited balance sheet of September 30, 2001. -- Received

01-1217-09 Heritage preservation commission minutes of October 23, 2001, meeting. -- Received

01-1217-10 Housing and redevelopment authority of Duluth minutes of October 30, 2001, meeting. -- Received

01-1217-11 Parking commission minutes of November 13, 2001, meeting. -- Received

01-1217-13 Seaway Port authority minutes of: (a) September 24; (b) October 25, 2001, meetings. -- Received

01-1217-12 Special assessment board minutes of November 13, 2001, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Peggy Marrin commented that at the recently held Bayfront input meeting she felt that there was no time allotted for dialogue; the Bayfront visions group was not allowed to give input and that consideration should be given to abolishing the Duluth economic development authority (DEDA).

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Elijah commented on the slipperiness of the bricks on Superior Street.

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At this time, 7:10 p.m., Councilor Fena took her seat.

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At this time, 7:11 p.m., the public hearing regarding Sinex Aviation Technologies expansion and relocation of operations into the Technology Village (01-0871R) began.

Michael Conlan, planning and development department director, reviewed that this is a business subsidy for a local high technology company that specializes in aviation maintenance

software. He noted that there is high demand for their product and the need for more office space to expand at the technology center.

There was no one who wished to be heard and the hearing was closed at 7:15 p.m.

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At this time, 7:15 p.m., the public hearing regarding Connecting Point expansion and relocation of operations into the Technology Village (01-0872R) began.

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Mr. Conlan reviewed that this is for another local technology company that is a strong anchor in the technology center as a certified educational partner.

There was no one who wished to be heard and the hearing was declared closed at 7:20 p.m.

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At this time, Councilor Hogg moved to suspend the rules to consider ordinances 01-047 and 01-048 in order that 2002 expenditure resolutions could be subsequently considered, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILOR HOGG

01-047 (9520) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2002 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Hogg moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimous vote.

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BY COUNCILOR HOGG

01-048 (9521) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2002.

Councilor Hogg moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Hogg moved passage of the ordinance and the same was adopted upon a unanimous vote.

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RESOLUTIONS TABLED

Councilor Hogg moved to remove Resolution 01-0685, authorizing the acquisition of land for an addition to Spirit Mountain recreation area authority, authorizing settlement of compliance issues with Minnesota department of natural resources, authorizing execution of a contract with Spirit Mountain recreation area authority and Hovland Spirit Ridge, LLC, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilors Eckenberg, Stenberg and President Edwards -- 3

Councilor Stewart moved to also remove Resolution 01-0529, granting a work permit to Spirit Ridge, LLC, for construction of nine holes of an 18 hole golf course and a lodge on the Spirit Mountain recreation area; and Resolution 01-0676, denying work permit application of Spirit Ridge, LLC, related to Spirit Ridge project, by Councilor Stenberg, from the table and to suspend

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

the rules to consider them at this time, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fena, Gilbert, Hogg, Ness, Stewart and Stover -- 6

Nays: Councilors Eckenberg, Stenberg and President Edwards -- 3

The rules were suspended upon a unanimous vote to hear from speakers on the resolutions.

Michael Furtman, representing the McCabe Chapter of the Izaak Walton League; Janet Green (Public Document No. 01-1217-03(q)); Craig Minowa, representing the Environmental Association for Great Lakes Education; Kay L. Lewis; Peggy Marrin; Sharon Stevens, representing the Sierra Club; Elijah; Ken Benoit, representing the Gitchie Gummi Chapter of Trout Unlimited; Nancy Nelson; Will Rhodes, representing Duluth Public Policy Alliance and Northeastern Minnesotans for Wilderness; Jane Reyer, representing the national wildlife federation; Eric Dings; Warren Wirta (Public Document No. 01-1217-03(xx)); Greg Price; Doug Happy; Katie Krikoria; Iver Bogen; Terry Brown; Arun Goyal; CJ Bird; Jim Fetzer; Tony Cuneo and Ed Kale spoke in support of Resolution 01-0676 and in opposition of Resolution 01-0685 for the reasons of: the department of natural resources (DNR) states that all necessary documentation and approvals have not yet been performed; the national park service (NPS) has not reviewed and approved that the Land and Water Conservation Act (LAWCON) requirements have been met; action on this could adversely affect other grants; this will not be the type of a golf course that many could afford; study should be given to using this area as an economically feasible camping, biking and hiking area; the master plan would have to be revised and approved; the ongoing jobs that could be created with this development are suited for students and not people wanting to raise a family; the impact on the trout streams will kill the brook trout; this will destroy the old growth hardwood forest; there is a need to start fresh and involve the public; the council would be wise legally not to approve the project at this time; the city has the authority to deny the work permits based on environmental impacts; the developer has the responsibility to first receive all necessary approvals; the city has been out of compliance with LAWCON for almost 30 years and needs to address that now; this land is sacred, ceremonial Indian grounds; the state, which enacted the original legislation, should be involved in approving any changes; golf courses are not an economic development resource; another new golf course that already has financial backing is going to be built 20 miles from Duluth; Midway Township's supervisors are against the land exchange; better alternatives have not been considered; consideration of the work permits should be the last action after all issues have been resolved; it is unproven that the business from this golf course will substantially affect other businesses; the natural wilderness is what makes this city so unique and denying the permits now will not prohibit the developer from reapplying and having a clean slate to start with.

David Ross, representing the Duluth Area Chamber of Commerce Board of Directors; Steve Gall, board member of Duluth Convention and Visitors Bureau; Tom Cartier; Craig Olson, president of the Duluth Building Trades Council; Dr. James Balogh, environmental/soil scientist for Spectrum Research, Inc.; Pat Spott and Charles Andresen, chairperson of Spirit Mountain recreation area authority, expressed support of resolutions 01-0529 and 01-685 for the reasons of: the development will enrich the community with employment during and after the construction; there will be an increase to the tax base; it will revitalize an aging treasure; there are no grants or public funds involved; there is no risk to the city; the environmental assessment worksheet (EAW) has been approved by the Spirit Mountain recreation area authority, the city planning division and the district court; there has to be economic development to keep the younger generation in the community; from the beginning it was known that there would be a golf course there; there are

environmentally sound and esthetically pleasing golf courses; there is in existence a project labor agreement which guarantees that Duluth construction employees will be utilized in good paying jobs totaling approximately \$6.5 million; the developer is willing and committed to environmental and cultural resources; the LAWCON issues can be resolved independently of the approval of issuing the work permits; the proposed land swap is one way to resolve the LAWCON issue; the Spirit Mountain recreation area authority is always looking for new alternatives for year round activities to insure their economic growth.

William Burns, counsel for the applicant, stated that: the council should review the information from the city attorney; the lease and development agreements already approved are legal and binding, subject to the permitting process; the LAWCON alleged issues would be determined by the courts; the applicant was not asking for the work permits to be removed from the table and considered at this time; the applicant is continuing to voluntarily work with federal and state agencies in the permitting process; the evidence has shown that there is no substantial probability of any environmental impact on the old growth forest, trout stream, etc., and the applicant has agreed not to start construction until the issues have been resolved.

Councilors reviewed and discussed the comments presented at length.

Councilor Hogg moved to return all three resolutions to the administration, which motion was seconded for discussion.

Councilors Hogg and Eckenberg stated that until the issues are resolved, it would be premature to act on the resolutions and that it was in the best interest to remove them from the agenda so that all the parties involved do not have to anticipate that at anytime the council could take them off the table and act on them.

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At this time, 10:46 p.m., Councilor Stenberg moved to suspend the rules to extend the meeting until 12:00 a.m., which motion was seconded and unanimously carried.

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Councilor Hogg's motion failed as follows:

Yeas: Councilors Eckenberg, Hogg and President Edwards -- 3

Nays: Councilors Fena, Gilbert, Ness, Stenberg, Stewart and Stover -- 6

Councilor Gilbert moved to amend Resolution 01-0676, by replacing the 11th "whereas" paragraph with the following:

"WHEREAS, on the matter of the work permits requested by Hovland Spirit Ridge, LLC, to construct a golf course, hotel and residential housing at Spirit Mountain, the city council hereby denies the application based upon the findings enumerated below:

(a) State law requires that the application be approved provided that the application was in compliance with all required standards. These standards include federal, state and municipal laws and accompanying regulations;

(b) These standards include compliance with the Land and Water Conservation Act. The department of natural resources (DNR) has advised the council that the project's hotel and residential areas as defined in current master plan is inconsistent with the act;

(c) The department of natural resources (DNR) has also advised the council that the project's golf course as defined in current lease agreement is inconsistent with the act;

(d) The council authorized the lease agreement in a 1997 resolution. In that resolution, the council stated that the project's work permits would be subject to the approval of the park board, the planning board and the city council;

(e) No limitation was placed upon the council's authority to approve or deny the project's work permit in the 1997 resolution authorizing the lease;

(f) The council may consider all applicable and relevant information in determining whether to approve or deny the work permit;

(g) This information includes, but is not limited to, the environmental assessment worksheet, accompanying city staff reports, recommendations from city boards, commissions;

(h) The information may also include a December 1999 DNR summary of old growth forest evaluation in Spirit Mountain recreation area, Magney-Snively Forest, Duluth, Minnesota;

(i) The city of Duluth's environmental advisory council has reviewed the work permit application and has recommended that the permit be denied on August 6, 2001;

(j) The advisory council provided the basis for their recommendation the 'cumulative impact of the proposed Spirit Mountain golf course and lodge have significant costs. It is impossible at this point in time to determine the extent of these effects on key natural features impacted by the proposed project.' The advisory council further recommends that 'the city planning commission and council deny the work permit without prejudice';

(k) Minnesota state law provides that environmental documents shall be used only 'as guides in issuing, amending and denying permits. . . to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.' (Minn.R. 4410.0300(3));

(l) The council is not bound by the recommendations of these guidance documents such as the EAW and may consider other information in evaluating applicant's work permit. The council has the authority to overrule the planning commission and deny the applicant's work permit as the applicant has not met all applicable standards allowed under state law;

(m) In Judge Heather Sweetland's order of October 24, 2000, p. 10 (case C4-00-600310), the court found that the lease placed 'responsibility upon Spirit Ridge to obtain all required permits, before going forward with the project. The lease also provides for Spirit Ridge to minimize environmental impact. Only after Spirit Ridge has satisfied these contingencies can the city of Duluth give final approval of the project';

(n) With respect to the Land and Water Conservation Act, it is the council's finding that the applicant has failed to meet the standards sufficient to satisfy these contingencies. The council therefore cannot give final approval of the project at this time.

Based upon these findings, the council hereby denies the Hovland Spirit Ridge, LLC, work permit application," which motion was seconded by Councilor Stewart for discussion.

Councilor Stewart, as the seconder to the amendment, requested that:

(a) In the third "whereas" paragraph the date "September 12, 2001" be replaced with "February 28, 2002";

(b) In the "resolved" paragraph at the end of the resolution the existing words after the phrase "is hereby denied" be replaced with the phrase "for the reasons stated above," which was accepted by Councilor Gilbert as part of his amendment.

Councilor Fena requested that at the end of subparagraph (g) of the proposed amendment, the following phrase be added: "and advisory councils and information brought forward by American Indian people about sacred sites in the area."

Councilors Gilbert and Stewart accepted this as part of the existing amendment.

The amendment carried as follows:

Yeas: Councilors Fena, Gilbert, Ness, Stewart and Stover -- 5

Nays: Councilors Eckenberg, Hogg, Stenberg and President Edwards -- 4

Councilor Stenberg opposed Resolution 01-0676, cited reasons of: a concentration of golf courses in an area, like car dealerships, are an asset that draws customers; Spirit Mountain needs to be a year round facility to be financially sound; there are no tax dollars or subsidies involved in

the project; the dollars paid to the construction workers for this project and to future employees will be spent in this community and the big picture of this is not being looked at.

Resolution 01-0676, as amended, was adopted upon the following vote:

Yeas: Councilors Fena, Gilbert, Ness, Stewart and Stover -- 5

Nays: Councilors Eckenberg, Hogg, Stenberg and President Edwards -- 4

[Editor's note: Resolution 01-0676 was vetoed by Mayor Doty on December 28, 2001 (Public Document No. 02-0107-01a), was reconsidered at a special meeting on January 7, 2002, and failed to pass due to the lack of a 6/9ths majority.]

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Councilor Stewart moved, and was seconded, to enter into the record as reasons for defeating Resolution 01-0529, the following:

"WHEREAS, on the matter of the work permits requested by Hovland Spirit Ridge, LLC, to construct a golf course, hotel and residential housing at Spirit Mountain, the city council hereby denies the application based upon the findings enumerated below:

(a) State law requires that the application be approved provided that the application was in compliance with all required standards. These standards include federal, state and municipal laws and accompanying regulations;

(b) These standards include compliance with the Land and Water Conservation Act. The department of natural resources (DNR) has advised the council that the project's hotel and residential areas as defined in current master plan is inconsistent with the act;

(c) The department of natural resources (DNR) has also advised the council that the project's golf course as defined in current lease agreement is inconsistent with the act;

(d) The council authorized the lease agreement in a 1997 resolution. In that resolution, the council stated that the project's work permits would be subject to the approval of the park board, the planning board and the city council;

(e) No limitation was placed upon the council's authority to approve or deny the project's work permit in the 1997 resolution authorizing the lease;

(f) The council may consider all applicable and relevant information in determining whether to approve or deny the work permit;

(g) This information includes, but is not limited to, the environmental assessment worksheet, accompanying city staff reports, recommendations from city boards, commissions and advisory councils and information brought forward by American Indian people about sacred sites in the area;

(h) The information may also include a December 1999 DNR summary of old growth forest evaluation in Spirit Mountain recreation area, Magney-Snively Forest, Duluth, Minnesota;

(i) The city of Duluth's environmental advisory council has reviewed the work permit application and has recommended that the permit be denied on August 6, 2001;

(j) The advisory council provided the basis for their recommendation the 'cumulative impact of the proposed Spirit Mountain golf course and lodge have significant costs. It is impossible at this point in time to determine the extent of these effects on key natural features impacted by the proposed project.' The advisory council further recommends that 'the city planning commission and council deny the work permit without prejudice';

(k) Minnesota state law provides that environmental documents shall be used only 'as guides in issuing, amending and denying permits. . . to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.' (Minn.R. 4410.0300(3));

(l) The council is not bound by the recommendations of these guidance documents such as the EAW and may consider other information in evaluating applicant's work permit. The

council has the authority to overrule the planning commission and deny the applicant's work permit as the applicant has not met all applicable standards allowed under state law;

(m) In Judge Heather Sweetland's order of October 24, 2000, p. 10 (case C4-00-600310), the court found that the lease placed 'responsibility upon Spirit Ridge to obtain all required permits, before going forward with the project. The lease also provides for Spirit Ridge to minimize environmental impact. Only after Spirit Ridge has satisfied these contingencies can the city of Duluth give final approval of the project';

(n) With respect to the Land and Water Conservation Act, it is the council's finding that the applicant has failed to meet the standards sufficient to satisfy these contingencies. The council therefore cannot give final approval of the project at this time.

Based upon these findings, the council hereby denies the Hovland Spirit Ridge, LLC, work permit application."

The motion carried as follows:

Yeas: Councilors Eckenberg, Fena, Gilbert, Ness, Stewart and Stover -- 6

Nays: Councilors Hogg, Stenberg and President Edwards -- 3

Councilors Hogg, Eckenberg and President Edwards stated that voting either way on this resolution is wrong at this time.

Resolution 01-0529 failed upon the following vote (Public Document No. 01-1217-16):

Yeas: Councilor Stenberg -- 1

Nays: Councilors Fena, Gilbert, Ness, Stewart and Stover -- 5

Abstention: Councilors Eckenberg, Hogg and President Edwards -- 3

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Councilor Hogg moved to return Resolution 01-0685 to the administration, which motion was seconded for discussion.

Councilor Hogg stated that with the work permits being denied, it makes sense to return the resolution to the administration, therefore not considering anything, with plenty of time in the future to consider options.

Councilor Stenberg expressed concern that if this is not approved the taxpayers of the city will have to potentially pay, whereby approving the resolution will cost nothing.

The motion to return the resolution to the administration failed upon the following vote:

Yeas: Councilors Eckenberg, Hogg and President Edwards -- 3

Nays: Councilors Fena, Gilbert, Ness, Stenberg, Stewart and Stover -- 6

Resolution 01-0685 failed upon the following vote (Public Document No. 01-1217-15):

Yeas: Councilors Eckenberg, Stenberg and President Edwards -- 3

Nays: Councilors Fena, Gilbert, Ness, Stewart and Stover -- 5

Abstention: Councilor Hogg -- 1

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Councilor Hogg moved to remove Resolutions 01-0851, distributing the estimated 2002 tourism taxes of hotel-motel and food and beverage; and Resolution 01-0863, approving DEDA's general, debt service, capital projects and storefront loan fund budgets for 2002, from the table, which motion was seconded and unanimously carried.

Resolutions 01-0851 and 01-0863 were adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the 2002 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

	3% hotel- motel	1% hotel- motel	1.5% food & beverage	Additional 2.5% hotel-motel	TOTAL
Duluth public arts commission			20,000	10,000	30,000
Sister cities			22,000	13,600	35,600
DECC	731,700		26,400	19,800	777,900
Convention and Visitors Bureau	394,000	112,300	430,900	152,200	1,108,400
Heritage and Arts Center		89,900	49,600	8,000	147,500
Spirit Mountain			54,200		54,200
Donations			30,000	20,000	50,000
Transfer to general fund	59,300	173,800	420,700	142,000	795,800
Transfer to debt service		19,000	334,200	365,600	718,800
DECC debt service			694,000	182,800	876,800
TOTALS	1,185,000	395,000	2,082,000	914,000	4,576,000

Resolution 01-0851 was unanimously adopted.
 Approved December 17, 2001
 GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the city council of the city of Duluth does hereby approve the general fund budget, the debt service budget, the capital projects fund budget and the storefront loan fund budget of the Duluth economic development authority for the year 2002.

Resolution 01-0863 was unanimously adopted.
 Approved December 17, 2001
 GARY L. DOTY, Mayor

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Councilor Stewart moved to remove Resolution 01-0802, confirming appointment of Virgil Swing to planning commission replacing SC Welles, from the table, which motion was seconded and unanimously carried.

Councilor Stewart moved to refer the resolution back to the administration, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart and Stover -- 8
 Nays: President Edwards -- 1

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Councilor Hogg moved to remove Resolution 01-0818, denying a concurrent use permit to A and L Development, Inc., Pizza Lucé, Duluth Technology Village, 11 East Superior Street, for awnings into and over the easement for the right-of-way of East Superior Street, by Councilor Stenberg, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fena, Gilbert, Hogg, Stewart and Stover -- 5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Nays: Councilors Eckenberg, Ness, Stenberg and President Edwards -- 4

Councilor Hogg supported passing the resolution because there has been adequate time for the applicant to withdraw their application and there is an action deadline of January 18, 2002.

Councilor Ness moved to retable the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Eckenberg, Ness, Stenberg, Stover and President Edwards -- 5

Nays: Councilors Fena, Gilbert, Hogg and Stewart -- 4

At this time, 11:47 p.m., Councilor Hogg moved to suspend the rules to extend the meeting until 1:00 a.m., which motion was seconded and unanimously carried.

Councilor Stenberg moved to remove Resolution 01-0827, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale to the Duluth economic and development authority (DEDA) certain tax forfeited parcels now withheld from sale in conservation, from the table, which motion was seconded and unanimously carried.

Resolution 01-0827 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale to DEDA, the following tax forfeited parcels now withheld from sale in conservation:

File No.	Applicant	Legal Description	Location
01092	Northwood Children's Home	Whitman Park (10-4590-)	north of DM&IR tracks between 40th Avenue and Duluth Avenue (West Duluth)
		Block 7 Lots 9-17 (950)	
		Block 7-1/2 Lots 1-12 (1040-1150)	
		Block 8 Lots 7-12 (1220)	
		Block 8-1/2 Lots 1-17 (1390-1540)	
		Block 9 Lots 1-13 (1550)	
		Block 10 Lots 1-13 (1680)	
		Block 11 Lots 1-30 (1900-1950)	
		Zenith Park Addition (10-4750-)	
		Block 9 Lots 1-12 (970-990)	
		Block 12 Lots 1-12 (1330-1390)	
		Block 13 Lots 1-12 (1450-1490)	
		Block 16 Lots 1-12 (1810-1870)	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

File No.	Applicant	Legal Description	Location
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Block 17 Lots 1-12 (1930-1950)

Block 20 Lots 1-12 (2310-2380)

RESOLVED FURTHER, that File No. 01092 should be released on to DEDA and if the project does not move forward, that the land be reclassified back to conservation at a later date.

Resolution 01-0827 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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Councilor Stenberg moved to remove Resolution 01-0833, granting a special use permit to RJR Communications, Inc./KBJR TV-6 for daytime use of strobe lights on the tower located at 410 West Tenth Street, from the table, which motion was seconded and unanimously carried.

Resolution 01-0833 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, RJR Communications, Inc./ KBJR TV-6 has submitted to the city council a request for a special use permit for daytime use of strobe lights on the new 800+ foot tall TV tower on property located at and described as Lot 72, Block 135, Duluth Proper Third Division, and located at 410 West Tenth Street; and said permit application was duly referred to the city planning commission for a study, report, and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to RJR Communications, Inc./ KBJR to allow for the for daytime use of strobe lights on the new 800+ foot tall TV tower at 410 West Tenth Street, on the condition that the tower lighting be maintained in accordance with the SG-60 high intensity obstruction lighting system as specified in the SG-60 Specifications as identified as Public Document No. 01-1217-31 and that the permittee maintain perpetual compliance with FAA regulations, and the terms and conditions of Sections 10-37 and 50-35(z) of the Duluth City Code.

Resolution 01-0833 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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Councilor Stover moved to remove Resolution 01-0813, authorizing the expenditure for approximately \$40,000 for the boarding of prisoners at the St. Louis County jail, from the table, which motion was seconded and unanimously carried.

Councilor Stover moved to return the resolution to the administration, which motion was seconded and unanimously carried.

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Councilor Ness moved to remove Resolution 01-0796, approving the transfer of ownership of in-place, city-owned playground equipment to St. Michael's Church and Duluth Bible Church, from the table, which motion was seconded and unanimously carried.

Resolution 01-0796 was adopted as follows:

BY COUNCILOR NESS:

WHEREAS, city acquired, via purchase, in-place playground equipment installations at the former Washburn and Lakeside elementary schools from Independent School District #709 in 1995 as authorized by Resolution 95-0498; and

WHEREAS, city entered into separate lease agreements for said in-place playground equipment in 1995 and authorized by Resolution 95-0722 with St. Michael's Church (4628 Pitt Street) and Duluth Bible Church (201 West St. Andrews Street); and

WHEREAS, said five year lease agreements have now expired, and

WHEREAS, city desires to transfer physical ownership of said in-place playground equipment installations to St. Michael's Church and Duluth Bible Church because the cost of removing the equipment exceeds its fair market value; and

WHEREAS, both organizations are desirous of receiving said in-place playground equipment installations.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute all documents necessary for the transfer of the in-place playground equipment installations to St. Michael's Church and Duluth Bible Church.

Resolution 01-0796 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were read for the first time:

BY COUNCILOR STENBERG

01-0871R - RESOLUTION AUTHORIZING AN AGREEMENT WITH SINEX AVIATION TECHNOLOGIES IN AN AMOUNT NOT TO EXCEED \$250,000 AND AUTHORIZING ACCEPTANCE OF REIMBURSEMENT FROM THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY IN THE AMOUNT OF \$50,000.

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BY COUNCILOR STENBERG

01-0872R - RESOLUTION AUTHORIZING AN AGREEMENT WITH CONNECTING POINT IN AN AMOUNT NOT TO EXCEED \$48,306 AND AUTHORIZING ACCEPTANCE OF REIMBURSEMENT FROM THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY IN THE AMOUNT OF \$24,000.

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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 Edwards moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR HOGG:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Pursuant to Resolution 01-0806, adopted November 13, 2001, the council authorized the issuance and sale of general obligation bonds for various purposes, including two current refunding bond issues to provide the city with debt service savings. Due to increases in interest rates and on the advice of the city's financial advisor, bids were not taken on the sale of such bonds. The city's financial advisor expects interest rates to decline in the near future and such refundings may be economically beneficial to the city;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

(b) It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its general obligation bonds for the following purposes:

(1) General obligation improvement refunding bonds in the approximate principal amount of \$1,075,000, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the city's general obligation improvement bonds dated October 1, 1993; and

(2) General obligation tax increment refunding bonds in the approximate principal amount of \$630,000, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the city's general obligation tax increment bonds dated October 1, 1993.

The general obligation improvement refunding bonds and the general obligation tax increment refunding bonds are hereinafter referred to as the bonds;

(c) The administration is authorized to work with the city's financial advisor and bond counsel to establish the official terms of offering for the sale of the Bonds, as and when interest rate conditions appear to produce reasonable debt service savings to the city;

(d) Evensen Dodge, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the Bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(e) The form, specifications and provisions for repayment of the bonds shall be set forth in subsequent resolutions of this city council.

Resolution 01-0873 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an amended employment contract with Mark Winson for the position of administrative assistant, which contract is on file with the city clerk as Public Document No. 01-1217-17.

Resolution 01-0890 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that Resolution No. 00-0490 is amended by changing the third paragraph that begins with "RESOLVED FURTHER," to read as follows:

"RESOLVED FURTHER, that the city attorney shall be entitled to the same retirement, insurance, deferred compensation and health club fringe benefits as the confidential employees of the city and all other fringe benefits as the supervisory employees of the city, and the assistant city attorneys shall be entitled to the same fringe benefits as the supervisory employees of the city, both excluding longevity awards."

Resolution 01-0891 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

and delivering eight marked patrol vehicles for the police department in accordance with specifications on its low specification bid of \$167,524, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization RS02, Object E204; to be encumbered out of year 2002 budget.

Resolution 01-0831 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the city is hereby authorized to execute agreements with Blue Cross and Blue Shield of Minnesota under which that company will provide administrative services and stop loss insurance to the city group health plan during calendar year 2002 for an administrative fee of \$29.37 per single employee or per family per month and a fee for stop loss coverage of \$14.85 per single employee per month and \$39.68 per family per month, for a total estimated cost of \$1,234,000, which shall be paid from the group health fund.

Resolution 01-0880 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a lease agreement between the city of Duluth and Kegler's, DBA Incline Station, for the leasing of ten parking spaces in the parking lot immediately west of Sixth Avenue and below First Street for an estimated annual consideration of \$4,200 to be paid from Fund 0100-015-2500-5441, said lease agreement filed as Public Document No. 01-1217-18.

Resolution 01-0892 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale nonintoxicating malt liquor license for the period ending April 30, 2002, subject to departmental approvals and the payment of sales and property taxes:

Supervalu, Inc. (Cub Foods), 615 West Central Entrance, transferred from Supervalu Holdings, Inc. (Cub Foods), same address.

Resolution 01-0895 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale nonintoxicating malt liquor license for the period ending April 30, 2002, subject to departmental approvals and the payment of sales and property taxes:

Holiday Stationstores, Inc. (Holiday Stationstore #327), 2605 London Road, with William Bischoff, manager.

Resolution 01-0896 was unanimously adopted.

Approved December 17, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 2002, subject to departmental approvals and the payment of sales and property taxes:

Mike Maxim, Jr. (Sharks), 327 West Superior Street.

Resolution 01-0897 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals, application fee of \$200, and any specific restrictions:

ALS Association, Northland Chapter (Eggebrecht Chevrolet ALS fund raiser), 4015 Airpark Boulevard, for February 16, 2002, with David Kolquist, manager.

Resolution 01-0898 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license for the period ending August 31, 2002, subject to departmental approvals and the payment of sales and property taxes:

C&S of Duluth, Inc. (Terry's Place), 2232 West Superior Street, with Carl Swanson, 100 percent stockholder.

Resolution 01-0899 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premise permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth alcohol, gambling, and tobacco commission; and

WHEREAS, the city council approves of the issuance of said licenses;

NOW, THEREFORE, BY IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premise permits to the following organizations.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Licensee	Gambling site	Date application filed
American Legion Post #71	5814 Grand Ave	December 5, 2001

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Welch Center	Tappa Keg Inn	December 3, 2001
Welch Center	Alpine Bar & Lounge	December 3, 2001

Resolution 01-0900 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

WHEREAS, the Northland Motorcycle Riders Association and YWCA of Duluth have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth City Council has received a copy of said exemption applications to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption applications; and

WHEREAS, the city council approves of the exemption applications and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Northland Motorcycle Riders Association and YWCA of Duluth and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 01-0901 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

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BY PRESIDENT EDWARDS:

RESOLVED, that Viking Electric Supply, Inc., be and hereby is awarded a contract for furnishing and delivering the replacement parts for Downtown, Canal Park and the Fitgers area ornamental street lighting system for the traffic operations division in accordance with specifications on its low specification bid of \$13,014.30, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Dept./Agency 015, Organization NR00, Object E036.

Resolution 01-0910 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of facility operations supervisor, which were approved by the civil service board on December 4, 2001, and which are filed with the city clerk as Public Document No. 01-1217-19, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, and that the pay range and rates shall remain unchanged, Pay Range 1035, pay rate \$3,285 to \$3,998 per month.

Resolution 01-0883 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of deputy fire marshal, which were approved by the civil service board on December 4, 2001, and which are filed with the city clerk as Public Document No. 01-1217-20, are approved; that said classification shall remain subject to the city's collective bargaining agreement with Local 101, International Association of Fire Fighters, and that the pay ranges and rates shall remain unchanged, Pay Range 230, Pay Rate \$4,373 per month.

Resolution 01-0884 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$20,000 from the state for the Lincoln Park trail connection project, to be deposited into Fund 262, Agency 020, Org. 2600, Revenue Source 4230.

BE IT FURTHER RESOLVED, that the sources and amounts of the local match as identified in the application in the amount of \$20,000 shall be from community development block grant (CDBG) program Lincoln Park improvement project; Fund 0262, Agency 622, Object 6212.

BE IT FURTHER RESOLVED, that upon completion of environmental compliance review, the proper city officials are authorized to enter into the grant agreement with the state of Minnesota for the above-referenced project.

Resolution 01-0850 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to apply to the Minnesota housing finance agency for an allocation pursuant to the Minnesota city participation program in the maximum allowable amount permitted, said funds to be loaned to low- and moderate-income first-time home buyers at below market interest rates.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the Minnesota city participation program application-commitment agreement with the Minnesota housing finance agency related to the allocation and sale of qualified mortgage bonds for the benefit of low- and moderate-income home buyers in the city, which agreement is substantially in the form of that on file in the office of the city clerk as Public Document No. 01-1217-21.

FURTHER RESOLVED, that said officials are authorized to issue a check to the Minnesota housing finance agency in the amount of one percent of the city's bond allocation not to exceed \$30,000, which will be refunded upon sale of the bonds and a check for a nonrefundable processing fee in the amount of \$20 per each \$100,000 in allocation not to exceed \$600, both of said amounts to be payable from General Fund 100, Agency 015, Org. 2020, Obj. 5441.

Resolution 01-0862 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

BE IT RESOLVED, that the proper city officials, including the deferred compensation commission, acting through reasonable procedures are authorized to implement or ratify, within

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

the time required by law, to the extent allowed by law, any city deferred compensation plan and any agreement to which the city is a party which agreement concerns the operation or administration of a deferred compensation plan, so that it contains substantially the terms and conditions set out in Public Document No. 01-1217-22 on file with the city clerk.

Resolution 01-0889 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that proper city officials are authorized to enter into an agreement with Gary Van Beusekom to provide independent monitoring services, from December 10, 2001, through June 30, 2003, for the workforce development programs at a cost not to exceed \$14,400, terms net 30, FOB job site, payable out of Fund 268, Budget Items 6236, 6241, 6242, 6246, 6248, 6249, 6250, 6251, 6274 and 6275.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerk's office as Public Document No. 01-1217-23.

Resolution 01-0902 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

RESOLVED, that the Duluth fire department is hereby authorized on behalf of the city to submit a grant proposal to the Minnesota department of public safety, state fire marshal division, division of emergency management, to establish a regional hazardous materials emergency response/chemical assessment team.

RESOLVED FURTHER, that the Duluth fire chief is hereby designated as the person authorized to administer, on behalf of the city, any contract which may result from submittal of such grant proposal.

Resolution 01-0903 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, the utility operation division of the department of public works and utilities of the city of Duluth has developed a plan for designing an educational informational program on maintenance of private sanitary sewers care and feeding of your sewer; and

WHEREAS, the education program will address requirements for the educational informational component for development of a NPDES phase II permit for the city of Duluth and to address continuing problems with bypasses throughout the city of Duluth; and

WHEREAS, the state of Minnesota, through the Minnesota department of natural resources, division of waters, administers financial assistance for coastal management purposes, through Minnesota's Lake Superior coastal program; and

WHEREAS, the city of Duluth desires financial assistance from the coastal management assistance program for the purpose of developing and pilot testing of the program.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application to the Minnesota department of natural resources in an amount of \$6,810 for a 38 percent federal share of funding for the lateral sewer education grant

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

care and feeding of your sewer.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to execute any and all of the grant agreements necessary for the implementation of said grant and that the city of Duluth does agree to provide local matching funds in the form of in-kind services in the amount of \$10,950 and \$250 in cash match, half from Fund 0535, Org. 1945, Object 5100, and half from Fund 0530, Org. 1945, Object 5100, if the grant is awarded. Such funds shall be deposited into Fund 0535, Agency 500, Revenue Source 4856.

Resolution 01-0907 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR FENA:

WHEREAS, the utility operation division of the department of public works and utilities of the city of Duluth has developed a plan for designing an educational informational program on identification and awareness of city streams; and

WHEREAS, the education program will address requirements for the educational informational component for development of a NPDES phase II permit for the city of Duluth; and

WHEREAS, the state of Minnesota, through the Minnesota department of natural resources, division of waters, administers financial assistance for coastal management purposes, through Minnesota's Lake Superior coastal program; and

WHEREAS, the city of Duluth desires financial assistance from the coastal management assistance program for the purpose of developing and pilot testing of the program.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application to the Minnesota department of natural resources in an amount of \$5,725 for a 48 percent federal share of funding for the collectable creek information card project.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to execute any and all of the grant agreements necessary for the implementation of said grant and that the city of Duluth does agree to provide local matching funds of \$6,140 from Fund 0535, Org. 1945, Object 5100 if the grant is awarded. Such funds shall be deposited into Fund 0535, Agency 500, Revenue Source 4856.

Resolution 01-0908 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 01-0125 to Duluth Superior Blacktop for furnishing bituminous materials for the maintenance and utility operation divisions, be amended to increase the amount by \$40,114 for a new total of \$187,114, \$170,500 payable out of General Fund 0100, Dept./Agency 500, Organization 2000, and Object 5232; \$8,307 payable out of Water Fund 0510, Dept./Agency 500, Organization 1945, and Object 5232 and \$8,307 payable out of Gas Fund 0520, Dept./Agency 500, Organization 1945, and Object 5232.

Resolution 01-0885 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

WHEREAS, the city of Duluth desires to complete engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for detailed design for the sanitary sewer, gas main and watermain improvement for the reconstruction of Piedmont Avenue between Fourth Street to Trinity Road 1/4 mile north of six corners; and

WHEREAS, L.H.B. Architects and Engineers has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$48,086, \$28,851.60 (60 percent) will be paid by Minnesota department of transportation (Mn/DOT), \$19,234.40 (40 percent) will be paid by city of Duluth as follows, \$8,982.47 payable from the Sewer Construction Bond Fund 0531, Dept./Agency 500, Object 5532; \$7,097.49 payable from the Water Construction Bond Fund 0511, Dept./Agency 500, Object 5532 and \$3,154.44 payable from the Gas Fund 0520, Dept./Agency 500, Organization 1905, Object 5533.

Resolution 01-0886 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Resolution 00-0540 to Nels Nelson and Sons, Inc., for construction of a sanitary sewer on Boundary Avenue between Vinland Street and Lawn Street, be amended to increase the amount by \$16,000 for a new total of \$64,951.77, payable out of Sewer Construction Bond Fund 531, Dept./Agency 500, Object 5532.

Resolution 01-0887 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR ECKENBERG:

RESOLVED, that Petersen Engineering, Inc., be and hereby is awarded a contract for professional services for the ten inch steel natural gas transmission pipeline for the engineering division in accordance with specifications on its low specification proposal estimated at \$107,644 terms net 30, FOB job site, payable out of Gas Construction Bond Fund 0521, Dept./Agency 500, Object 5532.

Resolution 01-0909 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the city of Duluth accepts a grant of not to exceed \$6,000 from the Minnesota department of public safety pursuant to Minnesota Statutes Section 299C.065, subdivision 1, for use in investigation of criminal activities involving juveniles; said funds to be deposited in Fund 0100, Agency 200, Org. 1620, Revenue Source 4230.

RESOLVED FURTHER, that the chief of police is authorized to file any reports or execute any agreements necessary for said grant.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0911 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, the city of Duluth has a lease agreement with the Hartley Nature Center Corporation; and

WHEREAS, Minnesota Power has agreed to provide funding to Hartley Nature Center Corporation for the purchase, installation and first year maintenance of distributive electrical energy generation systems for the future Hartley Nature Center building facility; and

WHEREAS, the city will become the recipient of said distributive energy generation systems with the Hartley Nature Center Corporation,

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute a distributed power agreement substantially to be in the form of that certain document on file in the office of the city clerk as Public Document No. 01-1217-24.

Resolution 01-0888 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

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BY COUNCILOR NESS:

RESOLVED, that the proper city officials are authorized to execute an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 01-1217-25 with the governing board of the Arrowhead Library System (ALS), under which the Duluth public library will provide reference services to the libraries belonging to the seven-county arrowhead library system during the period January 1, 2002, through December 31, 2002, payments by ALS to the city thereunder in the estimated amount of \$22,500 to be deposited in the Library General Fund 0100-300-1702-4403.

Resolution 01-0894 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

RESOLVED, that the proper city officers are authorized to execute that certain agreement filed as Public Document No. 01-1217-26, with Benedek Broadcasting Corporation and Melrose Pyrotechnics for the fireworks display at the Warmer by the Lake celebration on January 1, 2002.

Resolution 01-0904 was unanimously adopted.
Approved December 17, 2001
GARY L. DOTY, Mayor

- - -

BY COUNCILOR NESS:

WHEREAS, Lake Superior Center authority has offered the city of Duluth the use of certain grounds for a sliding hill and parking for the city's Warmer by the Lake celebration on January 1, 2002; and

WHEREAS, as a condition for the use of said grounds, both parties agree that the city of Duluth should hold the Lake Superior Center authority harmless from any injuries or accidents that would happen in conjunction with the above-mentioned program.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

and directed to execute the agreement filed as Public Document No. 01-1217-27 with the Lake Superior Center authority holding it harmless from any damages that might occur out of the city of Duluth's use of its grounds for the above-mentioned program.

Resolution 01-0905 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 01-0874, by Councilor Hogg, approving the 2002 budget of the Lake Superior Center, was introduced for discussion.

Councilor Hogg moved to table the resolution, which motion was seconded and unanimously carried.

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Resolution 01-0893, by Councilor Hogg, appropriating tourism tax fund balance, was introduced for discussion.

Councilor Hogg moved to table the resolution, which motion was seconded and unanimously carried.

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Resolution 01-0876, approving the 2002 action plan portion of the consolidated plan and authorizing a request for HUD federal community development block grant (CDBG), home program and emergency shelter grant (ESG) program funds; Resolution 01-0877, authorizing a request for HUD federal community development block grant (CDBG) funds for the 2002 program year as well as approving the reallocation of certain prior CDBG funds and authorizing agreements with appropriate agencies; Resolution 01-0878, authorizing a request for HUD HOME funds for the 2002 program year and authorizing contracts; and Resolution 01-0879, authorizing a request for HUD emergency shelter grant program (ESG) funds for the 2002 program year and authorizing contracts, by Councilor Gilbert, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolutions.

Wanda Sayers and Madeline Jayden explained the need for support for the American Indian community housing organization.

Nelson Thomas expressed support for the North Shore sewer project.

Bonnie Jorgenson, representing the community development committee, supported the resolutions as presented.

Pat Hamon and Carlin Page (letter read by Debra Pason) from the Boys and Girls Club, requested support for restoring their original recommendation of \$48,000. They reviewed the extent of the program and the positive changes that take place.

Councilor Eckenberg moved to amend Resolution 01-0877 by changing the funding amounts as follows:

Account	From	To
6521	\$79,667	\$79,000
6522	\$61,667	\$61,000
6523	\$50,667	\$50,000
6524	\$38,666	\$38,000

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Account	From	To
6525	\$38,641	\$47,189
6526	\$31,667	\$31,000
6527	\$30,667	\$30,000
6528	\$30,667	\$30,000
6529	\$30,666	\$30,000
6530	\$29,667	\$29,000
6531	\$28,667	\$28,000
6532	\$24,666	\$24,000
6534	\$14,667	\$14,000
6540	\$26,943	\$27,061

which motion was seconded for discussion.

Councilor Eckenberg stated that: given that the federal government changed the allowable amount after the recommendations were made; all the voting members could not be present at the meeting where the cuts were made; this change only passed by one vote and this would be a small change to each of the organizations that would be decreased.

Councilors Hogg and Fena felt that there should not be amendments made at the council meeting, as was done in the past, and would support the recommendations or, at the least, support tabling the resolution to consider any amendments.

Councilor Eckenberg's amendment failed upon the following vote:

Yeas: Councilors Eckenberg, Gilbert, Ness and Stover -- 4

Nays: Councilors Fena, Hogg, Stenberg, Stewart and President Edwards -- 5

Resolution 01-0876 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of 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 2002 action plan portion of the city of Duluth consolidated plan for housing 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 01-0877 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individ-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

uals/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 01-0878 and 01-0879 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income individuals/families.

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 ESG programs.

Resolution 01-0876 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: Councilor Gilbert -- 1

Approved December 17, 2001

GARY L. DOTY, Mayor

- - -

At this time, 1:00 a.m. Councilor Hogg moved to suspend the rules to extend the meeting until 1:15 a.m., which motion was seconded and carried unanimously.

- - -

Resolutions 01-0877, 01-0878 and 01-0879 were adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 01-0876, adopted December 17, 2001, approved the FY 2002 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2002 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

ACCOUNT	AMOUNT	PROJECTS
HOUSING PROJECTS		
6501	787,000	Duluth property rehabilitation program - HRA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

**2002 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262**

ACCOUNT	AMOUNT	PROJECTS
6502	200,000	Property rehabilitation programs - NHS
6503	100,000	West Duluth revitalization - SVCNDA
6504	60,000	Duluth weatherization - AEOA
6505	100,000	Reichert property acquisition - Center City Housing Corporation
6506	150,000	HOME land program - NCLT
6507	10,000	Homebuyers club - Salvation Army
PUBLIC FACILITY IMPROVEMENT PROJECTS		
6508	150,000	Duluth/North Shore sewer project
6509	271,160	Grant Recreation Center expansion
6510	81,000	Ramsey Street improvements
6511	130,000	Fond du Lac water project
6512	115,840	City-wide street improvements
6513	16,000	Sidewalk safety - Morgan Park
6514	Zero Funded	Hillside Streetscape Phase V
ECONOMIC DEVELOPMENT PROJECTS		
6515	200,000	North Star Community Development Corporation (NSCDC)
6516	113,476	Career development and self-employment training-SOAR
6517	40,000	Opportunities Cooking - Damiano Center
6518	69,500	CHUM Works supportive services - CHUM works
6519	59,024	Women in Construction training - WTHC
6520	Zero Funded	Acquisition/demolition
PUBLIC SERVICE PROJECTS		
6521	79,667	Hunger project - CHUM
6522	61,667	Primary health care for low-income people - Lake Superior Health Clinic
6523	50,667	Housing Access Center

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

**2002 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262**

ACCOUNT	AMOUNT	PROJECTS
6524	38,666	YWCA girls and youth programs
6525	38,641	Lincoln Park youth enrichment program - Boys & Girls Club
6526	31,667	Family transitional housing - Salvation Army
6527	30,667	Washington Activity Center - Neighborhood Youth Services
6528	30,667	YMCA community services
6529	30,666	Transitional housing - WTHC
6530	29,667	Youth center - Life House
6531	28,667	Women's Coalition Advocacy
6532	24,666	Harbor View Youth Edu. Eco. Dev. & Rec. - Copeland CC
6533	19,941	Collaborative youth program - Patch
6534	14,667	Family loan fund - Lutheran Social Services
6535	10,867	Veteran's Outreach North - MACVP-VON
6536	10,000	Oshki Odaadiziwini Waaka'igan - AICHO
ADMINISTRATION/PLANNING/CONTINGENCY		
6537	342,000	Program administration
6538	185,000	Neighborhood planning
6539	95,000	Project development assistance - Harrison Community Center
6540	26,943	Contingency
Total	\$3,832,943	

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING		
Year (2002)	CDBG grant - city	\$3,543,000
Year (2001)	CDBG grant - city	157,149
Year (2000)	CDBG grant - city	87,049
Year (1999)	CDBG grant - city	9,810

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

SOURCE OF FUNDING

Year (1998) CDBG grant - city 35,935

Total \$3,832,943

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year community development accounts:

Account	Project	Orig.	Mod.	Revised
Year 24(2001) CDBG Program - 262 Fund				
6406	Memorial parking lot	14,855	949	13,906
6419	Seaman - economic int.	30,000	30,000	0
6420	Project SOAR	416,200	126,200	290,000
Year 21 (1998) CDBG Program - 262 Fund				
6106	Blackman field improvement	86,000	35,935	50,065
Year 22 (1999) CDBG Program - 262 Fund				
6202	SVCNDA housing rehabilitation	202,250	625	201,625
6205	AEOA weatherization	200,000	409	199,591
6211	Goat Hill street improvement	152,361	4,900	147,461
6213	West Duluth park improvement	87,674	140	87,534
6245	West Duluth streetscape plan	24,000	3,736	20,264
Year 23 (2000) CDBG Program - 262 Fund				
6304	West Duluth housing -SVCNDA	185,000	15,573	169,427
6305	Cody Street improvements	192,600	12,522	180,078
6306	City-wide street improvements	100,000	17,199	82,801
6313	NSCDC	200,787	41,755	159,032
Year 24 (2001) CDBG Program - 262 Fund				
6406	Memorial parking lot	14,855	949	13,906
6419	Seaman - Economic Int.	30,000	30,000	0
6420	Project SOAR	416,200	126,200	290,000
Total amount reprogrammed				\$289,943

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

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 hereby authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds and authorizes appropriate city officials to recommend use of contingency funds to city council in an amount not to exceed ten percent of an individual project account.

Resolution 01-0877 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: Councilor Gilbert -- 1

Approved December 17, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 01-0876, adopted December 17, 2001, approved the FY 2002 Action Plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels, set forth below:

2002 HOME PROGRAM - FUND 260

NUMBER	PROJECTS	
H001	Homeowner new construction	274,100
	Habitat	77,000
	NCLT	197,100
H002	Permanent supportive housing - WTHC	102,000
H003	Homeowner property rehabilitation - HRA	283,000
H008	Administration	82,600

2002 HOME PROGRAM - FUND 260

NUMBER	PROJECTS	
H009	CHDO operating	41,300
	WTHC	17,400
	NCLT	17,400
	Life House	6,500
H012	Homeownership assistance - SVCNDA	45,000
Total		\$828,000

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

Source of Funding

HOME grant	\$828,000
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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 01-0878 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: Councilor Gilbert -- 1

Approved December 17, 2001

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Regulation 24 CFR Part 91 issues by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, City Council Resolution No. 01-0876, adopted December 17, 2001, approved the FY 2002 action plan portion of the Duluth consolidated plan for housing and community development FY 2001-2005; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program), and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels set forth below:

2002 ESG Program

Veterans Outreach North - MACVP-VON	\$ 4,925
CHUM emergency shelter	19,925
CHUM Drop-in Center	11,300
Transitional housing - WTHC	17,925
Oshki Odaadiziwini Waaka'lign - AICHO	5,175
Dabinoo'Igan - AICHO	4,425
Shelter operations - Women's Coalition	18,925
Harbor House - Life House	14,175
Family transitional housing - Salvation Army	23,550
Program administration	4,675
5495 Total	\$ 125,000

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

Source of Funding

2002 ESGP grant \$125,000

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issues 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 01-0879 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Hogg, Ness, Stenberg, Stewart, Stover and President Edwards -- 8

Nays: Councilor Gilbert -- 1

Approved December 17, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0866, by Councilor Stenberg, authorizing an agreement with Semper Development to vacate a portion of the alley located west of 45th Avenue, between Fourth Street

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and Grand Avenue, to accept and file replacement easement documents and guaranteeing costs related thereto (Semper Development/Walgreens), was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on this resolution.

John Kolar, representing the applicant, stated that he was at the council meeting to answer any questions. He also noted that the applicant's purchase agreement for this property expires on January 17 and that changes have been made based on neighbors' requests.

Councilor Stenberg noted that one of the neighbors was here, but left due to the lateness of the meeting.

Resolution 01-0866 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of the alley, located west of 45th Avenue, between Fourth Street and Grand Avenue, legally described as the alley adjoining Lots 8, 9, 10 and 11, Block 9, Grand Central Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, after due consideration, the city planning commission found that the vacation of this portion of the alley made the remaining portion of the alley unnegotiable by service vehicles and that there are existing utilities that must be relocated; and

WHEREAS, the petitioner has in its control lands sufficient to provide an adequate ingress and egress easement and a utility relocation easement and the petitioners have provided an ingress and egress easement and a replacement utility easement across Lots 7-11, Block 9, Grand Central Division; and

WHEREAS, the city planning commission approved unanimously the vacation petition with provision of an ingress and egress easement and a utility easement at its October 24, 2001, meeting; and

WHEREAS, in order to make the vacation of the requested alley easement area fair and reasonable to the city and to other users of the existing easement, it is necessary to secure from petitioner, a commitment to replace or pay for the replacement of alley and utility improvements existing within the existing alley easement; and

WHEREAS, the petitioner is willing to make such a commitment.

NOW, THEREFORE, BE IT RESOLVED, the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file as Public Document No. 01-1217-28(a), with Semper Development for the vacation of the hereinafter-described alley easement, for the dedication of a replacement access easement and utility easement and for replacement of infrastructure in the vacated easement at the petitioner's expense.

RESOLVED FURTHER, that pursuant to said agreement 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. 01-1217-28(b).

RESOLVED FURTHER, that the proper city officials are hereby authorized to accept and file easement documents.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the alley to be vacated and the ingress/ egress and utility easements being accepted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Resolution 01-0866 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart and President Edwards --8

Nays: Councilor Stover -- 1

Approved December 17, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0867, affirming, and Resolution 01-0868, reversing, respectively, a decision of the board of zoning appeals to deny a variance authorizing construction of a 23'11" x 33'6" L-shaped office addition in an R-3 zoning district, on property located at 217 North 59th Avenue West (Richard Laumeyer, Lake Superior Agency of the Port Cities), by Councilor Stenberg, were introduced for discussion.

Councilors Hogg, Ness and Stewart supported Resolution 01-0867 because this should be a rezoning issue.

Councilors Eckenberg and Fena supported Resolution 01-0868, noting that the council has different powers and authorities than other regulatory authorities and that no one is objecting to this issue.

Resolution 01-0868 was adopted as follows:

BY COUNCILOR STENBERG:

WHEREAS, Richard Laumeyer has applied to the board of zoning appeals for a variance to construct a 23'11" x 33'6" L-shaped office addition to his building located in an R-3 Zone, allowing his business to expand, on property located at 217 North 59th Avenue West and legally described as Lots 6, 7, 8 and 9, Block 124, West Duluth Fifth Division; and

WHEREAS, the board of zoning appeals denied the variance to allow construction of said addition to applicant's building; and

WHEREAS, Richard Laumeyer has appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and hereby disagrees with the findings made by the board of zoning appeals pursuant to sections 50-47(b) and (c) of the Code and that the expansion of a commercial use extending into an R-3 residential zoning district can be made in this case;

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth finds that the long history of use of the building to be added to as a commercial building taken together with the character and use of other adjacent property and other property in the immediate neighborhood constitutes an extraordinary or exceptional situation or condition pertaining to the piece of property in question which would render strict application of Chapter 50 of the Duluth City Code, 1959, as amended, thereto an exceptional or undue hardship upon the owner thereof and which would result in particular and exceptional practical difficulties thereto, such that the grant of the requested variance is justified.

FURTHER RESOLVED, that said city council finds that the special circumstances or conditions applying to the land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and the authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreason-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

ably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of October 23, 2001, and the appeal is granted.

Resolution 01-0868 was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Stenberg, Stover and President Edwards -- 6

Nays: Councilors Hogg, Ness and Stewart -- 3

Approved December 17, 2001

GARY L. DOTY, Mayor

- - -

Resolution 01-0867 failed upon the following vote (Public Document No. 01-1217-29):

Yeas: Councilors Hogg, Ness and Stewart -- 3

Nays: Councilors Eckenberg, Fena, Gilbert, Stenberg, Stover and President Edwards -- 6

- - -

Resolution 01-0881, reversing, and Resolution 01-0882, affirming, respectively, the decision of the building appeal board to deny an appeal to allow a further extension of time on a condemnation for habitation order to correct housing code violations at 1117 North 46th Avenue East, Duluth, Minnesota, by Councilor Stenberg, were introduced for discussion.

Councilor Stenberg moved to table both resolutions, which motion was seconded and unanimously carried.

- - -

Resolution 01-0906, by Councilor Stenberg, amending Agreement No. 17911 with GDC for skywalk security services extending the term and increasing the amount payable by \$58,000, was introduced for discussion.

Councilor Stewart moved to table the resolution, which motion was seconded and carried unanimously.

- - -

Resolution 01-0913, by Councilor Stenberg, approving DEDA payment to Lake Superior Center authority pursuant to DEDA Resolution 01D-58, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Jim Miller, a subcontractor for the Bayfront Park Phase I construction, stated that his firm has not been paid the balance that is owing, even though the city has paid the general contractor and that the city should have some responsibility to see that all contractors have been paid.

City Attorney Brown stated that his office is investigating this and will prepare a report.

Resolution 01-0913 was adopted as follows:

BY COUNCILOR STENBERG:

RESOLVED, that pursuant to Resolution No. 99-0239, the payment by the Duluth economic development authority (DEDA) to the Lake Superior Center authority in the amount of \$286,000, as approved by the DEDA board at its meeting of December 11, 2001, pursuant to DEDA Resolution No. 01D-58 and the assurance agreement entered into between DEDA and the state of Minnesota dated December 15, 1998, copies of which are on file in the office of the city clerk as Public Document No. 01-1217-30, is hereby approved.

Resolution 01-0913 was unanimously adopted.

Approved December 17, 2001

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 1:15 a.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9520

BY COUNCILOR HOGG:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2002 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, 2002, 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 \$3,060,000 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$3,000,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$60,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the administrative assistant or his designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year 2002. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of this Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 010 through the 700 series shall each be considered

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budget items within the general fund, as defined in Chapter 8, Section 54, of the City Charter, and the accounts numbered 510 in the water division, 520 in the gas division, 530 in the sewer division, 535 in the stormwater division, 540 in the steam division and 503 in the golf division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the finance director, or his designee, be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this Section constitutes the budget of the city of Duluth for the calendar year of 2002.

010 - LEGISLATIVE AND EXECUTIVE		
1101	City council - total	\$ 168,300
1102	Mayor's office - total	173,500
1103	Administrative assistant - total	177,800
1104	Attorney's office - total	1,272,200
1105	Human rights office - total	265,000
	Total legislative and executive	\$ 2,056,800

015 - ADMINISTRATIVE SERVICES		
1510	Human resources - total	\$ 737,300
1511	Budget - total	212,400
1512	City clerk - total	617,900
1513	Data/word processing - total	1,435,100
1514	Other functions	846,000
1515	Facilities management	4,475,800
1516	Architect's office	226,500
	Total administrative services	\$ 8,551,000

020 - PLANNING AND DEVELOPMENT DEPARTMENT		
1202	Urban development - total	\$ 958,500
	Total planning department	\$ 958,600

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030 - FINANCE		
1322	City assessor's office - total	\$ 716,100
1324	City auditor's office - total	\$ 1,479,300
1325	Purchasing office - total	\$ 285,000
1327	City treasurer's office - total	\$ 379,400
	Total finance and records	\$ 2,859,900

100 - FIRE DEPARTMENT		
1501	Fire administration - total	\$ 395,400
1502	Firefighting operations - total	\$12,354,700
1503	Fire prevention and training - total	\$ 463,300
1504	Building inspection	\$ 1,579,700
	Total fire department	\$14,793,100

200 - POLICE DEPARTMENT		
1610	Police support services - total	\$ 5,965,100
1620	Police uniform division - total	\$ 8,003,500
	Total police department	\$13,968,600

300 - LIBRARY		
1702	Library services - total	\$ 3,689,700
1703	Buildings and equipment - total	\$ 300,100
	Total library	\$ 3,989,800

400 - PARKS AND RECREATION		
1812	Recreation and senior services - total	\$ 1,747,300
1814	Zoo - total	\$ 926,500
	Total parks and recreation	\$ 2,673,800

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500 - PUBLIC WORKS		
1900	Director's office - total	\$ 65,500
1920	Maintenance - total	\$ 7,588,200
1925	Bridges - total	\$ 637,300
1930	Transportation engineering services - total	\$ 1,816,900
	Total public works	\$10,107,900

700 - TRANSFERS		
	Total transfers	\$ 10,634,000

PUBLIC ENTERPRISE		
503	Golf fund - total	\$ 1,942,200

PUBLIC UTILITIES		
510	Water fund - total	\$12,181,500
520	Gas fund - total	\$47,329,100
530	Sewer fund - total	\$19,135,200
535	Stormwater fund - total	\$ 5,734,200
540	Steam fund - total	\$ 3,560,200

Section 8. That the administrative assistant or his designee shall provide the council with monthly budget reports and a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

That programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secured. Local funding will be available only after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2002.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2001

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and
President Edwards -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 17, 2001
Approved December 17, 2001
GARY L. DOTY, Mayor

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ORDINANCE NO. 9521

BY COUNCILOR HOGG:

**AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2002.**

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2002 for general operations is hereby determined to be the sum of \$9,038,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$4,228,400.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$3,837,500.

Section 4. For the pay of debt for the Duluth transit bonds, there will be levied the sum of \$382,200.

Section 5. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$590,000.

Section 6. That this ordinance shall take effect January 1, 2002.

Councilor Hogg moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Eckenberg, Fena, Gilbert, Hogg, Ness, Stenberg, Stewart, Stover and
President Edwards -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 17, 2001
Approved December 17, 2001
GARY L. DOTY, Mayor

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