

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

August 4, 2003

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, August 4, 2003 at 7:00 P.M.

A quorum was determined with the following members answering the roll call: Mayor Jim Shaw and the following Alderpersons: Jean French, Alan Hanks, Sam Kooiker, Tom Murphy, Martha Rodriguez, Bill Waugh, Ray Hadley, Rick Kriebel and Jeff Partridge. The following Alderman arrived during the course of the meeting: None; and the following were absent: Ron Kroeger.

Staff members present included Asst. Finance Officer Coleen Schmidt, Acting Public Works Director Ted Vore, Planning Director Marcia Elkins, Police Chief Craig Tieszen, Fire Chief Gary Shepherd, Engineering Division Manager Randy Nelson, Project Administrator Rod Johnson and Administrative Assistant Jeri Lynn.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Agenda.)

Motion was made by Hanks and seconded by Waugh to **approve the minutes** of July 21, 2003. It was noted that the minutes have not been published to the City's web page. Motion was made by Kooiker, seconded by Hadley and carried to continue this item until August 18, 2003.

The next item considered was **adoption of the Agenda**. Motion was made by Hadley, seconded by French and carried to approve the agenda with the following additions and changes:

- Add Traffic Light on 8th Street (Items from Council Members)
- Move Items 99 and 100 after Item No. 78
- Add No. 108A – Water Reclamation Travel Request for four employees
- Add Property Taxes (Items from Council Members)
- Amend Titles of Items 86, 87 and 88 as listed on the attached documents
- Move Items 7 & 10 to after Item No. 94
- Add Request by Jim Didier to discuss parking in front of the Alex Johnson Hotel (Public Comment)

General Public Comment

Jesse Schilling stated that the average price of gasoline in the country is \$1.50 per gallon. He would like to see something done to get the state legislature to look into **gasoline prices** in Rapid City.

Bid Opening

The following companies submitted bids for Arrowhead Basin Detention Pond, Element 302, Project No. DR01-1126 which were opened on July 31, 2003: 1) Quinn Construction; 2) RCS Construction; 3) Heavy Constructors; 4) Lind Exco, Inc.; 5) Zandstra Construction; 6) Black Hills Excavating; 7) Rapid Construction; and 8) Summit Construction. Motion was made by Hanks, seconded by Rodriguez and carried to refer these bids to the Public Works Committee for review and recommendation.

Items from the Mayor

Mayor Shaw presented the **Citizen of the Month Award** to Tom Jeans and commended him for outstanding volunteer service to the community.

Project Administrator Rod Johnson updated the Mayor and Council members on the **2012 Projects** currently under construction. Hadley questioned the seeding of areas near the ice rink. Johnson explained that seeding certain areas in Roosevelt Park will be done in conjunction with the Park Site Improvement Project, not the ice rink project. Johnson stated that he will contact the Parks Department, inspect the area, and take appropriate action to take care of the weed problem. Also, a portion of the sidewalk along Waterloo Street, which is part of the Park Improvement Project, has not completed because it is anticipated that work will be done on the street in this area. Kriebel expressed concern about cracks in the floor at the Ice Rink. Johnson explained that the cracks are a result of the type of decking used in construction of the facility and they do not present any structural concerns.

Items from Council Members

Alderman French stated that there are no **traffic lights** between Cathedral Drive and St. Patrick Street and she feels this creates safety concerns. Motion was made by French, seconded by Kooiker and carried to request that staff look at options for this area and submit recommendations to the Public Works Committee.

Kooiker stated that it is his understanding that there is a proposal to increase property taxes included in the proposed 2004 city budget. The City currently levies for \$8.6 million and the new maximum would allow a levy for \$9.25 million. This is an increase of 6.6%. He requested justification for the proposed increase. Asst. Finance Officer Schmidt explained that the justification will be addressed in the budget overview which is scheduled for Wednesday morning, August 6th. She added that 1.6% of the increase is the CPI. The city is limited by law to the increase in CPI. The remainder of the increase is a result of growth in the community.

The next item on the Agenda was a request by Jim Didier to consider issues relative to loading and unloading of busses in front of the Alex Johnson Hotel. Mr. Didier was not present.

Continued Items Consent Calendar – Items 4-30

Motion was made by Hanks, seconded by Rodriguez and carried to continue the following items, as noted:

Continue the following Items until August 18, 2003:

4. No. 02PL029 - A request by Davis Engineering for a **Preliminary and Final Plat** on Tract A of Murphy Ranch Estates Subdivision of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of Tract F of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located southeast of the intersection of Reservoir Road and Longview Drive.
5. No. 02PL040 - A request by Dream Design International, Inc. for a **Final Plat** on Lots 1-6 of Block 1; Lot 1 of Block 2; Lots 1-20 of Block 3; Lots 1-14 of Block 4; Lot 1 of Block 5, of Eastridge Subdivision and dedicated Enchantment Road, Eastridge Drive, Sally Court, and major drainage easements located in the NW1/4 of Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as NE1/4 NW1/4; N1/2 NE1/4 less NW1/4 NW1/4 NE1/4 and less NE1/4 NW1/4 NE1/4 and less NW1/4 NE1/4 NE1/4; NW1/4 NW1/4; SE1/4 NW1/4 less the west 460 feet of the south 990 feet and less Lot H1; SW1/4 NW1/4 less the south 990 feet, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Fifth Street.

6. No. 02PL093 - A request by Davis Engineering for a **Layout, Preliminary and Final Plat** on Lot 1 Block 1, Lots 1 thru 6, Block 2, Lots 1 thru 8, Block 3, Lots 1 thru 7, and Lots 10 thru 15, Block 4, Lots 1 thru 3 and Lots 11 thru 16, Block 5 of Murphy Ranch Estates, all located in NE1/4 NW1/4 of Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract F of the NW1/4 less Murphy's Subdivision and Right of Way, Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on Longview Drive to the east of East 53rd Street and Reservoir Road.

8. No. 03AN009 - A request by the City of Rapid City for a **Petition for Annexation** on Lot 1 in SW1/4 Section 5 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 2 and 3 in S1/2 Section 6 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 4 and 5 in E1/2 Section 7 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot H-1 in the SE1/4 of Section 7, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 6 in NW1/4 Section 8 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, R.C. Airport Subdivision No. 1, Lots 3, 4, 5 and 6 in the SW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 1 and 2 of the SW1/4 Section 8 and Lot 1 of SW1/4SE1/4 Section 8, all located in T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 7 of R.C. Airport Subdivision No. 1 in SW1/4, Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 6 in SE1/4 Section 8 of R.C. Airport Subdivision No. 2 in SE1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, R.C. Airport Subdivision No. 2, Lots 2, 3, 4 & 5 in the SE1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, R.C. Airport Subdivision No. 3, Lots 1 & 2 in the SW1/4, Section 9, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot H-1 of NW1/4, Section 16, T1N, R9E, BHM, Pennington County, South Dakota; and, All of Section 17, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 2 in SE1/4 Section 20 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section 28, T1N, R9E, BHM, Pennington County, South Dakota; and, All of the N1/2 of Section 20, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot A and B of SW1/4, Section 20, T1N, R9E, BHM, Pennington County, South Dakota; and, Section line right-of-way in the SW1/4 of Section 20 located north of Lot H-1 of Lot A in the SW1/4 of Section 20, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 3, 4, 5 & 6 in Section 21 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section 28, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 5A in SW1/4SW1/4 of Section 21 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section 28, T1N, R9E, BHM, Pennington County, South Dakota; and, W1/2NW1/4, NW1/4SW1/4, Pt. SW1/4SW1/4, Tracts G and H in the SE1/4NW1/4 and E1/2SW1/4, and Tract I in the SW1/4SW1/4, Section 21, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 7 and 8 in N1/2 of Section 28 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section 28, T1N, R9E, BHM, Pennington County, South Dakota, located north of SD Highway 44 and east of Reservoir Road.

9. No. 03PL001 - A request by Dream Design International for a **Preliminary and Final Plat** on Lots A, B, C and well lot, Miracle Place Subdivision, located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3, Block 15, of Canyon Lake Heights Subdivision located in the SE1/4 SE1/4 Section 8 and the SW1/4 of

Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Cliff Drive and Miracle Place.

11. No. 03PL026 - A request by Dream Design International, Inc. for a **Layout Plat** on Lots 1 and 2 of Block 12; Lots 1 thru 4 of Block 15; Lots 1 thru 10 of Block 17; and, Lots 1 thru 17 of Block 18, Red Rock Estates Phase-IV, NW1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the NW1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the extension of Prestwick Road and Pro Street.
12. No. 03PL028 - A request by DLK Engineering for South Creek Village Limited Partnership for a **Preliminary and Final Plat** on Lot A and Lot B of Lot 2, Superpumper Addition, located in the SE1/4 of the SE1/4 of Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 2, Superpumper Addition located in the SE1/4 of the SE1/4 of Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Cambell Street and Fairmont Boulevard.
13. No. 03PL030 - A request by Renner & Sperlich Engineering Co. for Gordon Howie for a **Final Plat** on Lots 12 thru 20 of Block 13, Lots 25 thru 32 of Block 14, and Lots 20 thru 25 of Block 15, Trailwood Village, located in the N1/2 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of Tract T of Trailwood Village located in the N1/2 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located along Mercury Drive, Cabbot Court and Shad Street.
14. No. 03PL035 - A request by Renner & Sperlich Engineering Company for Dean Kelly for a **Layout, Preliminary and Final Plat** on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.
15. No. 03PL042 - A request by Renner and Sperlich Engineering Co. for Gordon Howie for a **Layout, Preliminary and Final Plat** on Lots 1 thru 5 of Block 18, Lots 1 thru 6 of Block 19, Lot 1 of Block 20, and Lots 1 thru 12 of Block 21, and Drainage Lot A, Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the balance of Tract T of Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located west of the intersection of Pluto Drive and Reservoir Road.
16. No. 03PL044 - A request by D.C. Scott Co. Land Surveyors for Thomas Knight for a **Preliminary and Final Plat** on Lot 4R, Lot 5R, and Lot 6 of Knight's Acres Subdivision, shared approach easement, vacated access easement, and dedicated Anderson Road right-of-way located in the N1/2 SE1/4 NE1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 4 and Lot 5 of Knight's Acres Subdivision, N1/2 SE1/4 NE1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located south of Longview Road and west of Anderson Road.
17. No. 03PL050 - A request by Mark Polenz for Daniel Schoenfelder for a **Preliminary Plat** on Lot A and Lot B of Schoenfelder Subdivision all located in the NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, legally described as Lot 1 of Lot C of Schamber Section 9 NW1/4 SE1/4 of Section 9, T1N,

R7E, BHM, Rapid City, Pennington County South Dakota, located at 3505 Western Avenue.

18. No. 03PL051 - A request by Doug Sperlich for Jeff Stone for a **Final Plat** on Lots 1, 2 and 3 of Block 1 of Sunset Heights Subdivision, located in the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current terminus of Broadmoor Drive.
19. No. 03PL052 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 1-4, Block 1 and Outlot D; Lots 1-7, Block 2; Lots 1-3, Block 3, of Stoney Creek South Subdivision and Dedicated Bendt Drive and Major Drainage Easements located in the NW1/4 SW1/4 and the SW1/4 SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the S1/2 NW1/4 SW1/4 less Lots H1 and H2, Section 22, T1N, R7E; a portion of the unplatted balance of the N1/2 NW1/4 SW1/4 located south of Catron Boulevard, Section 22, T1N, R7E; a portion of the unplatted balance of the E1/2 SW1/4 less Stoney Creek Subdivision and less Lot H2, Section 22, T1N, R7E; and, a portion of the unplatted balance of the SW1/4 SW1/4 less Lot H1 and Lot P1, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of Sheridan Lake Road and Catron Boulevard.
20. No. 03PL054 - A request by Davis Engineering, Inc. for Verlyn and Cindy Bourne for a **Preliminary and Final Plat** on Lot A and Lot B of Bourne Addition located in the SW1/4 SW1/4 of Section 20, T2N, R7E, BHM, Pennington County, South Dakota, legally described as Lot B less the west two feet located in the SW1/4 SW1/4 of Section 20, T2N, R7E, BHM, Pennington County, South Dakota, located at 5511 Hidden Valley Lane.
21. No. 03PL055 - A request by TSP Three, Inc. for Wellington Heights, LLC for a **Preliminary and Final Plat** on Lots 1 thru 45, Block 1, Wellington Heights Subdivision, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B, Cleary Subdivision, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 6715 Wellington Drive.
22. No. 03PL063 - A request by Fisk Land Surveying and Consulting Engineers for Dakota Land Development for a **Final Plat** on Lots 1 thru 3, Vista Lake Subdivision #2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 and a portion Lot F-1 of the Fish Hatchery Subdivision, located in the NE1/4 SW1/4 and the N1/2 SE1/4 of Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Jackson Boulevard north of the Fish Hatchery.
23. No. 03PL067 - A request by FMG, Inc. for Bypass LLC for a **Preliminary Plat** on Lots 1 through 9 of Block 1, Lots 1 through 3 of Block 2, Lots 1 through 6 of Block 3, all of I-90 Heartland Business Park, and dedicated public right-of-way shown on Elk Vale Road, Seger Drive, Taggart Road and Galt Court located in the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 NE1/4; N1/2 NE1/4 NE1/4; and the unplatted portion of the S1/2 NE1/4 NE1/4; N1/2 SE1/4 NE1/4 all in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north and west of the intersection of I-90 and Elk Vale Road.
24. No. 03PL068 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 10-12, Block 4; Lots 1-11, Block 17; Lots 12-22, Block 15; Lots 3-5,

Block 16 of Big Sky Subdivision and dedicated Elmer Street, Aurora Drive, Carl Avenue and Major Drainage Easements located in the N1/2NW1/4SE1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the NW1/4 SE1/4 less Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north of South Pitch Drive and Elmer Street.

25. No. 03PL069 - A request by Renner & Sperlich Engineering for Thomas J. Farrar for a **Preliminary and Final Plat** on Lots 6A and 6B of Block 2, Century Park Subdivision located in E1/2 of SW1/4, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, south Dakota, legally described as Lot 6 of Block 2 of Century Park Subdivision located in E1/2 of SW1/4, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, south Dakota, located along Samco Road.
26. No. 03SV013 - A request by Renner & Sperlich Engineering Company for Dean Kelly for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, dry sewer, paving and additional right-of-way width on Corral Drive as per Chapter 16.16 of the Subdivision Regulations** on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.
28. No. 03SV026 - A request by Richard and Gladys Bray for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer as per Chapter 16.16 of the Rapid City Municipal Code along the section line highway and Sheridan Lake Road** on Lot B of Lot 3, Feay Reder Subdivision located in the NE1/4 Section 36, T1N, R6E, BHM, Pennington County, South Dakota, located at 9470 Sheridan Lake Road.
29. No. 03VE005 - A request by Dream Design International for Art Janklow for a **Vacation of a portion of a 33 foot wide Private Access Easement** on a portion of Tract C of the NE1/4 NW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota, located in the Cimarron Mobile Home Park.

Continue the following items until September 2, 2003:

30. No. 02PL083 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 1 thru 4, Block 1, Lots 1 thru 9, Block 2, and Outlot A and Dedicated Streets, Neff Subdivision II, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NW1/4 of the SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located the cul-de-sacs at the west end Sweetbriar Street and Avenue A.
31. No. 03PL045 - A request by Michael Hanson for Kent Hagg Esq. for Burnell A. Lutz for a **Preliminary and Final Plat** on Lots A and B of Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1903 North Maple Avenue.

End of Continued Items Consent Calendar

The Mayor presented No. 03SV024, a request by Centerline, Inc. for Lazy P-6 Properties, LLC for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer and water as per Chapter 16.16 of the**

Rapid City Municipal Code on Lot 1 of Block 1, Lazy P-6 Subdivision, Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as NW1/4 NW1/4 of Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located in the southeast quadrant of the current Parkview Drive terminus. Motion was made by Rodriguez, seconded by Partridge and carried to continue this item until August 18, 2003.

Alcoholic Beverage License Applications

This was the time set for hearing on the application of the Rapid City Area **Chamber of Commerce** for a Special Malt Beverage License to be used on September 8, 2003 at 3030 Lange Road (Black Hills Harley Davidson) for the Chamber Mixer. Upon motion made by Hanks, seconded by Rodriguez and carried, the Council approved the application.

This was the time set for hearing on the application of the Rapid City Area **Chamber of Commerce**, Special Wine License to be used on September 8, 2003 at 3030 Lange Road (Black Hills Harley Davidson) for the Chamber Mixer. Upon motion made by Hanks, seconded by Rodriguez and carried, the Council approved the application.

This was the time set for hearing on the application of the Rapid City Area **Chamber of Commerce**, Special Malt Beverage License to be used on October 14, 2003 at 615 Twelfth Street (Skyline Engineering) for the Chamber Mixer. Upon motion made by Hanks, seconded by Rodriguez and carried, the Council approved the application.

This was the time set for hearing on the application of the Rapid City Area **Chamber of Commerce**, Special Wine Beverage License to be used on October 14, 2003 at 615 Twelfth Street (Skyline Engineering) for the Chamber Mixer. Upon motion made by Hanks, seconded by Rodriguez and carried, the Council approved the application.

This was the time set for hearing on the application of Li Zhu Zhu dba **Hong Kong Buffet**, 927 E. North Street, for an On-Off Sale Malt Beverage License (New License – No Video Lottery). Upon motion made by Hanks, seconded by Rodriguez and carried, the Council approved the application.

Upon motion made by Hanks, seconded by Rodriguez and carried, the Finance Officer was directed to publish notice of hearing on the following applications, said hearings be held on August 18, 2003:

37. Rapid City Fine Arts Council, Inc. dba **Dahl Arts Center**, 713 Seventh Street, for a Special Wine License to be used on August 26, 2003 at the Art Museum at the Dahl Center
38. Rapid City Fine Arts Council, Inc. dba **Dahl Arts Center**, 713 Seventh Street, for a Special Beer License to be used on September 12, 2003 at the Art Museum at the Dahl Center
39. Rapid City Fine Arts Council, Inc. dba **Dahl Arts Center**, 713 Seventh Street, for a Special Wine License to be used on September 12, 2003 at the Art Museum at the Dahl Center

Consent Calendar Items – 40-76

The following items were removed from the Consent Calendar:

57. Authorize City to accept Quit Claim Deeds for an H Lot regarding Disk Drive Extension.
67. No. LF073003-13 – Request the Adult Oriented Business Committee to look at the 1,000 foot buffer on land available for adult oriented businesses and report back to this Committee in one month.

71. No. 03PL053 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 1 thru 5, Block 9 and Dedicated Street, the unplatted portion of the SW1/4 and the unplatted portion of the NW1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the N1/2 NW1/4 SW1/4 less Red Rock Estates and less Countryside Subdivision; E1/2 NE1/4 W1/2 NW1/4 less Red Rock Estates and less right-of-way, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Prestwick Road in Red Rock Estates.

Motion was made by Rodriguez, seconded by Hanks and carried to approve the following items as they appear on the Consent Calendar:

Set for Hearing (September 2, 2003)

40. No. 03VR008 - A request by Jaaron Johnson for a **Vacation of Right-of-Way** on a portion of the Fairview Street Right-of-Way adjoining Lot 12 in Block 31 and Lot 1 in Block 42 of Boulevard Addition, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1221 12th Street.

Public Works Committee Consent Items

41. No. PW072903-01 – Refer the request by Pat Hall for an Exception to Street Design Criteria Manual for Lot 13R1, Block 3, Skyline Pines Subdivision, to the August 12, 2003 Development Appeals and Review Board meeting. (SECRETARY'S NOTE: Item was reconsidered later in the meeting.)
42. No. PW072903-04 – Approve a request by petitioner Richard Stahl to waive sidewalk requirements at 913 West Street.
43. Request the City Attorney's Office work with City staff to gather information to support the claim on the Elk and Black Fox Drive intersection; and draft correspondence to Pennington County requesting affirmative action on the problem.
44. Request staff to continue work on the Standardize Event Form.
45. No. PW072903-05 – Approve Change Order No. 01 for N. LaCrosse/E. Anamosa Intersection Improvements Project No. ST02-1189 to Heavy Constructors, Inc. for an increase of \$10,798.49.
46. No. PW072903-06 – Approve Change Order No. 01F for CoCompost Facility Paving Project No. SWO02-1239 to Hills Materials Company for a decrease of \$932.82.
47. No. PW072903-07 – Authorize staff to advertise for bids for Water and Sewer Reconstruction, Southeast Connector Road-Hwy 79 Project No. SSW02-1137.
48. No. PW072903-08 – Authorize staff to advertise for bids for 8th Street Watermain Extension Project W03-1308.
49. No. PW072903-14 – Authorize staff to advertise for bids for Northeast Area Sanitary Sewer Interceptor, Phase 1 Project.
50. No. PW072903-10 – Authorize Mayor and Finance Officer to sign South Dakota Department of Transportation Maintenance and Financial Agreement for Traffic Signals for ST03-1298, East North and Cambell Pedestal Pole Replacement Project.
51. No. PW072903-12 – Deny an Impact Fee Waiver for 1111 Holcomb Avenue, Jonathan Deyoe.
52. Authorize Mayor and Finance Officer to sign a contract extension with Henry Mott, South Dakota School of Mines and Technology to conduct the Cocomposting of MSW and Residual Digested Wastewater Biosolids for an amount not to exceed \$9,000.
53. Declare the replacement of the Water Reclamation Facility sludge Pond Line as an emergency project.

Legal & Finance Committee Consent Items

54. No. LF073003-01 – Authorize Mayor to sign Memorandum of Joint Powers Agreement between the City of Rapid City, South Dakota and The Office of History, State of South Dakota.

55. No. LF073003-02 – Request that staff to proceed with researching the possibility of acquiring the Otto's Service Center site and building located at the northwest corner of the Omaha Street and I-190 intersection, including a dollar amount and the appraised value, and bring that information back to the August 13, 2003, Legal and Finance Committee meeting.
56. No. LF073003-06 – Authorize Mayor and Finance Officer to sign Temporary Public Access Easement – Howard Street.
58. Refer the structures in the right of way ordinance to the Ordinance Review Committee for review and recommendation regarding adding language to authorize the Council to grant a waiver under some circumstances.
59. Approve the Mayor's appointment of Gary Brown and Sam Brannan to the Planning Commission for a term to expire July 1, 2006.
60. Approve the Mayor's appointment of the following individuals to the Adult Oriented Business Committee for one year: Elizabeth Kraus, Wayne Williams, Mark Biggs, Dan Turner, Thomas Holway, Tom Murphy, Jean French, and Rick Kriebel (Chairman). The Adult Oriented Business Committee will be an ad hoc committee.
61. Authorize staff to purchase 15 L3 Communications Mobile Vu Display System at a cost of \$64,080 (funds to come from Local Law Enforcement Block Grant).
62. Authorize staff to purchase 26 L3 Communication Pentax Printer and Armrest Printer Containers at a cost of \$15,933 (funds to come from Local Law Enforcement Block Grant).
63. No. LF073003-07 – Approve Travel Request for staff to attend on-site HazMat Training with SensIR Technologies in the Amount of \$3,500.
64. Authorize Mayor and Finance Officer to sign Intercept Agreement with Jones County and Bennett County.
65. No. LF073003-08 – Authorize Mayor to execute the U.S. Department of Housing and Urban Development Funding Approval/Agreement for Grant No. B-03-MC-46-0002 in the amount of \$614,000.
66. No. LF073003-09 – Bring back to Council the request for tax deed property on Saint Patrick Street after the easements have been recorded.
68. Authorize staff to go out for Request for Proposals for City's health care plan.
69. Approve the following licenses: House Moving Business: James Anderson, dba A+ Quality Painting; Plumber: George Aufdengarten, Doug Brown; Plumbing Contractor: Doug VanDierendonck; Residential Contractor: Dana Schulz Construction LLC, Dana or Krysti Schulz; Schwandt Construction, Jim Schwandt; Sewer & Water Installer Contractor: Cameron G. Miller, Miller Construction.

Planning Department Consent Items

70. No. 02PL116 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lot 1, Block 1; Lots 1 thru 5, Block 2; Lots 1 and 2, Block 3; Lots 1 and 2, Block 4; Lots 1 thru 4, Block 5; Lot 1, Block 6 and dedicated Street, Big Sky Business Park, located in the SW1/4 SW1/4 and the S1/2 NW1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 SW1/4 NW1/4 including private drive, less Lot H2 and less right-of-way; the unplatted portion of the E1/2 SW1/4 NW1/4; and the unplatted portion of the S1/2 GL3; S1/2 GL4 less Lot 1 and less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and less right-of-way; all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Homestead Street and Elk Road. (Approve the Preliminary Plat with the following Stipulations, and continue the Final Plat until August 18, 2003: 1) Prior to Preliminary Plat approval by the City Council, the drainage plan shall be revised as necessary to address City Engineering comments and submitted for review and approval. In addition, the plat document shall be revised to show drainage easements as needed; 2) Prior to Preliminary Plat approval by the City Council, the sewer plans shall be revised as necessary to address City Engineering comments and submitted for review and approval. In addition, the applicant shall coordinate with Rapid Valley Sanitary District

to demonstrate that the downstream facilities can accommodate the additional flows. Off-site utility easements for the proposed extension to Jolly Lane shall be obtained; 3) Prior to Preliminary Plat approval by the City Council, the water plans shall be revised as necessary to address City Engineering comments and submitted for review and approval. In particular, a water line shall be constructed in the Elk Vale Road right-of-way or a Variance to the Subdivision Regulations shall be obtained; 4) Prior to Preliminary Plat approval by the City Council, construction plans for street improvements shall be submitted for review and approval. The design speed for Homestead Street shall not be less than 30 miles per hour. All other streets shall have a design speed of not less than 25 miles per hour; 5) Prior to Preliminary Plat approval by the City Council, the construction plans for Timmons Boulevard and Berniece Street shall be revised to meet the minimum geometric design standards of a collector road; 6) Prior to Final Plat approval by the City Council, the plat document shall be revised to show the dedication of right-of-way for the future cul-de-sac to be located at the northern terminus of Timmons Boulevard; 7) Prior to Preliminary Plat approval by the City Council, the applicant shall sign an agreement to vacate approximately 300 feet of the east-west leg of Berniece Street once the Homestead Street connection is completed east of the subject property; 8) Prior to Final Plat approval by the City Council, the Berniece Street agreement to vacate approximately 300 feet of the east-west leg shall be recorded at the Register of Deed's Office; 9) Prior to Final Plat approval by the City Council, the plat document shall be revised to show a non-access easement along Lots 4 and 5 of Block 2 and Lots 3 and 4 of Block 5 except for the approved approach locations; 10) Prior to Final Plat approval by the City Council, a miscellaneous document shall be recorded at the Register of Deed's Office to create a drainage easement for the 1.802 acres located within the northwest corner of the subject property; 11) No construction shall commence until construction plans for the subdivision improvements have been approved by the City of Rapid City; 12) All Uniform Fire Codes shall be continually met; 13) Prior to Final Plat approval by the City Council, a revised road name for the east west leg of Timmons Boulevard shall be submitted for review and approval. In addition, the plat document shall be revised to show the approved road name; 14) Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to eliminate Lot 1 of Block 1, Lot 1 of Block 5 and Lot 1 of Block 6 or road construction plans for the adjacent roadway(s) shall be submitted for review and approval; 15) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; and, 16) Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fee shall be paid.)

72. No. 03PL060 – Approve the request by Dream Design International for Doyle Estes (DTH LLC) for a **Preliminary and Final Plat** located along Buddy Court off of Degeest Drive.

RESOLUTION APPROVING PLAT

WHEREAS a Plat of Big Sky Subdivision: Lots 3-7, Block 13; and Dedicated Streets, located in the SE1/4 NW1/4 of Section 3, T1N, R8E, BHM, City of Rapid City, Pennington County, South Dakota, was filed with the Finance Officer for the purpose of examination and approval by the governing body, and

WHEREAS it appears that the system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and special assessments upon the property have been fully paid, and that such plat and the survey thereof have been executed according to law.

NOW, THEREFORE, BE IT RESOLVED, that the Plat of Big Sky Subdivision: Lots 3-7, Block 13; and Dedicated Streets, located in the SE1/4 NW1/4 of Section 3, T1N, R8E, BHM, City of Rapid City, Pennington County, South Dakota, be, and the same is hereby approved and the City Finance Officer is hereby authorized to endorse on such plat a copy of this Resolution and certify to its correctness.

Dated at Rapid City, South Dakota, this 4th day of August, 2003.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim, Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Hanks. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Hadley, Kriebel and Partridge; NO: None, whereupon said resolution was declared duly passed and adopted.

73. No. 03PL064 – Approve the request by Precision Surveying for Bill Marx for a **Preliminary Plat** on Lots A and B in Block B of Canyon Lake Heights Subdivision, located in the NW1/4 of Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 2 and the north 40 feet of Lot 3 in Block B of Canyon Lake Heights Subdivision, located in the NW1/4 of Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4730 Cliff Drive, with the following stipulations: 1) Prior to Preliminary Plat approval by the City Council, the septic tank design shall be revised as redlined and returned for review and approval; 2) Prior to Preliminary Plat approval by the City Council, the on-site water design shall be revised to demonstrate that a minimum 25 foot separation is being provided between the water line easement and all on-site wastewater components; 3) Prior to Final Plat approval by the City Council, the on-site wastewater system located on proposed Lot B shall be relocated to provide a minimum separation of 150 feet from the on-site well or surety shall be posted for the relocation; 4) Prior to Preliminary Plat approval by the City Council, road construction plans for the section line highway shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained or the section line highway shall be vacated; 5) Prior to Preliminary Plat approval by the City Council, road construction plans for Cliff Drive for the installation of curb, gutter, sidewalk, street light conduit, water and sewer as per Chapter 16.16 of the Rapid City Municipal Code shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained; 6) Prior to Preliminary Plat approval by the City Council, a well agreement shall be submitted for review and approval demonstrating that the well may serve the additional lot; 7) Prior to Final Plat approval by the City Council, the plat title shall be revised to read "formerly Lot 2 and the North 40 feet of Lot 3 in Block B"; 8) Prior to Preliminary Plat approval by the City Council, the applicant shall submit a Wild Land Fire Mitigation Plan for review and approval. In addition, the Wild Land Fire Mitigation Plan shall be implemented prior to Final Plat approval by the City Council; 9) Prior to Final Plat approval by the City Council, the plat document shall be revised to eliminate the certifications for "Rapid City Common Council" and "Planning Commission" and shall add certificates for "Resolution by Governing Board" and "Certificate of Finance Officer"; 10) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; and, 11) Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

74. No. 03PL074 – Approve the request by William Marx for a **Final Plat** located at 4730 Cliff Drive:

RESOLUTION APPROVING PLAT

WHEREAS a Survey Plat of Lot A and Lot B of Block B, Canyon Lake Heights Subdivision, formerly Lot 2 and the North 40' of Lot 3 in Block B of Canyon Lake Heights Subdivision, located in the NW1/4 of Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, was filed with the Finance Officer for the purpose of examination and approval by the governing body, and

WHEREAS it appears that the system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and special assessments upon the property have been fully paid, and that such plat and the survey thereof have been executed according to law.

NOW, THEREFORE, BE IT RESOLVED that the Survey Plat of Lot A and Lot B of Block B, Canyon Lake Heights Subdivision, formerly Lot 2 and the North 40' of Lot 3 in Block B of Canyon Lake Heights Subdivision, located in the NW1/4 of Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, be, and the same is hereby approved and the Finance Officer of Rapid City is hereby authorized to endorse on such plat a copy of this Resolution and certify to its correctness.

Dated at Rapid City, South Dakota, this 4th day of August, 2003.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

Raffle

75. No. CC080403-04 – Notification from Behavior Management Systems, Inc. of their intent to conduct a raffle at the Sixth Annual Festival of Trees, November 21-22, 2003 at the Rushmore Plaza Civic Center.
76. No. CC080403-07 – Notification from Blessed Sacrament Church of their intent to sell raffle tickets/door prizes on September 7, 2003 during a Fund Raising Concert

END OF CONSENT CALENDAR

Motion was made by Hanks, seconded by Waugh and carried to authorize the City to accept Quit Claim Deeds for an H Lot regarding **Disk Drive Extension**.

Motion was made by Kriebel and seconded by Hadley to request that staff draft an ordinance to require a 1,000 foot buffer on land available for **adult oriented businesses**, for submittal at the next Legal & Finance Committee meeting. Kriebel stated that the AOB Committee has reviewed this item and information in the past and supports the 1,000 foot buffer. There is no need to refer the issue to them again (No. LF073003-13). Acting City Attorney Green added that the proposal is a change to the zoning ordinance, so it will need to go to the Planning Commission for consideration. Partridge requested that the motion be amended to direct staff to set the distance at whatever is necessary to get to the 5% of land available for location of AOBs. Kriebel and Hadley agreed to the amendment. Hanks spoke against the substitute motion because it creates a moving target. The percentage would change every time property was annexed into the city. Staff expressed concern about this action because the issue would have to be addressed every time there was a change in the city's boundaries.

Kriebel withdrew his support of the modification to the original motion. Mayor Shaw deemed that the friendly amendment was not accepted by the motion maker. Motion was made by Kooiker and seconded by French to move the previous question and end debate. Upon vote being taken, the motion carried unanimously. Upon vote being taken, the original motion to request that staff draft an appropriate ordinance carried with Murphy voting no.

Motion was made by Hanks, seconded by Waugh and carried to delay action on the following item, until after Agenda Item 108: 71. No. 03PL053 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 1 thru 5, Block 9 and Dedicated Street, the unplatted portion of the SW1/4 and the unplatted portion of the NW1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the N1/2 NW1/4 SW1/4 less Red Rock Estates and less Countryside Subdivision; E1/2 NE1/4 W1/2 NW1/4 less Red Rock Estates and less right-of-way, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Prestwick Road in Red Rock Estates.

Public Hearings

This was the time for hearing on Revocation of **Housemover License** held by Ted Pettyjohn (No. CC080403-08). Motion was made by French and seconded by Hanks to revoke the license. Ted Pettyjohn appeared before the Council on this item. He explained that he obtained the necessary permit to move a house in May, 2003. He paid the city to replace some signs that were cut down, but he was not responsible for changing the route that was used. Police Chief Craig Tieszen gave the Council background on the problems that arose from the move on May 7, 2003. The Police Department is responsible for assisting with this type of project because of the traffic issues that arise. This move was improperly prepared for and improperly planned by Mr. Pettyjohn. In this particular case, there were obstacles that had not been planned for and arrangements were not made for the necessary people to be on site for this move. The result was the house ended up in the middle of the street with traffic blocked and no place to go. This situation happened several times along the moving route. The move was supposed to begin at 5:00 in the morning so that it was through town before the heavy traffic times. Although the move started on time, because of the many obstacles that had not been planned for, the project was behind schedule and took more than seven hours to get through town. It caused serious inconvenience to the public. Hanks stated that he received numerous complaints from merchants in the downtown area because traffic was completely stopped for more than an hour on Main Street. This move tied up traffic to the downtown area for nearly two hours which is unacceptable. Rodriguez asked if the City has had problems with this company in the past. Tieszen stated that we have. Kooiker stated that if this license is revoked, when can he re-apply. Green stated that he would not be able to apply for another license for one year. Pettyjohn stated that it was not his fault that traffic was blocked on Main Street. The major problem was getting the lights moved. The people who were moving the lights were not doing their job fast enough. The house could not be moved through the intersection of Omaha and West Boulevard because of the temporary lights at this location. That was the reason they went to Main Street. Pettyjohn stated that he could have been through town in two hours if he could have gotten the lights moved faster. Hadley asked about the previous problems the City has had with this company. Tieszen stated that he has the information in his files and will provide it to the Council. Substitute motion was made by Hadley and seconded by Waugh to continue this item for two weeks until additional information is presented. Murphy and French spoke against the substitute motion. Sufficient information has been submitted. French expressed concern that Pettyjohn would continue to move houses during this time. Kriebel also spoke against the substitute motion. He stated that it is possible to do one project so horribly that it would justify revocation of the license. Kooiker asked Mr. Pettyjohn if he intends to move any houses within the next two weeks. Pettyjohn stated that he has two projects that he will do as soon as the Sturgis Motorcycle Rally is over. French called the question; second by Murphy. Roll call vote was taken: AYE: Hanks, French, Murphy, Rodriguez, Kriebel and Partridge; NO: Kooiker, Waugh and Hadley.

Motion to call the question carried, 6-3. Upon vote being taken, the following voted AYE: Waugh and Hadley; NO: Hanks, French, Murphy, Kooiker, Rodriguez, Kriebel and Partridge. Motion to continue this item until August 18, 2003 failed, 2-7. Substitute motion was made by Kooiker and seconded by Hadley to direct the Building Official not to issue any moving permits to Ted Pettyjohn for the next two weeks, and bring this issue back before the Council on August 18, 2003. Roll call vote was taken: AYE: Kooiker, Waugh and Hadley; NO: Hanks, French, Murphy, Rodriguez, Kriebel and Partridge. Substitute motion failed, 3-6. The original motion before the Council at this time is to revoke the Housemover license for Ted Pettyjohn. Roll call vote was taken: AYE: Hanks French, Murphy, Rodriguez, Kriebel and partridge; NO: Kooiker, Waugh and Hadley. Motion carried, 6-3.

The Mayor stated that this was the time and place fixed for a public hearing on a proposal made by **Behavior Management Systems, Inc.**, a South Dakota nonprofit corporation (the "Borrower"), pursuant to South Dakota Codified Laws, Chapter 1-24, as amended (the "Joint Powers Act"), as provided in a Joint Powers Agreement to be entered into between the City of Spearfish and the City of Rapid City, and pursuant to South Dakota Codified Laws, Chapter 9-54, as amended (the "Act"), that the City of Spearfish issue its revenue bond (the Bond") to provide financing for a project (the "Project") being undertaken by the Borrower. Portions of the Project are located in the City of Rapid City and are described generally, as follows: (a) the acquisition and construction of a building addition approximately 14,000 square feet in size and related improvements with respect to an existing building (which existing building is approximately 14,000 square feet in size) located at 350 Elk Street, Rapid City, South Dakota; and (b) the refinancing of existing indebtedness of the Borrower incurred in connection with the acquisition and construction of the Borrower's existing facilities located at the following addresses: (1) 515 North First Street, Rapid City, South Dakota (an approximately 16,000 square foot facility); (2) 111 North Street, Rapid City, South Dakota (an approximately 14,000 square foot facility); and (3) 121 North Street, Rapid City, South Dakota (an approximately 7,000 square foot facility) (all collectively referred to as the "Rapid City Project"). Notice of Public Hearing was published in the Rapid City Journal on July 21, 2003.

The Mayor then opened the meeting for the public hearing on the proposal of the Borrower that the City of Spearfish issue the Bond to provide financing, in part, for the Rapid City Project, all pursuant to a Joint Powers Agreement. The purpose of the hearing was explained, the Rapid City Project and the proposed issuance of the Bond were described, and all persons present who desired to do so were afforded an opportunity to express their views with respect to the proposal that the City of Spearfish issue the Bond to finance the Project, in response to which the following persons either appeared, were recognized and made statements, or filed written comments with the Finance Officer before the date set for the hearing, summaries of which appear opposite their respective names: None. The Finance Officer reported that no written comments had been filed in his office before the date of the hearing. After all persons who wished to do so had stated or filed their views on the proposal, the Mayor declared the public hearing to be closed.

The following Resolution was introduced, read and Hanks moved its adoption (No. LF073003-10):

RESOLUTION GIVING HOST APPROVAL TO RAPID CITY PROJECT BEING
UNDERTAKEN BY BEHAVIOR MANAGEMENT SYSTEMS, INC. AND ISSUANCE OF
REVENUE BOND BY CITY OF SPEARFISH TO PROVIDE FINANCING THEREFOR,
PURSUANT TO JOINT POWERS AGREEMENT

WHEREAS, Behavior Management Systems, Inc., a South Dakota nonprofit corporation (the "Borrower"), desires to finance and refinance the acquisition, construction, improvement, rehabilitation, equipping and furnishing of various facilities of the Borrower, including one or more facilities located in Rapid City, South Dakota (as specifically described below, such facilities are referred to as the "Rapid City Project"), and including such facilities located in

other cities or jurisdictions as are further described below (all collectively referred to as the "Project"); and

WHEREAS, the Project consists of the following: (a) the acquisition and construction of a new building to be approximately 4,000 square feet in size and related improvements to be located at 623 Dahl Road, Spearfish, South Dakota, together with equipment and furnishings therefor; (b) the acquisition and construction of a building addition approximately 14,000 square feet in size and related improvements with respect to an existing building (which existing building is approximately 14,000 square feet in size) located at 350 Elk Street, Rapid City, South Dakota; and (c) the refinancing of existing indebtedness of the Corporation incurred in connection with the acquisition and construction of the Corporation's existing facilities located at the following addresses: (1) 515 North First Street, Rapid City, South Dakota (an approximately 16,000 square foot facility); (2) 111 North Street, Rapid City, South Dakota (an approximately 14,000 square foot facility); and (3) 121 North Street, Rapid City, South Dakota (an approximately 7,000 square foot facility) (all collectively referred to as the "Project"); and

WHEREAS, the Borrower has proposed that the City of Spearfish, South Dakota (sometimes referred to as the "Issuer"), issue its tax exempt revenue bond in the principal amount of \$3,000,000 (the "Bond") to finance the Project, pursuant to South Dakota Codified Laws, Chapter 9-54, as amended (the "Revenue Bond Act"), and South Dakota Codified Laws, Chapter 1-24, as amended (the "Joint Powers Act") (the Revenue Bond Act and the Joint Powers Act together referred to as the "Acts"); and

WHEREAS, in connection with the issuance of the Bond, it is proposed that a Joint Powers Agreement be entered into by and between the Issuer and the City of Rapid City (sometimes referred to as the "Joint Powers Participant" and, together with the Issuer, referred to as the "Joint Powers Participants"), and a copy of the proposed form of the Joint Powers Agreement has been placed on file with the City in the offices of the Finance Officer, and has been presented to the governing body of the City in connection with the adoption of this Resolution; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), requires that each governmental unit in which facilities to be financed by the Bond are located must approve the issuance of the Bond following a public hearing; and

WHEREAS, a public hearing on this matter was held by the governing body of the City on the date hereof; and

WHEREAS, the Bond are payable solely from revenues of the Borrower, will not be a general or moral obligation of the City of rapid City or of the Issuer or of any other political subdivision of the State of South Dakota, but will be payable solely from revenues of the Borrower, to the extent and in the manner provided in the Acts and the documents executed in connection with the issuance of the Bond;

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

1. The City of Rapid City hereby gives host approval, required under Section 147(f) of the Internal Revenue Code, to the issuance of the Bond and, in connection therewith, hereby approves the Rapid City Project.

2. In no event shall the Bond ever be payable from or charged upon any funds of the City of Rapid City; the City of Rapid City is not subject to any liability thereon; no owners of the Bond shall ever have the right to compel the exercise of the taxing power of the City of Rapid City to pay any principal of the Bond or the interest thereon, nor to enforce payment thereof

against any property of the City of Rapid City; the Bond shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City of Rapid City; and the Bond does not constitute an indebtedness of the City of Rapid City within the meaning of any constitutional, statutory, or charter limitation.

3. The Joint Powers Agreement is hereby approved in substantially the form now on file in the offices of the City, together with such modifications thereto as may be approved by the officers executing the Joint Powers Agreement, which approval shall be conclusively evidenced by the execution thereof; and the Mayor and Finance Officer or other officers of the City are authorized to execute the same in the name of and on behalf of the City. In the event of the disability or the resignation or other absence of the Mayor or Finance Officer of the City, such other officers of the City who may act in their behalf shall without further act or authorization of the City do all things and execute all instruments and documents required to be done or to be executed by such absent or disabled officials. The approval hereby given to the Joint Powers Agreement includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the officers of the City authorized herein to execute the Joint Powers Agreement, such approval to be conclusively evidenced by the execution thereof.

Adopted by the City Council of the City of Rapid City, South Dakota this 4th day of August, 2003.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by French. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh and Partridge; NO: Hadley and Kriebel, whereupon said Resolution was declared duly passed and adopted.

Motion was made by Hank and seconded by Waugh to authorize Mayor and Finance Officer to Sign **Joint Powers Agreement** with City of Spearfish (No. LF073003-11). Roll call vote was taken: AYE: Hanks, French, Murphy, Kooiker, Waugh and Partridge; NO: Hadley and Kriebel, whereupon said Resolution was declared duly passed and adopted.

The Mayor announced that the meeting was open for consideration of the Resolution of Necessity for **Heidiway Lane Sanitary Sewer Extension Project** No. SS01-1061 (No. CC080403-05). Notice of hearing was published in the Rapid City Journal on July 19 and July 26, 2003 and mailed to affected property owners on July 14, 2003. No oral or written comments were submitted. The following Resolution was introduced, read and Hanks moved its adoption:

RESOLUTION OF NECESSITY FOR
HEIDIWAY LANE SANITARY SEWER EXTENSION PROJECT NO. SS01-1061

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

The City Council hereby declares the necessity of constructing approximately 1,350 linear feet of 8" sanitary sewer main to serve six benefiting properties along Sheridan Lake Road at the intersection with Heidiway Lane. The above-referenced project shall be hereafter referred to as Heidiway lane Sanitary sewer Extension Project No. SS01-1061, which shall be deemed a description of the above referenced improvements.

The general nature of the project is as set forth above. Detailed plans and specifications will be prepared by a consultant engineer and will be placed on file with the City Finance Officer.

The estimated total cost of the project is \$82,867 of which \$44,476 will be assessed and \$38,391 will be collected via supplemental connection fees. The estimated assessed costs will be \$49,502 including consultant services for design, 6% engineering fees, and 5% fiscal fees. Interim construction fees are to be determined by the Finance Officer and shall be included in the final assessment.

The method of assessment is on an equal benefit basis.

The recorded ownership and estimated cost for each property is listed on the attached ownership list.

Dated this 4th day of August, 2003.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

THE CITY COUNCIL
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Waugh. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

Motion was made by Partridge, seconded by Hanks and carried to reconsider Item No. 41, (No. PW072903-01) – Refer the request by Pat Hall for an **Exception to Street Design Criteria Manual** for Lot 13R1, Block 3, Skyline Pines Subdivision, to the August 12, 2003 Development Appeals and Review Board meeting. Motion was made by Hanks and seconded by Waugh to refer this item to the DARB. Troy Ward requested that the City Council consider this item tonight rather than referring to the DARB meeting. The request is for a 31' curb cut on this lot, in lieu of the standard 20' requirement. The reason for the request is that the house being built on this lot will have a three car garage which is 31' in width. The third stall cannot turn around and exit the driveway with the current setup. Ward added that this subdivision is zoned Park Forest which allows for more street frontage per lot. It is approximately 175 feet to the next lot. Substitute motion was made by Hadley and seconded by French to allow a 31' curb cut on this lot. Green requested time to review city codes relative to this issue. Second substitute motion was made by Hanks and seconded by Waugh and carried to continue this item until after Agenda Item No. 92 to give the City Attorney time to research this request.

Planning Department – Hearings

Motion was made by French, seconded by Rodriguez and carried to authorize Mayor and Finance Officer to sign the **waiver of right to protest** a future assessment for the installation of curb, gutter, water and sidewalk along Cliff Drive and Miracle Place as it abuts Lots A, B, and C, Canyon Lake Heights Subdivision, located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3, Block 15, of Canyon Lake Heights Subdivision located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Cliff Drive and Miracle Place. (03SV001)

The Mayor presented No. 03SV001, a request by Dream Design International for a **Variance to the Subdivision Regulations** to waive the requirements to install curb, gutter, sidewalks

and water along Cliff Drive and Miracle Place as per Chapter 16.16 of the Subdivision Regulations on Lots A, B, and C, Canyon Lake Heights Subdivision, located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3, Block 15, of Canyon Lake Heights Subdivision located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Cliff Drive and Miracle Place. Motion was made by Kooiker, seconded by Rodriguez and carried to approve the requested Variance with the following stipulations: 1) Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the installation of curb, gutter, sidewalk and water along Cliff Drive and Miracle Place; and, 2) Curb, gutter and sidewalk shall be constructed along the east side of Miracle Place as shown on the construction plans.

Motion was made by Kooiker, seconded by Rodriguez and carried to authorize the Mayor and Finance Officer to sign the **waiver of right to protest** a future assessment for the installation of curb, gutter, street light conduit, and to improve pavement along Elk Vale Road as it abuts Lots 1 thru 9 of Block 1, Lots 1 thru 5 of Block 2, Lots 1 thru 12 of Block 3, Lot 1 of Block 4, Lots 1 thru 6 of Block 5, and Lot 1 of Block 6, Heartland I90 Business Park, located in the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 NE1/4; N1/2 NE1/4 NE1/4; and the unplatted portion of the S1/2 NE1/4 NE1/4; N1/2 SE1/4 NE1/4 all in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north and west of the intersection of I-90 and Elk Vale Road. (03SV016)

The Mayor presented No. 03SV016, a request by FMG, Inc. for Bypass LLC for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk and to improve pavement along Elk Vale Road and to waive the requirement to install sidewalk along a portion of East Road, West Road, Seger Drive and Mall Drive as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 9 of Block 1, Lots 1 thru 5 of Block 2, Lots 1 thru 12 of Block 3, Lot 1 of Block 4, Lots 1 thru 6 of Block 5, and Lot 1 of Block 6, Heartland I90 Business Park, located in the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 NE1/4; N1/2 NE1/4 NE1/4; and the unplatted portion of the S1/2 NE1/4 NE1/4; N1/2 SE1/4 NE1/4 all in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north and west of the intersection of I-90 and Elk Vale Road. Motion was made by Kooiker, seconded by Rodriguez and carried to approve the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, and to improve pavement along Elk Vale Road, with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements, and deny the Variance to waive the requirement to install sidewalks along a portion of Elk Vale Road, East Road, West Road, Seger Drive and Mall Drive.

Motion was made by Kooiker seconded by Rodriguez and carried to authorize the Mayor and Finance Officer to sign the **waiver of right to protest** a future assessment for the installation of curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway as it abuts the unplatted portion of the N1/2 NW1/4 SW1/4 less Red Rock Estates and less Countryside Subdivision; W1/2 NW1/4 less Red Rock Estates and less right-of-way, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Prestwick Road in Red Rock Estates. (03SV025)

The Mayor presented No. 03SV025, a request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway as per Chapter 16.16 of the Rapid City Municipal Code** on the unplatted portion of the N1/2 NW1/4 SW1/4 less Red Rock Estates and less Countryside Subdivision; W1/2 NW1/4 less Red Rock Estates and less right-of-way, Section 29, T1N, R7E, BHM, Rapid City,

Pennington County, South Dakota, located along Prestwick Road in Red Rock Estates. Motion was made by Kooiker, seconded by Rodriguez and carried to approve the requested Variance, with the following stipulation: 1) Prior to City Council approval, the applicant shall sign a Waiver of Right to Protest a future assessment for the improvements.

The Council recessed at 8:55 and reconvened at 9:05 P.M.

Ordinances & Resolutions

Public Comment on Items 86-92

Bill Napoli appeared before the Council relative to Ordinance 3960 which deals with implementing a **sales tax on food** sales. Napoli stated that the streamline sales tax issue has been around for about four years and the State has argued over it for three years. He added that he was the lone legislator from the Rapid City area who voted against it this year. Napoli stated that he is in favor of the streamline sales tax; however, he is opposed to what happened with the issue of food. Last year, they managed to get an amendment on the bill that said the requirement for sales tax on food would not be implemented until the federal government gave permission to tax internet sales. Everything would have been put into place, but the tax would not have been implemented until the state was given permission to tax the internet. This year, the bill that passed repealed that amendment. Napoli stated that he tried to get the amendment put back on, but he was not successful. Napoli stated that the State still does not have permission from the federal government to tax the internet and we are no further along now than we were six months ago. There is a bill in Congress at the present time to stop taxation on any part of the internet. Napoli stated that the bill passed by the State of South Dakota requires that the tax on food be implemented immediately, even though internet taxation is a long way away. Napoli stated that he intends to go back to the legislature this year and try to get a bill passed that does a dollar for dollar reduction with these taxes. For every dollar generated from internet sales tax, if and when it is implemented, will go to the reduction of the tax on food. He does not want the State of South Dakota to have an additional tax source. Napoli urged the City Council to take a strong stand on the issue of taxing food and send a strong message to state legislators that the City supports the streamlined sales tax issue, but not the requirement to tax food.

Jean Rosenkrantz also objected to implementing a **sales tax on food**. She requested that the amount be set at the blended rate of 1.84% so that the City does not benefit by a windfall from this tax.

Ralph Winegarden, representing Western Wireless, spoke in favor of Ordinance 3962 which deals with the location of **cellular communication facilities** in the HDR zoning district. Winegarden stated that the proposed ordinance furthers the public goal of providing citizens with quality wireless communication services. The proposal to allow these antennas on the sides of buildings will provide expanded services while reducing the visual impact caused by the proliferation of new communication towers. As a result of comments at the July 16th Legal & Finance Committee meeting, alternative language has been provided that will allow only panels on the sides of buildings that do not exceed the building height, or project more than eighteen inches from the side of the building.

There was no additional public comment.

Ordinance 3960 entitled An Ordinance to Amend the City of Rapid City's Municipal Non-Ad Valorem Sales Tax Ordinance to Comply with the Requirements of State Law by Amending Sections 3.16.010, 3.16.020, 3.16.030, 3.16.040, 3.16.050, 3.16.060, 3.16.070, 3.16.080, 3.16.090, 3.16.100, and 3.16.110 of the Rapid City Municipal Code (No. LF073003-12), was introduced. Motion was made by Hanks and seconded by Rodriguez to approve first reading. Kriebel spoke against the ordinance noting that the City should send a message to the State

that this action is not necessary. If there is a requirement that all cities in the state must be uniform, one alternative would for the State and those cities that levy a sales tax on food to discontinue that revenue source. Kriebel stated that it is not necessary to collect sales taxes on food. He also noted that this ordinance contains restrictions for the 2012 funds which should be discussed separately. Rodriguez asked what amount of revenue the city would lose if this ordinance is not enacted. Asst. Finance Officer Schmidt explained that the City collects approximately \$26 million in sales tax annually. She added that it is her understanding that if the proposed ordinance is not enacted in the appropriate time frame, the city could lose six months of this revenue. She added that cities can only adopt sales tax ordinances and certify to the state twice a year; January 1st and July 1st. It was noted that currently, the first penny of the city's sale tax goes to the general fund, and the second penny is split between the CIP Program and the 2012 Program. Once the new law goes into effect, there will be no breakdown in this revenue. Any restrictions imposed on the fund would have to be implemented by the City. Jeff Partridge stated that he understands and supports the intent of the proposal, realizing the goal of the streamline tax project. However, he is adamantly opposed to the City collecting sales taxes on food. This is the most regressive form of taxation. Partridge stated that the safe thing to do would be to enact the ordinance. However he doesn't feel staff has looked at every loophole and opportunity to change the requirements. There are several exemptions listed in the law and Partridge suggested that food also be exempt. He added that the city should take a strong stance on this ordinance and send the message to Pierre that this is the wrong approach to accomplish the streamline taxation project. Hanks agreed that the City has been put in a terrible position by the State on this issue. However, if the city does not implement the ordinance as required by state law, we are taking a \$13 million gamble which deals with job security for city employees and providing city services to the public. Hanks encouraged the Council to pass the proposed ordinance and then lean on the legislators to change the law. Murphy noted that no one on the Council is in favor of implementing this tax on food. However, who will lose if we stand on principal and make a statement to the legislators. It could be the citizens of this community. Murphy added that if the state needs to be uniform in sales tax collections, it only makes sense to require the six cities to begin collecting sales tax on food, rather than discontinuing the tax collection by all the other towns and municipalities in the state. Murphy stated that he is not willing to risk the loss of sales tax revenue for the community. Acting City Attorney Jason Green stated that it is his opinion that if the city does not implement this ordinance as required by State law, the city will lose all sales tax revenue for at least six months. Kooiker stated that he has been e-mailing people at the state level and he cannot get anyone to put in writing that the city will lose its sales tax if this ordinance is not implemented. He added that he feels the ordinance will be a windfall for the city, even at the 1.84%, because of the fractional amounts that will be collected as a result of rounding to the higher penny. Partridge stated that he would like to take on state government on this issue and he doesn't feel there is a lot of risk. There is an opportunity here to send a message to the state. Also, the issue of restrictions on a portion of the sales tax revenue should be discussed in detail. Hanks suggested that the Council approve first reading and allow the City Attorney's office to do additional research prior to second reading. Kooiker moved the previous question; second by Rodriguez. Upon vote being taken, the motion carried unanimously. Roll call vote was taken: AYE: Hanks, Murphy, Rodriguez and Waugh; NO: French, Kooiker, Hadley, Kriebel and Partridge. Motion to approve first reading of Ordinance 3960 failed, 4-5.

Ordinance 3961 entitled, An Ordinance Relating to Parking Improvements, Amending and Supplementing Ordinance No. 3399 for the purpose of Authorizing the Issuance and Sale of Parking Revenue Refunding Bonds and the Execution and Delivery of Certain Documents Relating Thereto (No. CC080403-06), was introduced. Upon motion made by Hanks, seconded by Rodriguez and carried, Ordinance 3961 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, August 18, 2003.

Ordinance 3962, entitled An Ordinance to Allow Microcell Cellular Communications Facilities on Buildings Greater Than or Equal to 45 Feet or 5 Stories in the HDR High Density

Residential Zoning District by Amending Section 17.14.020 and Section 17.14.030 of Chapter 17.14 of the Rapid City Municipal Code (No. 03OA003), was introduced. Motion was made by Hanks and seconded by Murphy to approve first reading. French asked if the petitioner would be in favor of allowing these uses in commercial rather than high density residential zoning districts. Winegarden explained that they are looking at a specific building in a specific area which is zoned high density residential. There are no alternative structures existing in this area and the only other option is to erect a free standing tower on property zoned general commercial across the street. Winegarden explained that they attempted to tailor the ordinance to restrict it to buildings of this height in HDR zoning districts. With the other restrictions that have been added, it minimizes the impact of these antennas. Winegarden added that they believe it is safe as far as health issues are concerned because the FCC has studied the issue. They have stated that if companies comply with the FCC guidelines, they will direct local municipalities that they should not regulate on that basis. Planning Director Elkins added that these types of antennas are currently allowed in the General Commercial zoning district. Secondly, the FCC has pre-empted the City's consideration of the safety issue as it relates to emissions. Substitute motion was made by Waugh and seconded by Hadley to approve first reading, with the amended language for Section 17.14.20(D). Roll call vote was taken: AYE: Murphy, Rodriguez, Waugh, Hadley and Partridge; NO: Hanks, French, Kooiker and Kriebel. Staff noted that ordinances require six affirmative votes for approval. Mayor Shaw declared the motion failed. Roll call vote was taken on the original motion to approve first reading of Ordinance 3962: AYE: NO: Hanks, French, Kooiker, Waugh, Hadley, Kriebel and Partridge; AYE: Murphy, and Rodriguez. Motion failed, 2-7. (Secretary's Note: Additional action taken on this item later in the meeting.)

Ordinance 3963, (No. 03OA005) entitled An Ordinance Amending Chapter 100 to create Temporary Zoning Controls for an Airport Zoning District on the following property, was introduced: Lot 1 in SW1/4 Section 5 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 2 and 3 in S1/2 Section 6 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 4 and 5 in E1/2 Section 7 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot H-1 in the SE1/4 of Section 7, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 6 in NW1/4 Section 8 of R.C. Airport Subdivision No. 4 in SW1/4 Section 5, S1/2 Section 6, E1/2 Section 7 and NW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, R.C. Airport Subdivision No. 1, Lots 3, 4, 5 and 6 in the SW1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 1 and 2 of the SW1/4 Section 8 and Lot 1 of SW1/4SE1/4 Section 8, all located in T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 7 of R.C. Airport Subdivision No. 1 in SW1/4, Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 6 in SE1/4 Section 8 of R.C. Airport Subdivision No. 2 in SE1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, R.C. Airport Subdivision No. 2, Lots 2, 3, 4 & 5 in the SE1/4 Section 8, T1N, R9E, BHM, Pennington County, South Dakota; and, R.C. Airport Subdivision No. 3, Lots 1 & 2 in the SW1/4, Section 9, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot H-1 of NW1/4, Section 16, T1N, R9E, BHM, Pennington County, South Dakota; and, All of Section 17, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 2 in SE1/4 Section 20 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section 28, T1N, R9E, BHM, Pennington County, South Dakota; and, All of the N1/2 of Section 20, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot A and B of SW1/4, Section 20, T1N, R9E, BHM, Pennington County, South Dakota; and, Section line right-of-way in the SW1/4 of Section 20 located north of Lot H-1 of Lot A in the SW1/4 of Section 20, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 3, 4, 5 & 6 in Section 21 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section 28, T1N, R9E, BHM, Pennington County, South Dakota; and, Lot 5A in SW1/4SW1/4 of Section 21 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section

28, T1N, R9E, BHM, Pennington County, South Dakota; and, W1/2NW1/4, NW1/4SW1/4, Pt. SW1/4SW1/4, Tracts G and H in the SE1/4NW1/4 and E1/2SW1/4, and Tract I in the SW1/4SW1/4, Section 21, T1N, R9E, BHM, Pennington County, South Dakota; and, Lots 7 and 8 in N1/2 of Section 28 of R.C. Airport Subdivision No. 5 in SW1/4 Section 16, SE1/4 Section 20, W1/2 and SE1/4 Section 21 and N1/2 Section 28, T1N, R9E, BHM, Pennington County, South Dakota, located at the Rapid City Regional Airport. Upon motion made by Hanks seconded by French and carried, Ordinance 3963 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, August 18, 2003.

Ordinance 3964 (No. 03RZ025) a request by Donald Ritchie for a **Rezoning from Park Forest District to Medium Density Residential District** on Lots 1 thru 3 of Tract 9, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located north of the intersection of Franklin Street and First Street, was introduced. Upon motion made by Hanks, seconded by Waugh and carried, Ordinance 3964 was placed upon its first reading and the title was fully and distinctly read. The Finance Officer was authorized and directed to publish notice of hearing thereon, said hearing to be Monday, August 18, 2003 at 7:00 P.M.

Ordinance 3965 (No. 03RZ026) a request by Donald Ritchie for a **Rezoning from Park Forest District to Medium Density Residential District** on Lot 7 of Tract 9, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located north of the intersection of Franklin Street and First Street, was introduced. Upon motion made by Hanks, seconded by Waugh and carried, Ordinance 3965 was placed upon its first reading and the title was fully and distinctly read. The Finance Officer was authorized and directed to publish notice of hearing thereon, said hearing to be Monday, August 18, 2003 at 7:00 P.M.

Ordinance 3966 (No. 03RZ027) a request by Donald Ritchie for a **Rezoning from Park Forest District to Medium Density Residential District** on Bellview Tract A of Flormann Addition, lying south of Signal Drive, City of Rapid City, Pennington County, South Dakota, Section 1, T1N, R7E, BHM, Pennington County, South Dakota, located at 424 St. Cloud Street, was introduced. Upon motion made by Hanks, seconded by Waugh and carried, Ordinance 3966 was placed upon its first reading and the title was fully and distinctly read. The Finance Officer was authorized and directed to publish notice of hearing thereon, said hearing to be Monday, August 18, 2003 at 7:00 P.M.

The next item discussed by the Council was No. PW072903-01, a request by Pat Hall for an **Exception to Street Design Criteria Manual** for Lot 13R1, Block 3, Skyline Pines Subdivision. Acting City Attorney Green explained that previous action has been taken by the City Council to establish criteria for when exceptions can be granted. The criteria are when 1) there is a three-car garage, and 2) when the structure is within 30' of the curb, a thirty foot curb cut can be allowed. In all other cases, the 20' curb cut is required. Green stated that it is his understanding that this garage is more than 30' from the curb and therefore would not meet the criteria previously established. Motion was made by Hadley and seconded by French to approve the request for a 31' curb cut for Lot 13R1, Block 3, Skyline Pines Subdivision. Substitute motion was made by Waugh, seconded by Hanks and carried to approve a 30 foot curb cut at this location.

Legal & Finance Committee Items

Motion was made by Hanks and seconded by Rodriguez to authorize Mayor and Finance Officer to sign **Loan and Infrastructure Development Agreement** with Hendersons (No. LF073003-04). Kooiker noted that no documentation was presented on this item. Upon vote being taken, the motion carried with Kooiker voting no.

Motion was made by Hanks and seconded by Rodriguez to authorize Mayor and Finance Officer to sign **Cost Sharing Agreement** between 5 Star Real Estate, Inc. and City of Rapid

City (No. LF073003-05). Kooiker noted that no documentation was presented on this item. Upon vote being taken, the motion carried with Kooiker voting no.

The Mayor presented No. 02PL119, a request by Kevin Conway for Norman or Rod McKie for a **Preliminary and Final Plat** located west of Haines Avenue and north of Interstate 90. The following Resolution was introduced, read and Waugh moved its approval:

RESOLUTION APPROVING PLAT

WHEREAS a Plat of Lots 1 and 2 of Five Star Subdivision and dedicated public right-of-way shown as Disk Drive, formerly Lots A & B of Lot 1, Lots 1 through 8, and Private Road; all of Lot M-1 of the S1/2 NW1/4, and Tract 4-B of Parcel 4, and a portion of Lot A (Howard Street/I-90 ROW), located in NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, was filed with the Finance Officer for the purpose of examination and approval by the governing body, and

WHEREAS it appears that the system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and special assessments upon the property have been fully paid, and that such plat and the survey thereof have been executed according to law.

NOW, THEREFORE, BE IT RESOLVED, that the Plat of Lots 1 and 2 of Five Star Subdivision and dedicated public right-of-way shown as Disk Drive, formerly Lots A & B of Lot 1, Lots 1 through 8, and Private Road; all of Lot M-1 of the S1/2 NW1/4, and Tract 4-B of Parcel 4, and a portion of Lot A (Howard Street/I-90 ROW), located in NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, be, and the same is hereby approved and the City Finance Officer is hereby authorized to endorse on such plat a copy of this Resolution and certify to its correctness.

Dated at Rapid City, South Dakota, this 4th day of August, 2003.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 03PL004, a request by FMG, Inc. for Williston Basin Interstate Pipeline Co. for a **Preliminary and Final Plat** on the dedicated public right-of-way shown as Disk Drive formerly a portion of Parcel No. 5 located in the NE1/4 of NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Parcel No. 5 located in the NE1/4 of the NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Haines Avenue and north of Interstate 90. Motion was made by Kooiker, seconded by Waugh and carried to approve the Plat, with the following stipulations: 1) Prior to Final Plat approval by the City Council, Disk Drive shall be constructed with a 36 foot wide paved surface, curb, gutter, sidewalk, water and sewer; 2) Prior to Final Plat approval by the City Council, the plat title shall be revised to read "...formerly a portion of Parcel 5 of NE1/4NW1/4 of Section 525, T2N, R7E located in...". 3) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; and, 4) Prior to Final Plat approval by the City Council, a developer's agreement shall be signed by the applicant and/or some other form of surety,

acceptable by the City Attorney's Office, shall be posted for the improvements that have not been completed. The developer's agreement may also serve to secure the subdivision inspection fees.

The next item discussed by the Council was the proposal for a long-term lease/lease back proposal regarding the **wastewater treatment plant**. Motion was made by Kooiker and seconded by Partridge to direct staff to draft a letter stating that the City is not interested in further consideration of this proposal. Rodriguez stated that she would like more information on this proposal. Murphy suggested that this item be discussed at the next Council Information Meeting scheduled for August 20, 2003. Substitute motion was made by Murphy and seconded by Rodriguez to take this item to the next Information Meeting for further discussion. Roll call vote was taken: AYE: Hanks, French, Murphy, Rodriguez, Waugh, Hadley and Partridge; NO: Kooiker and Kriebel. Motion carried, 7-2.

Motion was made by Hadley and seconded by Kooiker to table discussion regarding extension of **length of term** for Mayor from 2 years to 4 years. Upon vote being taken, the motion carried with Murphy voting no.

Motion was made by Hadley, seconded by Kooiker and carried to table discussion regarding extension of **length of term** for Council members from 2 years to 3 years.

Fire Chief Gary Shepherd explained that they received two proposals for **short term billing services** for the Emergency Medical Service. They recommend that the City accept the proposal from Casey Peterson & Associates. Motion was made by Rodriguez, seconded by Hanks and carried to accept the proposal for Short Term Billing Services from Casey Peterson & Associates and direct the City Attorney's Office to prepare the necessary contracts for consideration by the Council.

The next item before the Council was an Intergovernmental request for **lease of weed machine** for use at Legion Lake. Acting Public Works Director Ted Vore explained that staff has determined that we can physically launch this machine into Legion Lake. It is estimated that it will take between 3-5 days to dredge the lake, as well as 2 days moving the equipment. Also, an operator and mechanic will be needed to move and operate the machine. Vore stated that if it is the Council's desire to cooperate with this, the City Attorney should develop the necessary agreement. Motion was made by Rodriguez, seconded by Hanks and carried to approve the request and direct the City Attorney's Office to draft the necessary contract to cover the City from a cost and liability standpoint.

Motion as made by Kooiker, seconded by Partridge and carried to reconsider Item 88, First Reading, **Ordinance 3962**, entitled An Ordinance to Allow Microcell Cellular Communications Facilities on Buildings Greater Than or Equal to 45 Feet or 5 Stories in the HDR High Density Residential Zoning District by Amending Section 17.14.020 and Section 17.14.030 of chapter 17.14 of the Rapid City Municipal Code (No. 03OA003). Partridge explained that this ordinance, with the proposed amendment, would allow microcell panels on the side of a building which are aesthetically pleasing. He added that a microcell tower could be located on commercial property across the street from the proposed location and a panel on the side of a building would be much better for this entire residential area. French asked if the residents in the High Rise were notified of this proposal. Winegarden noted that the management company was notified, but not the individual residents. French encouraged the applicant to notify the residents of this building of their proposal. Planning Director Elkins explained that the ordinance before the Council at this time would make these antennas a permitted use in the HDR zoning district if certain criteria are met. If it is the desire of the Council that in specific situations that the area property owners be notified and signs be posted on the property, then it would be appropriate to amend the conditional uses section of the Code. Motion was made by Partridge and seconded by Rodriguez to approve first reading, as amended. Substitute motion was made by Kooiker and seconded by French to change the

proposed first reading of this ordinance to include the use of these antennas as a conditional use and direct staff to bring forward those changes accordingly for the second reading. Upon vote being taken, the motion carried unanimously. The following votes were recorded on the first reading of Ordinance 3962, as amended: AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Hadley, Kriebel and Partridge; NO: None. Motion carried, 9-0.

Public Works Committee Items

Jerry Davis requested that the Council approve his request to place a **retaining wall in the right-of-way** at 1131 Highland Park Drive. Earlier in the meeting, the Council referred an item to the Ordinance Review Committee that might take care of this issue, however, it will probably take a long time. Davis stated that to do the retaining wall right, make it look decent and miss a power pole, he needs about 150 square feet of the right-of-way. The right-of-way is at the very end of a dead-end street which adjoins private property.

Public Comment on Items 102-108

Motion was made by Rodriguez, seconded by Waugh and carried to request that Harmony Heights Associates LLP come into compliance with the ordinance regarding the **stone landscaping walls** on Harmony Heights Lane.

The next item before the Council was No. PW072903-03, a request by petitioner Jerry Davis to place a **retaining wall** in the public right-of-way at 1131 Highland Park Drive. Motion was made by French and seconded by Partridge to approve the request. Acting City Attorney Green stated that the motion on the floor is essentially approving something that is illegal. If that is the intent of the Council, the ordinance should be changed, not ignored. Rodriguez asked Davis if he has started the process to vacate this right-of-way. Davis stated that he has not pursued this process because it would take a lot more time than just getting his request approved by the City Council. Kooiker stated that it would be in the best interests of the applicant to vacate the right-of-way because of other issues on this property as well as the request before the Council at this time. Davis noted that there is no guarantee that the City will approve the vacation of this right-of-way. He also expressed concern about how long the process would take. Elkins stated that a vacation of right-of-way petition typically takes 45-60 days once it is submitted. Davis added that there is an alternative but it wouldn't look as good and would cost more money. Substitute motion was made by Rodriguez and seconded by Hanks to deny the request by Jerry Davis to place a **retaining wall** in the public right-of-way at 1131 Highland Park Drive; and request petitioner to pursue vacation of the right-of-way. Roll call vote was taken: AYE: Hanks, Kooiker, Murphy, Rodriguez and Waugh; NO: French, Hadley and Partridge. Motion to deny carried, 5-3.

Motion was made by Kooiker, seconded by Rodriguez and carried to approve No. PW072903-09 – Authorize Mayor and Finance Officer to sign Black Hills Power and Light Company Application for **PAL Light** for installation at east end of Centennial Street.

Motion was made by Kooiker, seconded by Rodriguez and carried to approve No. PW072903-13 – Authorize Mayor and Finance Officer to sign Amendment No. 01 to Professional Service Agreement with CETEC Engineering Services, Inc. to Design **Southeast Connector** (N) – I90 to Hwy 44 for an amount not to exceed \$6,113.52.

Motion was made by Kooiker and seconded by Partridge to table No. PW072903-11 – Authorize Mayor and Finance Officer to sign Professional Service Agreement with HKM Engineering and Rustnot Corrosion Control Services for **Corrosion Study** for City Metallic Transmission Mains Project No. W03-1312 for an amount not to exceed \$97,500. Roll call vote was taken: AYE: Hanks, French, Kooiker, Hadley and Partridge; NO: Murphy, Rodriguez and Waugh. Motion to table carried, 5-3.

Motion was made by French seconded by Murphy and carried to approve the request for an **Impact Fee Waiver** for 409 East Watertown Street for Black Hills Area Habitat for Humanity.

Motion was made by Rodriguez and seconded by Waugh to authorize staff to proceed with the annexation and amending the TIF; and to proceed with design of the **Red Rocks Water Storage Reservoir** at Site "E"; and place this item on the August 12, 2003 Public Works Committee agenda for further discussion. Elkins stated that her understanding is that a second overlying TIF will be created which will include the annexation area. Hanks asked for information on the amount of the increment the city will be losing in the overlapping area. Hanks expressed concern that the motion talks about designing a project at a specific location. Engineering Division Manager Randy Nelson stated that they do not intend to begin design of the project at this time. This can be deleted from the motion. Rodriguez and Waugh deleted the direction to proceed with design of the project from the motion. Upon vote being taken, the motion, as amended, carried with French voting no.

Public Works Director Ted Vore submitted a **travel request** for consideration by the Council. The request would send four employees of the Water Reclamation Facility for training on the new System Control And Data Analysis system. Motion was made by Kooiker and seconded by Partridge to refer this item to the next Public Works Committee meeting. Vore explained that the training is scheduled for August 17-23, 2003 in Minnesota. Staff did not put this on the agenda for Council approval because they didn't think additional approval was needed since it was included in the contract. Substitute motion was made by Murphy and seconded by French to authorize travel in the amount of \$2,823 for four employees to attend training in Minnesota on the SCADA system. The following voted AYE: Hanks, French, Murphy Rodriguez and Waugh; NO: Kooiker, Hadley, Kriebel and Partridge. Motion carried, 5-4. However six affirmative votes are necessary in order to authorize any expenditure of funds. As a result, the request was not approved.

The Mayor presented No. 03PL053, a request by Dream Design International, Inc. for a **Preliminary and Final Plat** located along Prestwick Road in Red Rock Estates. The following Resolution was introduced, read and Kooiker moved its adoption:

RESOLUTION APPROVING PLAT

WHEREAS a Plat of Red Rock Estates including Lots 1 thru 5, Block 9 and Dedicated Street, the unplatted portion of SW1/4 of the NW1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, was filed with the Finance Officer for the purpose of examination and approval by the governing body, and

WHEREAS it appears that the system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and special assessments upon the property have been fully paid, and that such plat and the survey thereof have been executed according to law.

NOW, THEREFORE, BE IT RESOLVED that the Plat of Red Rock Estates including Lots 1 thru 5, Block 9 and Dedicated Street, the unplatted portion of SW1/4 of the NW1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, be, and the same is hereby approved and the Finance Officer of Rapid City is hereby authorized to endorse on such plat a copy of this Resolution and certify to its correctness.

Dated at Rapid City, South Dakota, this 4th day of August, 2003.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

(SEAL)

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. The following voted AYE: Hanks, Murphy, Kooiker, Waugh, Rodriguez, Hadley, Kriebel and Partridge; NO: French; whereupon said Resolution was declared duly passed and adopted.

Approval of Bills

The following bills having been audited, it was moved by Rodriguez, seconded by Hanks and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof:

Payroll Paid Ending 07-26-03, Paid 08-01-03	662,892.38
Payroll Paid Ending 07-31-03, Paid 07-31-03	1,001,693.45
Payroll Paid Ending 07-26-03, Paid 08-01-03	1,042.20
Pioneer Bank, Taxes Paid 08-01-03	158,620.60
Pioneer Bank, Taxes Paid 07-31-03	252,006.86
Pioneer Bank, Taxes Paid 08-01-03	79.73
First Administrators, claims Paid 7-23-03	91,276.25
First Administrators, claims Paid 7-30-03	83,567.92
Wells Fargo, Credit Card Charges	13.98
BH Power & Light, electricity	75,419.89
US Postmaster, billing postage	2,200.00
Computer Bill List	<u>2,470,356.07</u>
Total	\$4,799,169.33

Payroll Paid Ending 07-26-03, Paid 08-01-03	2,618.20
Pioneer Bank, Taxes Paid 08-01-03	191.80
Carquest Auto Parts, brake pad, seal	152.06
City of Rapid City, postage	4.13
Johnson Machine, rotor	186.08
Marlin Leasing, copier lease	10.74
Mr. Print, programs	266.10
Philfleet, gasoline	133.15
Rushmore Plaza Holiday Inn, banquet	<u>1,939.25</u>
Total	\$4,804,670.84

<u>Treasurers Checks</u>	
Heavy Constructors	<u>\$10,798.49</u>
Total	\$4,815,469.33

Police Department Report

Motion was made by Hanks, seconded by Murphy and carried to approve No. CC080403-030 – **Event Permit** for the Central States Fair Parade to be held on Saturday, August 16, 2003 at 11:00 A.M.

Addendum

Motion was made by Rodriguez, seconded by Hanks and carried to authorize staff to **advertise for bids** for East St. Louis & Waterloo Water Main Reconstruction Project W01-1084.

Motion was made by Hadley, seconded by Kooiker and carried to get a report from the CIP Committee at the next City Council meeting.

As there was no further business to come before the Council at this time, the meeting adjourned at 11:25 P.M.

CITY OF RAPID CITY

ATTEST:

Mayor

Finance Officer
(SEAL)