

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

September 20, 2010

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, September 20, 2010 at 7:00 P.M.

The following members were present: Mayor Alan Hanks and the following Alderpersons: Bonny Petersen, Ron Weifenbach, Dave Davis, Ron Kroeger, Aaron Costello, Sam Kooiker, Bill Waugh, Gary Brown and Jordan Mason; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: Deb Hadcock.

Staff members present included Finance Officer Pauline Sumption, City Attorney Jason Green, Public Works Director Robert Ellis, Growth Management Director Marcia Elkins, Assistant Growth Management Director Bob Dominicak, Police Chief Steve Allender, Fire Chief Mike Maltaverne, Parks & Recreation Director Jerry Cole, Community Resources Director Kevin Thom and Administrative Coordinator Sharlene Mitchell.

ADOPTION OF AGENDA

The following items were added to the agenda:

- Establishing either a November or December Budget Discussion
- Update on Waste and Fraud Hot Line
- 2012 Meeting Schedule
- Use of Council email during Council meetings
- Approval of Lease with Downtown Business Improvement District Board

Motion was made by Brown, second by Waugh and carried to adopt the agenda as amended.

APPROVE MINUTES

Motion was made by Costello, second by Waugh and carried to approve the minutes for September 13, 2010 Special City Council meeting and September 7, 2010 Regular City Council meeting.

AWARDS AND RECOGNITIONS

Mayor Hanks presented a Certification of Recognition to the following City employees and acknowledged their dedicated service to the Rapid City community: Tom Bielmaier, Fire Department, 20 years; Jeffrey Christy, Parks & Recreation Department, 20 years; Dale McCabe, Police Department, 20 years; Dan Rud, Police Department, 25 years; Robert Dominicak, Growth Management Department, retirement.

GENERAL PUBLIC COMMENT

Craig Sheets provided information regarding potential public hazards.

NON-PUBLIC HEARING ITEMS -- Items 3 – 61

Motion was made by Weifenbach, second by Waugh and carried to open the public comment for Items 3-44. No comments were offered.

Motion was made by Brown, second by Kroeger and carried to close the public comments for Items 3-44.

CONSENT ITEMS – Items 3 – 34

The following items were removed from the Consent Items:

6. No. PW091410-03 –Approve the Allocation of \$1,500,000.00 a year for 10 years of the .16 Utility funds for use on street improvements with the .16 Utility Fund Program Guidelines being changed to reflect this motion contingent upon the ordinance change approval.
22. No. PW091410-20 –Grant the Exception to Reduce the Detention Requirement from 4,175 cf to 1,337 cf for a proposed parking lot expansion for the existing building located at 4200 Beach Drive, Lot B of Lot 8 of the SW ¼ NW ¼ of Section 9, T1N, R7E, submitted by Fisk Land Surveying & Consulting Engineers, Inc.
23. No. PW083110-37 – Direct staff to prepare an ordinance to require a 100 foot buffer between casinos and residential use or residential zoned properties.
29. Lift the moratorium enacted by the City Council on July 6, 2004, on the use of teleconference for City Council meetings.
33. LF090110-14A – Approve Revised Technology Resource Usage Policy.

Motion was made by Brown, second by Mason and carried to approve the following items as they appear on the Consent Items.

Alcoholic Beverage License Applications Set for Hearing (October 4, 2010)

3. Rushmore QMG, LLC DBA Qdoba Mexican Grill, 1745 Eglin Street Ste. 550 for a Retail (on-off sale) Malt Beverage License NO video lottery

Public Works Committee Consent Items

4. No. PW091410-01 – Approve a Request for Free Water for Firefighting Purposes – Johnson Siding Volunteer Fire Department.
5. No. PW091410-02 – Approve \$29,706.21 in additional funding for the Jolly Lane Sanitary Sewer Lift Station.
7. No. PW091410-05 – Acknowledge Historic Preservation Tax Incentives report.
8. No. PW091410-06 – Approve Change Order No. 1 to Simon Contractors of SD, Inc. for St. Andrew Street Reconstruction, Lincoln Avenue to Elm Avenue, Project No. ST10-1803 / CIP No. 50714, for a decrease of \$20,728.08.
9. No. PW091410-07 – Approve Change Order No. 1 to RCS Construction, Inc. for 2010 Water Reclamation Facility Improvements, Project No. WRF10-1856 / CIP No. 50791, for an increase of \$46,604.40.
10. No. PW091410-08 – Approve Change Order No. 1F to Simon Contractors of SD, Inc. for Hartland Court Relocation, Project No. DR05-1452 / CIP No. 50025, for an increase of \$17,146.25.

11. No. PW091410-09 – Approve Change Order No. 1 to Highmark, Inc. for Jackson Springs Water Transmission Mains, Project No. WTP09-1836 / CIP No. 50780, for an increase of \$46,500.98.
12. No. PW091410-10 – Approve Zero Cost Funding Change Order No. 1 for 2010 Miscellaneous Improvements, Project No. MIP10-1857 / CIP No. 50298. Adjust funding to allow for portion of work to be charged to the 5th & Oakland Crosswalk Improvements Project, Project No. ST10-1903 / CIP No. 50810.
13. No. PW091410-11 –Authorize Staff to Advertise for Bids for Sand for Winter Operations, Estimated cost: \$75,000.00.
14. No. PW091410-12 –Authorize Staff to Advertise for Bids for Liquid Road Deicer – Enhanced Liquid Magnesium Chloride, Estimated cost: \$32,000.00.
15. No. PW091410-13 – Approve Agreement with Canadian Pacific Railway, Pipeline Crossing Permit No. 4030401, Downtown Improvement Project Phase 2 – 6th Street from Omaha to Kansas City, Project No. ST10-1817 / CIP No. 50138, in the amount of \$1,740.00.
16. No. PW091410-14 – Approve Agreement with Canadian Pacific Railway, Pipeline Crossing Permit No. 4030501, Downtown Improvement Project Phase 2 – 6th Street from Omaha to Kansas City, Project No. ST10-1817 / CIP No. 50138, in the amount of \$1,056.00.
17. No. PW091410-15 – Approve Agreement with Canadian Pacific Railway, Wire Crossing Permit License No. 4030601, Downtown Improvement Project Phase 2 – 6th Street from Omaha to Kansas City, Project No. ST10-1817 / CIP No. 50138, in the amount of \$970.00.
18. No. PW091410-16 – Approve Agreement with Canadian Pacific Railway, Wire Crossing Permit License No. 4030701 Downtown Improvement Project Phase 2 – 6th Street from Omaha to Kansas City, Project No. ST10-1817 / CIP No. 50138, in the amount of \$970.00.
19. No. PW091410-17 – Approve Agreement with Canadian Pacific Railway, Pipeline Crossing Permit No. 4030801 Downtown Improvement Project Phase 2 – 6th Street from Omaha to Kansas City, Project No. ST10-1817 / CIP No. 50138, in the amount of \$1,056.00.
20. No. PW091410-18 – Approve Agreement with Canadian Pacific Railway, Wire Crossing Permit License No. 4030901 Downtown Improvement Project Phase 2 – 6th Street from Omaha to Kansas City, Project No. ST10-1817 / CIP No. 50138, in the amount of \$2,318.00.
21. No. PW091410-19 – Authorize Mayor and Finance Officer to Sign a Permanent Utility Easement between the City of Rapid City and Black Hills Power, Inc., in, on, over, under, and across the following described real property: A portion of the Northeast Quarter (NE1/4) of the MJK Subdivision, less Lots H3, H5, and right of way; the East Half of the Northwest Quarter (E1/2NW1/4), less part of the MJK Subdivision, less Lot Two (2), and

less right of way, located in Section Nineteen (19), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Pennington County, South Dakota.

24. No. 10FV012 - South Robbinsdale Addition – Approve a request by Jodee Boland for a **Fence Height Exception to allow a 6 foot high fence in the 25 foot front yard setback** for Lot 13 of Block 14 of South Robbinsdale Addition, Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 802 East Ohio Street.
25. 10TP025 – Approve the Draft 2011 Unified Planning Work Program for the Rapid City Metropolitan Planning Organization.
26. No. PW091410-21 – Approve Change Order No. 1, Parkview Playground Project No. PR09-6008, to Rangel Construction Company, for an increase of \$5,076.00.
27. No. PW091410-22 – Approve Change Order No. 002 to GBA, Inc. for Rapid City Restroom Facilities Renovation, Project PR-09-6019, for an increase of \$9,135.00.

Legal & Finance Committee Consent Items

28. No. LF091510-01 – Request the City Attorney's office to prepare an amendment to City Ordinance 15.08.010 relating to mobile home moving permits.
30. No. LF091510-02 – Approve Event Permit for Second Annual Great Downtown Pumpkin Festival to be held Saturday October 2, 2010, from 9:00 a.m. to 8:00 p.m.
31. No. 10TP027 – Authorize Mayor and Finance Officer to sign a no cost, time extension with LSA Associates, Inc. to December 31, 2010 for the Long Range Transportation Plan for the Rapid City Area Metropolitan Planning Organization.
32. Acknowledge the following volunteers for workmen's compensation purposes: Aaron P. Haigler, Elizabeth Cissell, Holly Ivey.
34. No. LF091510-08 – Authorize Mayor and Finance Officer to sign Covenant Agreement with Presbyterian Retirement Village.

END OF CONSENT CALENDAR

Motion was made by Kooiker, second by Weinfenbach to (No. PW091410-03) approve the Allocation of \$1,500,000.00 a year for 10 years of the .16 Utility funds for use on street improvements with the .16 Utility Fund Program Guidelines being changed to reflect this motion contingent upon the ordinance change approval. Mayor Hanks extended his thanks and appreciation to the Council for their support of the street improvements project. Motion carried.

Motion was made by Kooiker, second by Waugh to (No. PW091410-20) Grant the Exception to Reduce the Detention Requirement from 4,175 cf to 1,337 cf for a proposed parking lot expansion for the existing building located at 4200 Beach Drive, Lot B of Lot 8 of the SW ¼ NW ¼ of Section 9, T1N, R7E, submitted by Fisk Land Surveying & Consulting Engineers, Inc. In response to a question from Petersen, Ellis indicated that the only available option to bring the parking lot into compliance with the detention requirements would be cost prohibitive. Ellis addressed the topographic issues impacting the drainage flows from the parking lot noting that

the flows should not adversely impact the adjacent area. Costello addressed the discussion at Public Works regarding the request noting that the site being developed was previously a house. Costello indicated that it would be physically impossible to comply with the retention requirements without extraordinary measures. Discussion followed regarding a similar issue that had been addressed in the North Rapid area. In response to a question from Weifenbach, Ellis clarified that the project does not result in an increase in the impervious area. Motion carried with Petersen voting No.

Motion was made by Kooiker, second by Waugh to (No. PW083110-37) direct staff to prepare an ordinance to require a 100 foot buffer between casinos and residential use or residential zoned properties. Petersen stated her opinion that there should be a larger buffer against residential neighborhoods. Kooiker indicated that a larger buffer would make some existing businesses non-conforming and passage would be difficult. Kooiker indicated that there is broader support for the 100 foot buffer noting the existing casinos in North Rapid and on Indiana Street that function effectively with the 100 foot buffer. In response to a question from Weifenbach, Elkins indicated that a video lottery use requires an On-Sale Liquor Conditional Use Permit and are restricted to the General Commercial and Central Business Zoning Districts noting the physical buffers that have been required in some situations. Elkins indicated that the Future Land Use Plans do include Office Commercial and Medium Density Residential zoning buffers noting that such buffers are not always available in existing neighborhoods. In response to a question from Mason, Elkins stated that the ordinance being prepared by the Attorney's Office will address such issues as the impact on restaurants with video lottery. Elkins indicated that a boundary map has been provided which identifies the 100, 250 and 500 foot buffers from all existing casino uses. Mason encouraged a restricted definition on the term "casino" to minimize the impact on current businesses. Motion carried.

Motion was made by Weifenbach, second by Mason to Lift the moratorium enacted by the City Council on July 6, 2004, on the use of teleconference for City Council meetings. A substitute motion was made by Kroeger, second by Costello to continue the moratorium enacted by the City Council on July 6, 2004, on the use of teleconference for City Council meetings to the October 4, 2010 City Council meeting to allow staff to report on the different technologies for the facilitation of teleconference meetings. Kooiker voiced support for the motion to continue noting the issues associated with previous teleconference meetings. Weifenbach indicated that he could support the motion to continue noting that the moratorium was placed on the use of the telephone and not on video conferencing. Green clarified that State Law does not distinguish between video and teleconferencing and encouraged further clarification of the teleconference process. Costello commented on the impact that continued items, special council meetings and disconnect of the remote access can have on the meeting process. Mason indicated that he also supported the motion to continue noting the reliability of today's technology. The motion to continue carried.

Motion was made by Costello, second by Kooiker to (LF090110-14A) continue to the October 4, 2010 Council meeting to Approve Revised Technology Resource Usage Policy. Costello requested clarification of notification procedure for requests to view the e-mail of a City employee or City elected official. Thom clarified the amendments to the Technology Resource Usage Policy. Motion to continue carried.

CONTINUED CONSENT ITEMS – Items 35 - 44

Motion was made by Brown, second by Waugh and carried to approve the following items as they appear on the Continued Consent Items.

Continue the following items until October 4, 2010:

35. No. 08PL145 - A request by Sperlich Consulting, Inc. for Ronald Shape for a **Preliminary Plat** on Lot 13 of Block 6, Lots 2 thru 11 of Block 7, Lots 2 thru 11 of Block 8 of Homestead Subdivision, located in a portion of the SE1/4 of the NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 of the NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the eastern terminus of Homestead Street and north of Carl Avenue.
36. No. 10PL028 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots A and B of White Eagle Ranch, located in the NE1/4 of the SE1/4, Section 19, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 of the SE1/4, Section 19, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, located at 14870 East Highway 44.
37. No. 10PL032 - A request by Renner & Associates, LLC for Andrea K. Sabow for a **Preliminary Plat** on Tracts A, B and C of Tower Place, located in the N1/2 of the SW1/4, Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the E1/2 of the NW1/4 of the SW1/4 and a portion of the NE1/4 of the SW1/4, Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Tower Road and north of Skyline Ranch Road.
38. No. 10PL037 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 14 thru 22 of Block 7 and Lots 14 thru 21 of Block 8 of Red Rock Meadows Subdivision, of the NW1/4 of the NW1/4, Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the NW1/4, Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northern terminus of Seminole Lane.
39. No. 10PL041 - A request by Dream Design International, Inc. for a **Layout Plat** on Lots 1 and 2 of Baxter Subdivision, located in the SW1/4 SE1/4 SW1/4, Section 31, T1N, R7E, BHM, Pennington County, South Dakota, legally described as an unplatted parcel of land located in the SW1/4 SE1/4 SW1/4, Section 31, T1N, R7E, BHM, Pennington County, South Dakota, located 7601 Pioneer Circle.
40. No. 10PL050 - A request by Davis Engineering, Inc. for a **Preliminary Plat** on Lots 1R, 9, 10 and 11 of Block 8 and Lots 3, 4, 5 and 6 of Block 10 of Murphy Ranch Estates Subdivision of the NE1/4 of the NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the unplatted portion of Tract F of the NE1/4 of the NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located east of Reservoir Road and on the south side of Long View Road.
41. No. 10PL054 - A request by Duane Brink for a **Layout Plat** on Lots 1R and 2 of Heavlin Addition No. 2 located in the SE1/4 SE1/4 SE1/4, Section 19, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 of Heavlin Addition No. 2 located in the SE1/4 SE1/4 SE1/4, Section 19, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, located at 23299 South Airport Road.

42. No. 10PL061 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1 and 2 of Block 1 of Gateway Business Park Subdivision located in the W1/2 of the SE1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SE1/4 and a portion of Lot E of the S1/2 of the SE1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located between East Mall Drive and Interstate 90 at the southern terminus of Dakota Craft Drive.
43. No. 10PL062 - A request by D.C. Scott Co. Land Surveyors for Kelly Flannery for a **Layout Plat** on Lots 2 and 3 of Flannery Subdivision, Section 29, T1N, R7E, BHM, Pennington County, South Dakota, legally described as a portion of Lot 1 of the SE1/4 SE1/4, Section 29, T1N, R7E, BHM, Pennington County, South Dakota, located south side of Sheridan Lake Road between Dunsmore Road and Croyle Avenue.

Continue the following items until October 18, 2010:

44. No. 10PL033 - A request by Sperlich Consulting, Inc. for Daene Boomsma for a **Preliminary Plat** on Lots 27R and 29R of Block 25 of North Rapid Addition, located in the E1/2 of the SW1/4 of the NE1/4, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 27, 28 and 29 of Block 25 of North Rapid Addition, located in the E1/2 of the SW1/4 of the NE1/4, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 724 Lemmon Avenue.

END OF CONTINUED CONSENT ITEMS

NON-CONSENT ITEMS – Items 45 – 62

Motion was made by Brown, second by Waugh and carried to open the public comment for Items 45-62. Eric Farrar, Rosenbaum's Signs, expressed concern with the lack of notification on the moratorium and requested that the on-premise electronic message centers be removed from the moratorium. Jim Jackson, Rosenbaum's Signs, indicated that Rosenbaum's is an on-premise sign business and requested that the on-premise electronic message centers be removed from the moratorium. Jackson indicated that concerns with on-premise signage can be address through Code Enforcement. Lisa Modrick, Modrick Travel, stated that on-premise signs advertise the local business noting that off-premise billboards can advertise non-local businesses. Modrick indicated that on-premise and off-premise signs are separate issues and should be addressed as such. Brendan Casey, Epic Outdoor Advertising, expressed concern with the lack of notification on the moratorium and recommended that the on-premise signs be removed from the moratorium. Terry Olson, Lamar Advertising, urged repeal of the moratorium for all signage.

Motion was made by Brown, second by Waugh and carried to close public comment for Items 45-62.

Ordinances

Ordinance No. 5637 (No. LF090110-10) An ordinance Regarding Supplemental Appropriation #4 for 2010 having passed its first reading on September 7, 2010; motion was made by Weifenbach, second by Waugh and carried that the title be read a second time. Upon vote being taken, the following voted AYE: Petersen, Weifenbach, Davis, Kroeger, Costello, Kooiker,

Waugh, Brown and Mason; No: None; whereupon the Mayor declared the motion passes and Ordinance No. 5637 was declared duly passed upon its second reading.

Ordinance No. 5669 (No. LF091510-07) An ordinance to Authorize the Issuance of Refunds Under Certain Circumstances by Adding a New Section to Chapter 2.40 of the Rapid City Municipal Code, motion was made by Waugh, second by Kroeger and carried that Ordinance 5669 be placed upon its first reading. The title was fully and distinctly read and second reading set for Monday, October 4, 2010.

Ordinance No. 5667 (No. LF090110-27) An ordinance to Provide Standard Methods to Adjust Sewer Bills Based on Usage by Amending Section 13.08.370(C) of the Rapid City Municipal Code, motion was made by Weifenbach, second by Waugh and carried that the title be read a second time. Upon vote being taken, the following voted AYE: Petersen, Weifenbach, Davis, Kroeger, Costello, Kooiker, Waugh, Brown and Mason; No: None; whereupon the Mayor declared the motion passes and Ordinance No. 5667 was declared duly passed upon its second reading.

Ordinance No. 5670 (10RZ043) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Fisk Land Surveying & Consulting Engineers for Property Rentals, Inc. for a **Rezoning from Medium Density Residential District to General Commercial District** of Tract G (less part of Lots 1, 2, 3A and 3B and less Lot H1); Tract H (less part of Lots 1 and 29 of Fairway Hills and less Lot H1); and Lot 1 of Tract I all of Arrowhead View Addition, Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3800 Fairway Hills Drive, motion was made by Weifenbach, second by Waugh to approve. In response to a question from Brown, Elkins addressed the review process for rezone requests noting that Council has continued the first readings on controversial requests. Elkins advised the Council that the Growth Management Office has received public comment in opposition to the rezone request. A substitute motion was made by Davis, second by Brown to continue Ordinance No. 5670 to the October 4, 2010 City Council meeting. Davis indicated that the continuation would allow the Planning Commission to consider the public comment and make recommendation to the Council. In response to a question by Waugh, Elkins indicated that the supporting documentation is linked to the Second Reading action which occurs after the Planning Commission has taken action and made recommendation. In response to a question by Wiefenbach, Green indicated that the process for reviewing Rezone applications can be amended. The motion to continue carried.

Ordinance No. 5671 (No. 10RZ048) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Bob Brandt for Century Resources, Inc. for a **Rezoning from General Agriculture District to Light Industrial District** of a portion of the NE1/4 of the SW1/4 of Section 32, T2N, R8E, B.H.M., located in the NE1/4 of the SW1/4, Section 32, T2N, R8E, B.H.M., Rapid City, Pennington County, South Dakota more fully described as follows: commencing at the southwesterly corner of the dedicated right-of-way of East Anamosa Street as shown in Plat Book 28, Page 22, and the Point of Beginning; thence, first course: S45°16'55"W, a distance of 194.01 feet; thence, second course: N89°52'32"W, a distance of 317.97 feet; thence, third course: N00°07'28"E, a distance of 180.00 feet; thence, fourth course: N45°11'32"E, a distance of 394.23 feet, to a point on the westerly edge of the right-of-way of said East Anamosa Street; thence, fifth course: southeasterly, along the westerly edge of the right-of-way of said East Anamosa Street, curving to the right on a curve with a radius of 800.00 feet, a delta angle of 26°30'33", an arc length of 370.14 feet, a chord bearing of S28°37'25"E, and a chord distance of 366.84 feet, to the southwesterly corner of the dedicated right-of-way of East Anamosa Street, and the Point of

Beginning, located approximately 1/4 mile south of the intersection of North Creek Drive and East Anamosa Street, motion was made by Weifenbach, second by Waugh and carried that Ordinance 5671 be placed upon its first reading. The title was fully and distinctly read and second reading set for Monday, October 4, 2010. Elkins clarified that the motion will allow the rezone request to be set for hearing.

Growth Management Department Items

Motion was made by Wiefenbach, second by Kroeger and carried to approve Layout Plat (No. 10PL052) a request by Britton Engineering and Land Surveying, Inc. for Marty Eisenbraun for a **Layout Plat** on Tracts A and B of Eisenbraun Subdivision, located in Section 26, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the unplatted portion of the NW1/4 of the NE1/4 and the SW1/4 of the NE1/4 less the East 54.4 feet located in Section 26, T1N, R8E, BHM, Pennington County, South Dakota, located 1/2 mile east of Reservoir Road and 1/4 mile south of Southside Drive with the following stipulations: 1. Prior to submittal of a Preliminary Plat application, proposed Tract A shall be rezoned by Pennington County to allow a 3.2 acre lot or a Variance shall be obtained from the Pennington County Zoning Board of Adjustment to reduce the minimum required lot size in the General Agriculture District from 40 acres to 3.2 acres; 2. Upon submittal of a Preliminary Plat application, construction plans for Mondo Street shall be submitted for review and approval. In particular, the construction plans shall show the street located within a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained. In addition, the construction plans shall identify a temporary turnaround at the end of the street to accommodate emergency vehicles; 3. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If individual on-site wastewater systems are utilized, then an on-site wastewater plan prepared by a Professional Engineer demonstrating that the soils are suitable for on-site wastewater systems shall be submitted for review and approval. In addition, dry sewer mains shall be provided pursuant to the adopted Source Water Protection Study recommendation. If the applicant proposes to connect to the Prairiefire wastewater system, then a copy of an agreement signed by the owners of the Prairiefire wastewater system shall be submitted for review and approval indicating that the applicant has authorization to connect to their community sewer system; 4. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If a private water system is utilized, then an on-site water plan prepared by a Professional Engineer shall be submitted for review and approval. In addition, the water plans shall demonstrate that adequate fire and domestic flows are being provided. The plat document shall also be revised to provide utility easements as needed; 5. Prior to submittal of a Final Plat application, a reserve drainfield area for on-site wastewater treatment shall be shown on the plat or a note shall be placed on the plat indicating that at the time a Building Permit application is submitted, a reserve drainfield area for on-site wastewater treatment will be identified and held in reserve unless a public sewer system is provided; 6. Upon submittal of a Preliminary Plat application, a grading and drainage plan shall be submitted for review and approval if subdivision improvements are required or site grading is proposed; 7. Upon submittal of a Preliminary Plat application, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval if subdivision improvements are required. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction; 8. Upon submittal of a Preliminary Plat application, the plat

document shall be revised to eliminate the reference to the Public Works Director from the "Certificate of Finance Officer" since this is a Final Plat and not a Minor Plat application; 9. Upon submittal of a Preliminary Plat application, a cost estimate of the subdivision improvements shall be submitted for review and approval; 10. Upon submittal of a Final Plat application, the applicant shall submit proof of the legal entity which will provide the mechanism for street maintenance and snow removal. In particular, an agreement with Pennington County shall be submitted for review and approval indicating that the proposed street shall be accepted by Pennington County for road maintenance and snow removal, or evidence shall be submitted for review and approval that a road district has been established in accordance with SDCL 31-12A-1, or a legally binding agreement shall be submitted for review and approval by the City Council which guarantees sufficient financial commitment to provide these services; 11. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and, 12. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

Legal & Finance Committee Items

Mayor Hanks address the Report on creation of second floor review working group. In response to a request from Mayor Hanks, Kroeger accepted appointment to the Second Floor Review Working Group. Motion was made by Kroeger, second by Costello and carried with Mason abstaining to approve the appointment of the following individuals to the Second Floor Review Working Group: Ron Kroeger, Janelle Finck, Bill Freytag, Jeff Lage, Jim Mirehouse, Tam Rau, Jim Scull, Jerry Shoener and Pat Tlustos.

Motion was made by Weifenbach, second by Costello and carried with Mason abstaining to (No. LF091510-09) Acknowledge raffle request from South Dakota School of Mines & Technology.

Public Works Committee Items

Green addressed the Sign Moratorium noting that the recommendation was to lift the On-Premise Electronic Message Centers from the Sign Moratorium. Motion was made by Waugh, second by Costello to lift the On-Premise Electronic Message Centers from the moratorium. A substitute motion was made by Weifenbach, second by Kroger to lift the entire Sign Moratorium.

Kooiker addressed the issues associated with the use of on premise signs for off premise advertising. He indicated that the moratorium should include both types of signage to insure the process is fair to all parties. Mason voiced support for lifting the entire sign moratorium noting his concern with inviting sign companies to participate in the sign ordinance review while placing a moratorium on their business. Upon vote being taken, the following voted on the substitute motion to lift the entire Sign Moratorium: AYE: Mason, Weifenbach, Kroeger; NO: Kooiker, Waugh, Brown, Petersen, Davis, Costello whereupon the Mayor declared the motion failed on a vote of 3 to 6.

Weifenbach indicated that he would support the motion to remove the electronic message centers from the moratorium. In response to a question from Kroeger, Mayor Hanks indicated that the task force membership would be presented at the September 29, 2010 Legal & Finance Committee. Upon vote being taken the motion to lift the On-Premise Electronic Message Centers from the sign moratorium carried.

Motion was made by Kooiker, second by Waugh to approve Fence Height Exception (No. 10FV013) a request by Presston R. Gabel for a **Fence Height Exception to allow a 6 foot fence in the 25 foot front yard setback** for Lot 30 of Block 2 of Edinborough Subdivision, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1477 Edinborough Drive with the following stipulations: 1. Prior to approval by the Public Works Committee, the applicant shall obtain approval of the affected utility companies identifying that they have no objections to the location of proposed fence in the easement, or shall vacate the drainage and utility easement or shall submit a revised site plan relocating the fence outside of the drainage easement; 2. Prior to approval by the Public Works Committee, the applicant shall obtain approval by the City Engineer to locate a fence in the drainage and utility easement, or shall vacate the drainage easement or shall submit a revised site plan relocating the fence outside of the drainage easement; and, 3. Prior to approval by the Public Works Committee, an Exception application signed by the property owner shall be submitted to the Growth Management Department or the property owner shall be notified by certified return receipt mail. Weifenbach stated he has inspected the site and supports the request. Elkins called attention to the objection to the request that has been placed in the Council packets. Motion carried.

Bids

The following companies submitted bids for (No. CC092010-02.1) 2010 or newer 13,000 # GVWR Cab & Chassis with 29 Foot Aerial Lift and Flatbed truck body (Aerial Lift Truck) opened September 10, 2010: Rapid Chevrolet Co Inc, Highway Manufacturing, McKie Ford Lincoln Mercury Inc and Altec Industries Inc. Staff reviewed the bid and recommends bid award to Highway Manufacturing. Motion was made by Kroeger, second by Waugh and carried to award the bid to the lowest responsible bidder, Highway Manufacturing, in the amount of \$45,132.00.

The following companies submitted bids for (No. CC092010-02.2) Northridge Water Storage Reservoir Project No. W09-1792/CIP No. 50754 opened September 14, 2010: Caldwell Tanks Inc, CB & I Inc and Maguire Iron Inc. Staff reviewed the bid and recommends bid award to CB & I Inc. Motion was made by Kroeger, second by Mason and carried to award the bid to the lowest responsible bidder, CB & I Inc, for Bid Schedule A and Bid Schedule B in the amount of \$2,223,000.00

The following companies submitted bids for (No. CC092010-02.3) Northridge Water Booster Station Project No. W10-1898/CIP No. 50834 opened September 14, 2010: SECO Construction Inc, J Scull Construction Services Inc and RCS Construction Inc. Staff reviewed the bid and recommends bid award to RCS Construction Inc. Motion was made by Mason, second by Costello and carried to award the bid to the lowest responsible bidder, RCS Construction Inc in the amount of \$648,785.78,

The following companies submitted bids for (No. CC092010-02.4) 2010 Bridge Maintenance Project No. ST10-1886/CIP No. 50752 opened September 14, 2010: Corr Construction Services Inc and JV Bailey Company. Staff reviewed the bid and recommends bid award to Corr Construction Services. Motion was made by Weifenbach, second by Costello and carried to award the bid to the lowest responsible bidder, Corr Construction Services in the amount of \$130,234.00.

The following companies submitted bids for (No. CC092010-02.5) Catron Boulevard Turn Lane at Belgarde Boulevard Project No. ST10-1866/CIP No. 50751 opened September 14, 2010: J &

J Asphalt Company, Hills Materials Company and Simon Contractors of SD Inc. Staff reviewed the bid and recommends bid award to J & J Asphalt Company. Motion was made by Brown, second by Waugh and carried to award the bid to the lowest responsible bidder, J & J Asphalt Company in the amount of \$99,624.89.

The following companies submitted bids for (No. CC092010-02.6) West Chicago Street & Wapiti Court Pavement Repair Project No. ST10-1900/CIP No. 50445 opened September 14, 2010: Stanley Johnsen Concrete Contractor Inc, Simon Contractors of SD Inc and Tru-Form Construction Inc. Staff reviewed the bid and recommends bid award to Stanley Johnsen Concrete Contractor Inc. Motion was made by Brown, second by Waugh and carried to award the bid to the lowest responsible bidder, Stanley Johnsen Concrete Contractor Inc in the amount of \$167,277.50.

The following companies submitted informal quotes for (No. CC092010-02.7) Salt Storage #1 Roof Replacement – Project No. GB10-1907 / CIP No. 50098: Pendo's Construction Inc. Staff reviewed the informal quote and recommends award to Pendo's Constructino Inc. Motion was made by Brown, second by Waugh and carried to award the informal quote to the lowest responsible bidder, Pendo's Construction Inc in the amount of \$48,046.00.

COUNCIL ITEMS

Kooiker requested that a budget hearing date be established for either November or December to allow a review of the sales tax revenues in relationship to the FY 2011 Budget. Davis recommended that latitude be allowed in scheduling the meeting date to insure that current sales tax reports are available for the meeting. Motion was made by Kooiker, second by Peterson and carried to request that the Mayor's Office and Council Leadership establish a Special Council Meeting to review sales tax revenues in relationship to the FY 2011 budget.

Thom provided a status of the Global Compliance contract for the Waste and Fraud Hot Line noting that the attorneys for both parties are currently reviewing the document. Green briefly addressed the issues being discussed with regard to the contract. Mayor Hanks requested that Thom report back to the Legal & Finance Committee when the contracts are ready for formal action. In response to a question from Kooiker, Thom indicated that the internal policy and procedures for the Waste and Fraud Hot Line have not been finalized noting that a call log will be retained. Kooiker recommended that the Council receive briefings on calls to the tip line to insure that allegations of waste and fraud are fully investigated. Kooiker indicated that a verbal briefing would insure that possible investigations are not jeopardized should a Council person receive a personal call regarding the same issue. In response to a question from Mason, Thom confirmed that the original resolution required notification to the City Attorney and Community Resources Director. Waugh recommended that the Council clarify with a caller that they have reported the information to the Hot Line. Mayor Hanks addressed the current resolution requiring that the Mayor and Council be notified of any waste for fraud. Motion was made by Kooiker, second by Petersen and carried to acknowledge the report of the Waste and Fraud Hot Line.

Kroeger indicated that the 2012 Meeting scheduled for September 27, 2010 has been cancelled and recommended that the meeting be rescheduled for October 12, 2010 at 5:30 p.m. Motion was made by Costello, second by Davis and carried to direct the Mayor's Office to contact the Council membership to confirm quorum for the rescheduled 2012 Meeting on Tuesday, October 12, 2010 at 5:30 p.m.

Costello addressed the amount of information provided to the Council through email and requested that the Use of Council email during Council meetings be reviewed at the September 29, 2010 Legal & Finance Committee. Motion was made by Mason, second by Petersen and carried to place the Discussion regarding the Use of Council email during Council meetings on the September 29, 2010 Legal & Finance Committee meeting.

Staff Items

Motion was made by Weifenbach, second by Kooiker and carried to table (No. CC092010-03) Authorization to apply for AFG SAFER Grant for 3 FTE's (Firefighters).

PUBLIC HEARING ITEMS – Items 63 – 73

Motion was made by Costello, second by Davis and carried to open the public hearing for Items 63-73.

CONTINUED PUBLIC HEARING CONSENT ITEMS – Items 63 – 68

Motion was made by Davis, second by Brown and carried to approve the following items as they appear on the Continued Public Hearing Consent Items.

Continue the following items until October 4, 2010:

63. No. 10SV007 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer at the Section Line Highway and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer at Airport Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots A and B of White Eagle Ranch, located in the NE1/4 of the SE1/4, Section 19, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 of the SE1/4, Section 19, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, located at 14870 East Highway 44.
64. No. 10SV008 - A request by Renner & Associates, LLC for Skyline Pines, East, LLLP for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along a portion of Fairmont Boulevard as per Chapter 16.16 of the Rapid City Municipal Code** on Tract 1 of Lot 19 and the dedicated Fairmont Boulevard Right-of-way of the Skyline Pines East Subdivision, located in the N1/2 of the SE1/4, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the N1/2 of the SE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Mt. Rushmore Road and North of Tower Road at the western terminus of Cathedral Drive.
65. No. 10SV009 - A request by Renner & Associates, LLC for Andrea K. Sabow for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, streetlight conduit, water, sewer and additional pavement along Tower Road, Skyline Ranch Road and to waive the requirement to install curb, gutter, sidewalk streetlight conduit, water, sewer and pavement along Hanks Drive as they abut the property as per Chapter 16.16 of the Rapid City Municipal Code** on Tracts A, B and C of Tower Place, located in the N1/2 of the SW1/4, Section 14, T1N,

R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as The E1/2 E1/4 NW1/4 SW1/4, Section 14, T1N, R7E, BHM, Pennington County, South Dakota, excepting there from Lot B of the S1/4 NW1/4, N1/4 SW1/4, Section 14, shown on the plat filed in Plat Book 3, Page 155, and also excepting there from Lot A, Section 14, shown on the plat filed in Plat Book 3, Page 17, and that part of the NE1/4 SW1/4, Section 14, bounded on the north by Lot B of the S1/4 NW1/4 and the N1/4 of the SW1/4, Section 14, shown on the plat filed in Plat Book 3, page 155, and bounded on the east by the right-of-way for "Old U.S. Highway 16" shown on the plat filed in Highway Plat Book 2, Page 48, and bounded on the south by Lot A, Section 14, shown on the plat filed in Plat Book 3, Page 17, and bounded on the west by the west boundary line of said NE1/4 SW1/4, located west of Tower Road and north of Skyline Ranch Road.

66. No. 10SV014 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to reduce the pavement width from 27 feet to 20 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Pioneer Circle as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 and 2 of Baxter Subdivision, located in the SW1/4 SE1/4 SW1/4, Section 31, T1N, R7E, BHM, Pennington County, South Dakota, legally described as an unplatted parcel of land located in the SW1/4 SE1/4 SW1/4, Section 31, T1N, R7E, BHM, Pennington County, South Dakota, located at 7601 Pioneer Circle.
67. No. 10VR001 - A request by FMG, Inc. for Good Samaritan Society for a **Vacation of Right-of-Way** on the St. Martin's Road right-of-way located in the S1/2, excepting the southern 60.3 feet of said right-of-way, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of S.D. Highway 79 (Sturgis Road) and Hidden Valley Road.

Continue the following items until October 18, 2010:

68. No. 10SV010 - A request by Sperlich Consulting, Inc. for Daene Boomsma for a **Variance to the Subdivision Regulations to waive the requirement to pave the alley right-of-way and to waive the requirement to increase the existing pavement width of Lemmon Avenue from 24.1 feet to 27 feet as they abut the property pursuant to Chapter 16.16 of the Rapid City Municipal Code** on Lots 27R and 29R of Block 25 of North Rapid Addition, located in the E1/2 of the SW1/4 of the NE1/4, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 27, 28 and 29 of Block 25 of North Rapid Addition, located in the E1/2 of the SW1/4 of the NE1/4, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 724 Lemmon Avenue.

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

CONSENT PUBLIC HEARING ITEMS – Items 69-73

The following items were removed from the Consent Public Hearing Items:

69. Downtown Rapid City Economic Development Corp. DBA Destination Rapid City for a Special Event Beer License for an event scheduled October 2, 2010 at the intersection of 7th Street and St. Joseph Street.

72. Rapid City Area Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled November 9, 2010 at SDSM&T Paleo Building, 501 E. St. Joseph Street.

CONSENT PUBLIC HEARING ITEMS – Items 69-73

Motion was made by Brown, second by Kroeger and carried to approve the Consent Public Hearing Items 69-73 with Items 69 and 72 removed for individual consideration

Alcohol Licenses

70. Rapid City Area Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled October 21, 2010 at Black Hills Surgical Hospital, 216 Anamaria Drive.
71. Friends of the Rapid City Library for a Special Event Wine License for an event scheduled for October 21, 2010 at the Rapid City Public Library, 610 Quincy Street.

Assessment Rolls

73. No. LF081110-09 – Approve Resolution Levying Assessment for the Clean Up of Miscellaneous Property.

**RESOLUTION LEVYING ASSESSMENT FOR
CLEANUP OF MISCELLANEOUS PROPERTY**

BE IT RESOLVED by the City Council of the City of Rapid City, South Dakota, as follows:

1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by the property cleanup is the amount stated in the proposed assessment roll.
2. The Assessment Roll for Cleanup of Miscellaneous Property is hereby approved and assessments thereby specified are levied against each and every lot, piece, or parcel of land thereby described.
3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City Finance Office in accordance with the procedure in Section 9-43-43 to 9-43-53 of the South Dakota Compiled Laws of 1967, as amended, and shall be payable in one annual installment bearing interest at the rate not to exceed nine percent (9%).

Dated this 20th day of September, 2010.

ATTEST:
s/ Pauline Sumption
Finance Officer

(SEAL)

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

Motion was made by Kroeger, second by Waugh to approve the Downtown Rapid City Economic Development Corp. DBA Destination Rapid City for a Special Event Beer License for an event scheduled October 2, 2010 at the intersection of 7th Street and St. Joseph Street. Costello requested clarification of the event location and impact on traffic flows. Mayor Hanks stated that the event would not impact traffic flows on Main Street and St. Joseph Street. Motion carried.

Motion was made by Weifenbach, second by Brown and carried with Mason abstaining to approve the Rapid City Area Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled November 9, 2010 at SDSM&T Paleo Building, 501 E. St. Joseph Street.

Motion was made by Weifenbach, second by Kroeger and carried to open the Public Hearing Item 73A. No comments were offered.

Motion was made by Weifenbach, second by Costello and carried to approve the public hearing on (No. LF090110-07) Intent to Enter Into Lease with Downtown Business Improvement District Board.

Motion was made by Costello, second by Brown and carried to close the Public Hearing Item 73A.

Motion was made by Davis, second by Peterson and carried to approve the Lease Agreement between the City of Rapid City and the Downtown Business Improvement District Board. Green indicated that the Lease Agreement has been placed in the Council packets. Green stated that staff recommendation is for approval. In response to a question from Mayor Hanks, Green indicated that the lease is a 10 year least with renewal options between with City and the BID Board. Green indicated that the lease will permit the BID Board to manage the Main Street Square property and hire an Operations Manager under the Request for Proposal process.

Kooiker presented a Notice of Intent to Reconsider the Lease Agreement between the City of Rapid City and the Downtown Business Improvement District Board.

END OF CONSENT PUBLIC HEARING CALENDAR

BILLS

The following bills have been audited:

Payroll Paid Ending 08-28-10, Paid 09-03-10	829,177.88
Payroll Paid Ending 08-28-10, Paid 09-03-10	2,495.49
Pioneer Bank, Taxes Paid 09-03-10	195,522.51
Pioneer Bank, Taxes Paid 09-03-10	170.79
First Administrators, Claims Paid 09-08-10	128,756.86
First Administrators, Claims Paid 09-15-10	181,673.32
West River Electric Assn, Paid 9-13-10	20,737.05
Black Hills Power & Light, Paid 09-15-10	56,930.09
Computer Bill List	<u>5,205,850.57</u>
Subtotal	\$6,621,314.56
Payroll Paid Ending 08-28-10, Paid 09-03-10	2,831.43
Pioneer Bank, Taxes Paid 09-03-10	216.60

City-Health Insurance Trust, August 10 Health	1,010.00
City of Rapid City, postage	162.28
IKON Financial Services, Copier usage	16.30
Metropolitan Life Ins Co, Sept 10 Life	6.42
Simpson's Printing, 600 newsletters	\$130.00
Wright Express, 28.0 Gal Unl	<u>76.89</u>

Total	\$,6,625,764.48
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Sumption requested to add a payment to Simon Contractors for the Heartland Court Relocation for \$13,898.65 and a payment to the South Dakota Municipal League (SDML) for the annual conference for \$115.00. The new bill list total is \$6,639,778.13. Motion was made by Waugh, second by Brown and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof.

EXECUTIVE SESSION

Motion was made by Kroeger, second by Waugh and carried to go into Executive Session at 9:01 p.m. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 9:40 p.m. with Alderpersons Kooiker and Weifenbach absent.

STAFF DIRECTION

Motion was made by Costello, second by Waugh and carried to direct staff to proceed as determined in Executive Session on the potential litigation matter.

Motion was made by Costello, second by Waugh and carried to direct staff to reject the claim for attorney fees as determined in Executive Session.

ADJOURN

There being no further business to come before the Council at this time, motion was made by Mason, second by Brown and carried to adjourn the meeting at 9:42 p.m.

CITY OF RAPID CITY

ATTEST:

Mayor

Finance Office

(SEAL)