

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

August 18, 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 18, 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, Ron Kroeger, Rick Kriebel and Jeff Partridge. The following Alderman arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included Finance Officer Jim Preston, 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.

Approval of Minutes

Motion was made by Hanks and seconded by Murphy to correct the minutes of July 7, 2003, Page 4, by changing "CIP" Committee to "Legal & Finance Committee" as the filtering entity; and **approve the minutes** of July 21 and August 4, 2003. French requested that the minutes of July 21 be clarified by adding the words "Rodriguez felt" that the article contained mistruths. Upon vote being taken, the motion to approve the minutes, as clarified, carried unanimously. Hadley stated that he doesn't feel the minutes should be published in the newspaper until they are approved by the City Council. He also requested that the corrections be made to the minutes that are posted to the City's web site. Hanks noted that the publication of minutes is important in the finalization of many actions of the Council. Many items are not effective until twenty days after publication in the newspaper.

Adoption of the Agenda

The following items were added to the agenda:

- 1) Move Item No. 89 from the Addendum to the Mayor's Items.
- 2) Add Presentation from the Library on One Book One Community Program
- 3) Amend Item No. 87 to read "Authorize staff to proceed with the annexation and proceed with creation of overlapping TIF; and to proceed with design of the Red Rocks Water Storage Reservoir at Site "E".
- 4) Amend Item No. 49 from Recreation Advisory Board to Golf Advisory Board

Motion was made by Kroeger, seconded by Hanks and carried to **approve the agenda**, as amended.

General Public Comment

Motion was made by Hanks, seconded by Rodriguez and carried to allow ten minutes for the next two agenda items.

Dan Island from the **Cornerstone Rescue Mission** briefed the Council on the new Fair Share Program being implemented at the Cornerstone Rescue Mission. Beginning this fall, clients will be charged a fee to stay at the mission. This action will further the accountability

policy of the Mission. It is not mean spirited and we will not turn people away. People will have the opportunity to work for room and board, or pay the fee. Most of the people who live at the mission are employed. The fee will be \$6 per day for the first 30 days. After that the fee will increase to \$8 and then to \$10. The proceeds of this new program will go into an account which will be used to assist clients of the Mission to find housing and get established. Island added that clients of the Mission have three days before the fees will start. If the clients go to Case Management that time frame could be extended, depending on the circumstances.

Hazel Bonner presented a report on status of land in **Sioux Addition** entitled "Sioux Addition – Celebrating 50 Years of Spirit and Resilience." The report was done by a class at Ogallala Lakota College in the spring of 2003. Although this is an introduction of the issue to the City Council, Bonner suggested that it be referred to a committee for more detailed discussion. Bonner gave a brief history on the requirements for education contained in the 1868 Treaty and how the land came to be in trust. As trust land, this property could not be sold for individual ownership, alienated, taxed, or lost for taxes. Bonner said that if something is not done by the agencies involved to come to an agreement with residents and former residents of Sioux Addition, there will probably be a federal lawsuit which she would like to avoid. Motion was made by Kooiker, seconded by French and carried to refer this issue to the next Legal and Finance committee meeting for discussion.

Bid Openings

The following companies submitted bids for No. CC081803-02, **Miscellaneous Improvements Project MIP03-1236** which were opened on August 14, 2003: 1) Stanley Johnsen Concrete; 2) Tru-Form Construction; 3) Simon Contractors of SD; and 4) Heavy Constructors. Staff has reviewed the bids and recommends award to Stanley Johnsen Concrete. Motion was made by Rodriguez, seconded by Hanks and carried to award the bid for MIP03-1236 to Stanley Johnson Concrete, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$39,185.62. Hadley requested that the public be informed about which projects are included in this project.

Items from the Mayor

Mayor Shaw presented the **Veteran of the Month Award** to Margaret Hochalter (July) and David Summarell (August) and commended them for outstanding service to the country.

Shaw also presented a **Certificate of Recognition** to Leon Alverson who is retiring after 14 years of service to the community and the Rapid Transit System.

Library Director Greta Chapman Library Board Chairman Roy Burr explained that the **Public Library** is implementing a national program called One Book One Community. The idea of this program is to get the entire community reading and talking about one topic. Jeanie McCallister and Jennifer Irwin from the Library distributed signed copies of "Rex Appeal" to the Council. This book was written by Peter Larson and Kristin Donnan. Chapman noted that there are additional activities planned during the month of September and they will keep the Council informed.

The next item discussed by the Council was No. LF073003-12, first reading of **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. This ordinance would require that the City begin collecting sales taxes on food sales. Mayor Shaw explained that the reason this issue was enacted by the State was a result of the Streamline Sales Tax Project. The Streamline Sales Tax Project is a compact of many states to streamline sales taxes so that

the same items are taxed within the state, with the intention of having Congress enact legislation that will allow sales tax to be collected on internet sales. In order to bring South Dakota into compliance with the issues of the compact, this measure was passed by the SD State Legislature and will require all communities in South Dakota that have a sales tax, to tax food. Shaw added that state law is very clear in that if the city does not tax food, we cannot collect any sales taxes. This would mean a loss of approximately \$28 million in revenue per year to the city, which would be devastating. Acting City Attorney Jason Green distributed revised wording for the preamble to this Ordinance which outlines the City Council's views relative to receiving this mandate from State Government. Motion was made by Partridge and seconded by Rodriguez to approve first reading of Ordinance 3960. Kriebel stated that he is disappointed that the City must take this action. He will vote for the ordinance, however, this should not be construed as a victory for anyone. He added that he is offended by the food tax, however, the trauma that the City would go through by eliminating all sales taxes would be disastrous. Kriebel stated that he will support the ordinance and "live today, fight tomorrow". Kriebel also encouraged review of Section 3.16.020 relative to the 2012 fund guidelines. He feels that the Council should have the latitude to use these funds, under certain criteria, for operational expenses. Kooiker also expressed disappointment that this action was mandated by the State. However, the way the law is written, it is very clear and there is no wiggle room. He added that there is a difference between making a statement and going splat up against the castle walls and he is not willing to risk city services. If the City goes beyond the October 1st deadline, there is no recourse except to request that a special session of the Legislature be held. Kooiker added that he hopes the state legislature takes notice of the City's disappointment in this law and takes action during the next session to include a provision that will give the state a reprieve from collecting sales taxes on food. Hadley stated that the City has been put between a rock and a hard spot on this issue, and it comes down to principle for him. He will be voting no on this issue because he doesn't want the state to feel they have a victory. Also, this issue affects more than just the six communities that don't charge any sales taxes on food. There are many communities in the state that tax food, but not at this level. Partridge stated that the tax on food is wrong, but the Streamline Sales Tax Project is right. Rapid City created a lot of debate on this issue and brought it to the forefront. Substitute motion was made by Rodriguez and seconded by Waugh to amend first reading of Ordinance 3960 to strike the current preamble and include the new language submitted by the City Attorney's Office. Second Substitute motion was made by Hanks and seconded by Partridge to amend the language in the handout by switching the word "strongly" and "vehemently". Upon vote being taken, the second substitute motion carried unanimously. The Council then considered action on the substitute motion to include the revised preamble language. Hadley stated that there was an article in the Rapid City Journal which insinuated that the City Council did something illegal relative to this issue at its last meeting. That is not the case. The Council made a decision not to approve the revision to the sales tax ordinance which is entirely within its power to do. Upon vote being taken, the motion carried unanimously. Roll call vote was taken on the original motion to approve first reading of Ordinance 3960, as amended: AYE: Hanks, Kooiker, Murphy, Rodriguez, Waugh, Kroeger, Kriebel and Partridge; NO: French and Hadley. Motion carried, 8-2.

Items from Council Members/Liaison Reports

The next item discussed by the Council was the **Runaway Truck Ramp** on Highway 16 near Echo Ridge Drive. Kooiker stated that there has been a lot of development in this area and there have been questions raised about the safety of the existing truck ramp. Kooiker stated that the City has contacted the State DOT Office, but has not received a response on this issue. He requested that staff continue to work with DOT to obtain a letter from them stating that this runaway truck ramp still meets the minimum standards and safety qualifications so that people in this area are not at risk. Acting Public Works Director Ted Vore explained that the State has sent this issue to their design team in Pierre and they will schedule a time for investigation of this truck ramp. The State does not intend to eliminate the facility, and they

are in the process of putting a contract together for maintenance on the arrester bed. No action was taken on this item.

Continued Items Consent Calendar – Items 6-27

The following item was removed from the Continued Items Consent Calendar:

19. 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.

Motion was made by Hanks, seconded by Waugh and carried to continue the following items until September 2, 2003:

6. 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.
7. 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.
8. 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.
9. No. 02PL116 - A request by Dream Design International, Inc. for a **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.
10. 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. 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.
17. 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.

18. 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. 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.
21. 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.
22. 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.
23. 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.
24. 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.

25. No. 03TI009 - A request by Dream Design International for a **Resolution Creating Tax Increment District No. 42** on in the NE1/4NE1/4 less ROW, GL2, SW1/4NE1/4, N1/2GL3, GL 4 less ROW, E1/2SW1/4NW1/4, S1/2GL3 less Big Sky Subdivision, SE1/4NW1/4 less Big Sky Subdivision, W1/2SW1/4NW1/4 including private Drive and less ROW, all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Tract A, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot 2 and Lot 8 including ROW, Block 13, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lots 2, 3, 4, and 5 including ROW, Block 14, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, NE1/4SE1/4, NW1/4SE1/4, SW1/4SE1/4, SE1/4NW1/4, SW1/4NW1/4 less ROW, N1/2SW1/4 less ROW, S1/2SW1/4 less Lot 1 of Neff Subdivision #3 less ROW, all located in Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot 1, Neff Subdivision #3, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H1 in SW1/4NW1/4, Lot H2 in SW1/4NW1/4, Lot H1 in W1/2SW1/4, Lot H2 in N1/2W1/2SW1/4, and Lot H3 in S1/2SW1/4, all located in Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H2 in N1/2 of Government Lot 4, Lot H3 in S1/2 of Government Lot 4, Lot H2 in W1/2SW1/4NW1/4, Lot H1 in NW1/4NW1/4, and Lot H1 in SW1/4NW1/4, all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H1 in E1/2NE1/4, Lot H2 in E1/2NE1/4, Lot H2 in E1/2SE1/4, and Lot H1 in SE1/4, all located in Section 33, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H1 in NE1/4, and Lot H2 in Government Lot 1 and the SE1/4NE1/4, all located in Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Elk Vale Road right-of-way between SE1/4NE1/4, Section 33, and SW1/4NW1/4, Section 34, all in T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Elk Vale Road right-of-way between SE1/4, Section 33 and SW1/4, Section 34, all in T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Elk Vale Road between NE1/4 of Section 4 and NW1/4 of Section 3, all in T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Homestead Drive and Degeest Street rights-of-way, located in the NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Elk Vale Road and north of Twilight Drive.
26. No. 03TI010 - A request by Dream Design International for a **Tax Increment District No. 42 - Project Plan** on in the NE1/4NE1/4 less ROW, GL2, SW1/4NE1/4, N1/2GL3, GL 4 less ROW, E1/2SW1/4NW1/4, S1/2GL3 less Big Sky Subdivision, SE1/4NW1/4 less Big Sky Subdivision, W1/2SW1/4NW1/4 including private Drive and less ROW, all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Tract A, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot 2 and Lot 8 including ROW, Block 13, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lots 2, 3, 4, and 5 including ROW, Block 14, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, NE1/4SE1/4, NW1/4SE1/4, SW1/4SE1/4, SE1/4NW1/4, SW1/4NW1/4 less ROW, N1/2SW1/4 less ROW, S1/2SW1/4 less Lot 1 of Neff Subdivision #3 less ROW, all located in Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot 1, Neff Subdivision #3, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H1 in SW1/4NW1/4, Lot H2 in SW1/4NW1/4, Lot H1 in W1/2SW1/4, Lot H2 in N1/2W1/2SW1/4, and Lot H3 in S1/2SW1/4, all located in Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H2 in N1/2 of Government Lot 4, Lot H3 in S1/2 of Government Lot 4, Lot H2 in W1/2SW1/4NW1/4, Lot H1 in NW1/4NW1/4, and Lot H1 in SW1/4NW1/4, all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H1 in E1/2NE1/4, Lot H2 in E1/2NE1/4, Lot H2 in E1/2SE1/4, and Lot H1 in SE1/4, all located in Section 33, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota;

and, Lot H1 in NE1/4, and Lot H2 in Government Lot 1 and the SE1/4NE1/4, all located in Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Elk Vale Road right-of-way between SE1/4NE1/4, Section 33, and SW1/4NW1/4, Section 34, all in T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Elk Vale Road right-of-way between SE1/4, Section 33 and SW1/4, Section 34, all in T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Elk Vale Road between NE1/4 of Section 4 and NW1/4 of Section 3, all in T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Homestead Drive and Degeest Street rights-of-way, located in the NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Elk Vale Road and north of Twilight Drive.

27. 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 3960 Corral Drive.

End of Continued Items Consent Calendar

The next item discussed by the Council was 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. Kooiker asked for an update on this item. Vicki Fischer from the Planning Department explained that the petitioners have not submitted surety for subdivision improvements. A variance request relative to this issue will be heard by the Planning Commission on August 21st. The petitioner may delay posting surety for this plat to see if the variance request is approved. Motion was made by Kooiker, seconded by Partridge and carried to continue this item until September 2, 2003.

Alcoholic Beverage License Applications

This was the time set for hearing on the application of the 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. 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 Fine Arts Council, Inc. dba **Dahl Arts Center**, 713 Seventh Street, for a Special Malt Beverage License to be used on September 12, 2003 at the Art Museum at the Dahl Center. 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 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. Upon motion made by Hanks, seconded by Rodriguez and carried, the Council approved the application.

Consent Calendar Items

The following items were removed from the Consent Calendar:

34. Request that staff work with Jim Johnson, 3602 Ridge Drive regarding his request for assistance with the removal of dead trees that were the result of magnesium chloride being sprayed on the street, and bring a recommendation forward at the August 26, 2003 Public Works Committee meeting.
35. No. CC080403-01 – Approve the bid award of Arrowhead Basin Detention Pond Element 302 Project DR01-1126 to the bidder meeting specifications, Lind Exco, Inc. for the low unit prices bid for a total contract amount of \$481,413.83.
39. 8th Street Traffic Signal - St. Patrick Street and Cathedral Drive – Request staff to conduct a traffic study on 8th Street between St. Patrick Street and Cathedral Drive, and bring forward those findings at the October 14, 2003 Public Works Committee meeting.
41. No. PW081203-11 – Request staff to seek Requests for Proposals for Landfill Gas Monitoring.
42. No. PW081203-12 - Cost of water meter reads – Request staff to proceed with the automatic radio read system.
49. Direct staff to work with the Recreation Advisory Board to develop an amendment to the Ordinance that established the Director of Golf to revert back to having a contract golf pro.
58. No. LF081303-15 – Authorize Mayor and Finance Officer to Sign Contract for Private Development Tax Increment District Number Thirty-Nine between A/R Group, Inc. and City of Rapid City.

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

Set for Hearing (September 15, 2003)

31. No. 03VR009 - A request by Dream Design International, Inc. for a **Vacation of Right-of-Way** on Lots 1 thru 3 of Block 7 of Schnasse Addition, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 225 East Watertown Street.

Public Works Committee Consent Items

32. Grant an Exception to the Street Design Criteria Manual at the request of Jerry Roper, McDonald's Corporation – 2223 West Main Street, as follows: Allow three approaches to 2223 West Main, McDonald's Restaurant as follows: west approach as an entrance only; east approach as an exit with right turn only; and an approach on Dakota Drive.
33. Granting Exceptions to the Design Criteria Manual – Request that staff prepare an ordinance to establish the criteria for granting exceptions to the criteria manual; and set out a specific appeal process so that the rules are clearly set; and set a hearing before the Planning Commission on these modifications.
36. No. PW081203-04 – Authorize Mayor and Finance Officer to sign a South Dakota Department of Transportation Agreement for PP 8052(43) PCEMS 4859, East St. Charles Street.
37. No. PW081203-05 – Authorize Mayor and Finance Officer to sign a United States Department of the Interior USGS Joint Funding Agreement for Water Resources Investigations for September 1, 2003 to September 30, 2004 in the amount of \$104,000.
38. No. PW081203-09 – Approve Resolution Setting Time and Place for Hearing (September 15, 2003) on Assessment Roll for Sidewalk Improvements Project SWK02-1139.

RESOLUTION FIXING TIME AND PLACE FOR HEARING ON
ASSESSMENT ROLL FOR
SIDEWALK IMPROVEMENTS PROJECT SWK02-1139

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

1. The assessment roll for Sidewalk Improvements Project SWK02-1139 was filed in the Finance Office on the 18th day of August, 2003. The City Council shall meet at the City/School Administration Center in Rapid City, South Dakota, on Monday, September 15, 2003 at 7:00 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.
2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time and place of hearing thereon, that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.
3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 18th day of August, 2003.

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

THE CITY COUNCIL
s/ Jim Shaw, Mayor

40. No. PW081203-10 – Approve an expenditure in the amount of \$2,875 for installation of a capacitor bank at the Roosevelt Ice Arena.
43. No. 03FV006 – Approve with stipulations a Fence Height Exception for Dream Design International, Inc. for Chase LP II to allow an eight foot high fence on Lots 1-3, Block 7 of Schnasse Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 225 East Watertown Street.
44. No. 03RD007 – Approve a request by the City of Rapid City for a Resolution changing that portion of the road named Mount Rushmore Road North to Mount Rushmore Road between the intersection of Omaha Street and Mount Rushmore Road North and the intersection of Allen Street and Mount Rushmore Road North.

RESOLUTION CHANGING THE ROAD NAMED
MOUNT RUSHMORE ROAD NORTH TO
MOUNT RUSHMORE ROAD

BE IT RESOLVED by the City of Rapid City that the road named Mount Rushmore Road North located between the intersection of Omaha Street and Mount Rushmore Road North and the intersection of Allen Street and Mount Rushmore Road North is hereby renamed to Mount Rushmore Road.

Date this 18th day of August, 2003.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

- 45. No. 03VE005 – Approve a Vacation of Private Access Easement for Dream Design International for Art Janklow located in the Cimarron Mobile Home Park.

RESOLUTION OF VACATION PRIVATE ACCESS EASEMENT

WHEREAS it appears that a portion of a 33 foot wide private access easement on Tract C of the NE1/4 NW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota, more generally described as being located in the Cimarron Mobile Home Park is not needed for public purpose; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the private access easement to be vacated and released;

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the portion of the private access easement heretofore described, and as shown on Exhibit "A", attached hereto, be and the same is hereby vacated.

Dated this 18th day of August, 2003.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

- 46. No. 03VE007 – Approve with stipulations a Vacation of Utility and Minor Drainage Easements for Gail Neill located at 1819 Heart Court.

RESOLUTION OF VACATION OF UTILITY AND MINOR DRAINAGE EASEMENT

WHEREAS it appears that a portion of the utility and minor drainage easement on Lot 4 in Block 2 of Twilight Hills Subdivision No. 2, Section 2, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at 1819 Heart Court is not needed for public purpose; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the utility easement to be vacated and released;

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the portion of the utility easement heretofore described, and as shown on Exhibit "A", attached hereto, be and the same is hereby vacated.

Dated this 18th day of August, 2003.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

- 47. No. 03VE008 – Approve a Vacation of Note for Elton Bierman located at 1502 East Centre Street.

RESOLUTION OF VACATION OF NOTE ON A PLAT

WHEREAS the Rapid City Council held a public hearing on the 18th day of August, 2003 to consider the modification of a note on the plat for Lots A and B of Lot 1, Cambell Square Addition, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1502 East Centre Street; and good cause appearing therefore

BE IT RESOLVED by the Rapid City Council that the note on the plat reading:

"Building setbacks: 25 foot front, 25 foot side and 25 foot rear."

be vacated on all pages of the original Plat on which it appears.

BE IT FURTHER RESOLVED by the Rapid City Council, pursuant to the recommendation of the Rapid City Planning Commission, that the Resolution of Vacation of Note on Plat be approved for Lots A and B of Lot 1, Cambell Square Addition, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, as shown on Exhibit A.

Dated this 18th day of August, 2003.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

Legal & Finance Committee Consent Items

- 48. Approve Changes to Agreement with State Wildland Suppression Division for Wildland Fire Services (Previously Approved and Reviewed by City Attorney's office).
- 50. Direct staff to move forward in obtaining additional information regarding the Proposed Construction of an Additional Cart Barn at Meadowbrook Golf Course to bring information back to the Legal and Finance Committee.
- 51. Request that staff move forward in obtaining additional information regarding the LaCroix Links Golf Course Lease and bring information back to the Legal and Finance Committee; and that staff provide the Council with a copy of the draft lease prepared by the City Attorney's Office.
- 52. No. 03TP004 – Authorize Mayor and Finance Officer to Sign Intelligent Transportation Systems Master Plan Amendment No. 1, No-Cost Time Extension.
- 53. No. 03TP005 – Authorize Mayor and Finance Officer to Sign Jackson Boulevard Extension Infrastructure Assessment, Alignment Identification and Environmental Assessment Contract Extension.
- 54. No. LF081303-02 – Approve a Resolution Establishing Change Fund.

RESOLUTION ESTABLISHING CHANGE FUND

WHEREAS it has been determined that the Roosevelt Ice Rink requires a Change Fund to operate the facility efficiently

NOW, THEREFORE, BE IT RESOLVED that the Change Fund for the Roosevelt Ice Rink be increased from Five Hundred Dollars (\$500) to Eight Hundred Dollars (\$800) to be used as follows:

Change Fund for Quarter Coin Machine	\$400
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Concession Change Fund	\$200
Ticket Office Change Fund	<u>\$200</u>
Total	\$800

BE IT FURTHER RESOLVED THAT the City Finance Officer is authorized to issue a treasurers check to increase the amount available in such fund.

Dated this 18th day of August, 2003.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

- 55. No. LF081303-03 – Approve a Resolution to Amend the Non-Union Pay Plan to Change the Title and Salary of Weed and Seed Coordinator to Weed and Seed Site Coordinator.

**RESOLUTION TO AMEND THE NON-UNION PAY PLAN TO
CHANGE THE TITLE AND SALARY OF WEED AND SEED COORDINATOR
TO WEED AND SEED SITE COORDINATOR**

WHEREAS, a job evaluation has been conducted utilizing the Factor Evaluation System methodology to review changes in the position of Weed and Seed Coordinator and to change the title of the position to better reflect the essential functions of the position within the city’s compensation plan; and,

WHEREAS, the evaluation established that the duties and responsibilities of the following position justify changing the title and placing the classification within the named Grade of the Non-Union pay scale;

Job Title	Grade	Salary
Weed and Seed Site Coordinator	16	\$34,278 to \$52,166/yr.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the Non-Union Pay Plan by adding the above position classification description at the grade recommended in the job evaluation.

Dated this 18th day of August, 2003.

ATTEST:

s/ James F. Preston
Finance Officer
(SEAL)

THE CITY COUNCIL
s/ Jim Shaw, Mayor

- 56. No. LF081303-11 – Approve the Resolution to Amend the Non-Union Pay Plan to Change the Title and Salary of Resource Coordinator – Weed and Seed.

**RESOLUTION TO AMEND THE NON-UNION PAY PLAN TO CHANGE THE TITLE
AND SALARY OF RESOURCE COORDINATOR – WEED AND SEED**

WHEREAS, a job evaluation has been conducted utilizing the Factor Evaluation System methodology to review changes in the position of Caseworker – Weed and

Seed and to change the title of the position to better reflect the essential functions of the position within the city’s compensation plan; and,

WHEREAS, the evaluation established that the duties and responsibilities of the following position justify changing the title and placing the classification within the named Grade of the Non-Union pay scale;

Job Title	Grade	Salary
Resource Coordinator-Weed and Seed	12	\$28,204 to \$42,910/yr.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the Non-Union Pay Plan by adding the above position classification description at the grade recommended in the job evaluation.

Dated this 18th day of August, 2003.

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

THE CITY COUNCIL
s/ Jim Shaw, Mayor

- 57. Authorize Mayor and Finance Officer to sign an agreement with Casey Peterson and Associates for temporary EMS Billing Services.
- 59. Approve the following licenses: Commercial Refuse Collector: Donna Salomon, Salomon Sanitation; Mechanical Contractor: Allen Daly, Geo-Aire, Inc.; Wade Shorb, Geo-Aire, Inc.; Plumber: Keith R. Harrison; Plumbing Apprentice: Vincent H. Potter.
- 60. Request that the Mayor appoint a Task Force to review RFPs received on leasing/purchasing City property located on Wood Avenue and Maple Street.

Planning Department Consent Items

- 61. **No. 03PL044** – Approve the request by D.C. Scott Co. Land Surveyors for Thomas Knight for a **Preliminary and Final Plat** located south of Longview Road and west of Anderson Road.

RESOLUTION APPROVING PLAT

WHEREAS a Survey Plat of Lot 4R, Lot 5R and Lot 6 of Tract A of Knight’s Acres Subdivision, Shared Approach Easement, Vacated Access Easement, and dedicated Anderson Road Right-of-Way; formerly Lot 4 and Lot 5 of Tract A of Knight’s Acres Subdivision; located in the N1/2 SE1/4 NE1/4 of Section 14, T1N, R8E, BHM, 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 4R, Lot 5R and Lot 6 of Tract A of Knight’s Acres Subdivision, Shared Approach Easement, Vacated Access Easement, and dedicated Anderson Road Right-of-Way; formerly Lot 4 and Lot 5 of Tract A of Knight’s Acres Subdivision; located in the N1/2 SE1/4 NE1/4 of Section 14, T1N, R8E, BHM, 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 18th day of August, 2003.

ATTEST: s/ James F. Preston Finance Officer (SEAL)	CITY OF RAPID CITY s/ Jim Shaw, Mayor
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- 62. **No. 03AN009** – Approve the request by the City of Rapid City for a **Petition for Annexation** on property located north of SD Highway 44 and east of Reservoir Road:

A RESOLUTION ANNEXING THE WITHIN DESCRIBED TERRITORY

WHEREAS, the City of Rapid City operates the Rapid City Regional Airport, an airport organized pursuant to Title 50 of the South Dakota Codified Laws; and

WHEREAS the Rapid City Regional Airport is located outside of the corporate limits of the City of Rapid City; and

WHEREAS the Rapid City Regional Airport is not contiguous to the existing corporate limits of the City of Rapid City; and

WHEREAS the State of South Dakota has authorized the annexation of noncontiguous airports operated under SDCL Title 50 by the municipality operating the airport; and

WHEREAS, the City of Rapid City has determined that the annexation of the Rapid City Regional Airport is in the best interests of the health, safety and welfare of the public; and

WHEREAS a petition signed by not less than three-fourths of the registered voters and by the owners of not less than three-fourths in value of the within described territory, noncontiguous to the City of Rapid City, but operated as an airport pursuant to Title 50 of the South Dakota Codified Laws has been filed with the City of Rapid City; and,

WHEREAS the City Council of the City of Rapid City deems it for the best interest of the City that the within described territory be included within the corporate limits of the City of Rapid City and annexed thereto;

NOW, THEREFORE BE IT RESOLVED by the City of Rapid City that the following territory, containing 1,719.78 acres, more or less, is hereby included within the corporate limits of the City and annexed thereto:

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, containing 1,719.78 acres, more or less.

Dated this 18th day of August 2003.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

END OF CONSENT CALENDAR

Motion was made by Rodriguez and seconded by Waugh to request that staff work with Jim Johnson, 3602 Ridge Drive regarding his request for assistance with the removal of dead trees that were the result of magnesium chloride being sprayed on the street; and bring a recommendation forward at the August 26, 2003 Public Works Committee meeting. Rodriguez stated that she has three additional names of individuals who also have dead trees in this area that need to be removed. She would like these issues handled at the same time as Mr. Johnson. Kriebel stated that the City does not know what killed these trees. If we pay to have these removed, we will be paying to have every dead tree along a city street removed. He urged staff to gather as much information as possible on this issue. Murphy concurred and requested that staff get "proof" that magnesium chloride from the streets killed these trees. Vore stated that city staff has investigated this issue. Magnesium chloride is a spray applied to the streets and sodium chloride is a granular salt. The salt is what was

applied to the streets in Mr. Johnson's area and it was a one-time application. It is the true belief of the city's forester that the trees were killed by bug infestation. If we look at other areas in town, we will probably find more trees killed by bugs than by sodium chloride. Hanks stated that the city must proceed carefully in this area. The onus must be on the property owner to prove that the trees were killed by something the city did. Acting City Attorney Jason Green explained that there is a claim procedure which can be used when people feel their property has been damaged by the city. This would be the most appropriate way to handle this issue. Upon vote being taken, the motion carried with Kriebel voting no.

The next item on the agenda was No. CC080403-01 relative to the **Arrowhead Basin Detention Pond**. Motion was made by Kroeger and seconded by Rodriguez to approve the bid award of **Arrowhead Basin Detention Pond** Element 302 Project DR01-1126 to the lowest responsible bidder meeting specifications, Lind Exco, Inc. for the low unit prices bid, for a total contract amount of \$481,413.83. Mitch Morris from Black Hills Excavation explained that he was notified earlier today that the bid he submitted for this project contained an error which resulted in his company being the low bidder on this project. Staff also indicated that they were going to recommend that the project be awarded to the second low bidder and he does object to that action. Engineering Division Manager Randy Nelson explained that there were several errors contained in the bid submitted by Black Hills Excavating which city staff found when they went back and verified the numbers. When the bid was adjusted with the correct numbers, Black Hills Excavating was the low bidder, with a bid of \$480,010.40. Lind-Exco's bid is \$481,413.83. However, based on Mr. Morris' previous record on prior city projects, staff recommends that Black Hills Excavating be declared a non-responsible bidder. Kooiker asked if there is a process that the city must go through to declare a bidder "non-responsible"? Nelson explained that in April of 2003, the City Council accepted a recommendation from staff and declared Black Hills Excavating as a "non-responsible" bidder, based on prior experience on the Skyview Detention Pond. The primary issue relates to financial aspects of the project. At this particular time, Black Hills Excavating was the apparent low bidder for the Knollwood project. However, they still had financial difficulties related to the Skyview project. There were liens on the project that had not been resolved. Based on past performance, the City Council declared them a "non-responsible" bidder. At this time, some of those financial issues on the Skyview Project still have not been resolved. Nelson recommended that the Council continue to declare Black Hills Excavating a "non-responsible" bidder. Attorney Greg Erlandson appeared before the Council on behalf of Mitch Morris and Black Hills Excavating. He stated that his client has informed him that Black Hills Excavating has never bid a project or done a project with the city. He did work with Morris Construction. Also, Mr. Morris stated that he never did receive notification of the Council's action in March relative to the "non-responsible" bidder status. He did receive a letter giving him five days to provide information, however he was on vacation and didn't receive that notice until the time had passed. He submitted information on the sixth day, but did not receive anything from the City. Relative to the bid, there were several clerical errors between the written words and the numbers listed, as well as the calculations of the numbers. Pursuant to the instructions contained in the bid documents, discrepancies must be resolved in favor of the corrected amount. Also, the written word shall take precedence over the numbers listed. According to the instructions in the bid document, the bid submitted by Black Hills Excavating is the low bid and should be awarded. In response to staff's comment that his company did not finish a project on time, Morris stated that Black Hills Excavation has not done any projects for the City. He was an employee of other companies that have done work for the City. The Skyview project was a Morris Construction Company project and was in fact completed in a timely fashion and accepted. The issues that are outstanding are closure issues which are primarily payment by the City to Morris Construction Company. In March of this year, Black Hills Excavating bid a project and was low bidder. Morris stated that he was out of town when the request for additional financial information was submitted by the Engineering Division. He received the letter after the deadline date. Since the information was not submitted to the City within the time frame, the City awarded the Knollwood project to the second low bidder. Morris stated that the City has had ample time to request additional

information from him on the current Arrowhead Basin project. City Attorney Green explained that state law requires that the city award the bid to the lowest responsible bidder. If the City determines that the apparent low bidder is "non-responsible", we are not required to award to that bidder. Hanks asked Morris if he had any ownership in Morris Construction. Morris stated that he was an officer and employee of that company, but he had no ownership. Rodriguez noted that a letter submitted by staff indicates that a representative from the bonding company has requested that the city hold final payment on this project. Nelson noted that that payment is still being held based on this request. Erlandson noted that the Skyview project was a Morris Construction project. He requested that the City not affiliate Mr. Morris and Black Hills Excavation with Morris, Construction. Hadley stated that if Black Hills Excavating has not done work for the city before, what is the basis for declaring them to be a non-responsible bidder. City Attorney Green explained that the courts have ruled that a public body possesses great discretion when determining the lowest responsible bidder. The law does not establish clear criteria for determining non-responsible bidders. This is up to the city council and should be based on the information presented by staff and any other interested parties. In light of the fact that Mr. Morris did not receive notice until this morning, Vore suggested that the Council continue this item to the special Council meeting on August 26th so that staff can submit additional information. Kroeger stated that Morris stated that he was an officer of Morris Construction Company and he has been before the Council on similar issues in the past. If a person has problems with the City, can he just start a new company and start over or does his track record follow him? Green stated that the Council would be fully justified in considering all the contacts with the city, whether they be personally or through legal entities of which they are officers, directors or owners thereof. Substitute motion was made by Kooiker and seconded by Partridge to continue this item to a special Council meeting to be held on August 26, 2003. Roll call vote was taken: AYE: French, Kooiker, Murphy, Waugh, Hadley, Kriebel and Partridge; NO: Hanks, Rodriguez and Kroeger. Motion to continue carried, 7-3.

The next item discussed by the Council was the **Eighth Street Traffic Signal** - St. Patrick Street and Cathedral Drive. Kriebel stated that the purpose of this item was to expedite pedestrian traffic across the street. He added that he has had a change of heart and does not see the need for a traffic study solely for the purpose of painting a cross walk and putting up a flashing signal. Motion was made by Kriebel, seconded by Hadley and carried to refer the request for a traffic study on 8th Street between St. Patrick Street and Cathedral Drive back to the Public Works Committee for further discussion.

Motion was made by Hanks and seconded by Kroeger to request that staff request proposals for **Landfill Gas Monitoring** (No. PW081203-11). Kriebel expressed concern that this is an expense the City will incur as a result of the proposed lease with the State for a minimum security prison facility at the landfill site. Hanks noted that the city is required by state law to monitor methane gas at the landfill every five years and the request before the Council at this time will request proposals for that monitoring. Vore concurred and noted that if the test passes, we will not need another one for five years. Partridge noted that this request is not the result of the proposed work release facility; it was a scheduled event. Upon vote being taken, the motion carried with Hadley voting no.

The Mayor presented No. PW081203-12 relative to cost of **water meter reads**. Motion was made by Hanks and seconded by Murphy to request staff to proceed with the automatic radio read system. Kriebel asked how the cost for the radio read system compared with other systems. Vore explained that at one time the City was reading meters by hand, visiting every property. Then we went to a telephone read and radio read but they were put on hold because of the possible cooperation between BH Power & Light, MDU and the city to have one person read all meters. That did not prove cost effective. The automatic radio read system is the most cost effective for the City. Upon vote being taken, the motion carried unanimously.

Motion was made by Waugh, seconded by Murphy and carried to direct staff to work with the Golf Advisory Board to develop an amendment to the ordinance that established the Director of Golf to revert back to having a **contract golf pro**.

Motion was made by Hanks and seconded by Partridge to continue the following item to the Legal & Finance Committee meeting on October 1, 2003: No. LF081303-15 – Authorize Mayor and Finance Officer to Sign **Contract for Private Development** Tax Increment District Number Thirty-Nine between A/R Group, Inc. and City of Rapid City. Hanks noted that a funding source has not been identified for this project. Larry Kostaneski explained that AR Group is in the process of pulling this project together at the present time. One of the project plan elements is the relocation of the WAPA towers. Timing is an issue and all the elements were approved in the project plan. Kostaneski asked if the developers can enter into an agreement with WAPA if the Developer’s Agreement has not been approved and still expect to recover that expenditure through TIF revenues. City Attorney Green stated that he has been in contract with AR Group’s attorney and they are aware that this item could be continued. He added that it is his opinion that AR Group could recover the expenditures for the tower relocations from TIF revenues even without the approved Agreement. However, the reimbursement would not occur until the Developers Agreement is in place. Upon vote being taken, the motion to continue carried unanimously.

Public Hearings

The Mayor announced that the meeting was open for consideration of the **Resolution Levying Assessment** for Block 31-32 Alley Paving (Flormann/Sunnyside Addition) Project ST02-1233 (No. CC081803-05). Notice of hearing was published in the Rapid City Journal on August 11, 2003 and mailed to affected property owners on August 4, 2003. No oral or written objections were submitted. The following Resolution was introduced, read and Kroeger moved its adoption:

RESOLUTION LEVYING ASSESSMENT FOR
BLOCK 31-32 ALLEY PAVING (FLORMANN/SUNNYSIDE ADDITION)
PROJECT NO. ST02-1233

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

1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by the alley paving is the amount stated in the proposed assessment roll.
2. The assessment roll for ST02-1233 Block 31-32 Alley Paving (Flormann/Sunnyside Addition) is hereby approved and assessments thereby specified are levied against each and every lot, piece or parcel of land thereby described.
3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City Finance Office in accordance with the procedure in Section 9-43-43 to 9-43-53 of the South Dakota Compiled Laws of 1967, as amended, and shall be payable in ten annual installments bearing interest at the rate not to exceed nine percent (9%).

Dated this 18th 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.

Planning Department – Hearings

The Mayor presented No. 03UR010 - **An Appeal of the Planning Commission's denial of a Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District** on Lots 11 thru 15 and the west 11 feet of Lot 16, Block 9, Schnasse Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 406 East North Street. Shaw asked for public comments on this item. Robert Tschetter explained that he purchased the malt beverage license from Northgate Bingo with the plan to move it to his building at 406 East North Street. He proposes to operate a casino at this location. He was previously denied a license at this location because of the saturation of licenses on East North Street. Tschetter explained that moving this license to this location will not increase the number of licenses on East North Street. Tschetter stated that he is willing to accept whatever conditions the Council imposes on the proposed use. Attorney Greg Erlandson stated that he has heard nothing that would justify the Planning Commission's denial of this conditional use. Section 17.50.185 requires that the proposed use will not create an undue concentration of similar uses. Erlandson requested that the Council delay action on this issue so that a study can be done, additional information gathered, and the Council can visit this area. Kriebel stated that at a recent general election, there was a ballot issue relative to ending gambling in the state. The only two wards that supported gambling were Wards 2 and 4. Kriebel stated that if we don't want casinos on East North Street, a thoroughfare of commercial development, or the other large commercial streets, where are we going to put them? Patricia Trumble spoke against allowing this use at this location. There is a tremendous problem with alcohol in this area and we do not need another outlet in this neighborhood. Trumble also presented signatures from 23 citizens opposed to this request. Kroeger also urged the Council to deny this request. There are several hundred transient school children who live in hotels along East North Street which would be negatively impacted by another alcohol establishment. Motion was made by Waugh, seconded by Rodriguez and carried to close the public hearing on this issue.

Motion was made by Kroeger and seconded by Murphy to deny the conditional use request to allow an on-sale liquor establishment at 406 East North Street. Roll call vote was taken: AYE: Kooiker, Murphy, Waugh, Hadley and Kroeger; NO: Hanks, Rodriguez, Kriebel and Partridge. Motion to deny carried, 5-4.

The Mayor presented No. 03VR006, a request by FMG, Inc. for Bypass LLC for a **Vacation of Right-of-Way** on the south 1/2 of the section line right-of-way that is located along the north side of the NE1/4 of 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 table this item.

The Mayor presented No. 03VR007, a request by Precision Surveying for William Marx for a **Vacation of Right-of-Way** located at 4730 Cliff Drive. The following Resolution was introduced, read and Kooiker moved its adoption:

RESOLUTION OF VACATION OF RIGHT-OF-WAY

WHEREAS it appears that a portion of the public right-of-way on Lot 2 and the north 40 feet of Lot 3 in Block B of Canyon Lake Heights Subdivision, located in NW1/4 of Section 16, T1N, R7E, and also the area to be vacated on the common area of north and south portion of Blocks 1-5 of Chapel Lane Village Subdivision, located in NE1/4 of Section 17, T1N, R7E,

BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4730 Cliff Drive is not needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said right-of-way to be vacated and released;

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the right-of-way heretofore described, and as shown on Exhibit "A", attached hereto, be and the same is hereby vacated; and,

BE IT FURTHER RESOLVED by the City of Rapid City that the Mayor and Finance Officer are hereby authorized to execute a release of right-of-way in regard thereto.

Dated this 18th 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 Kroeger. 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. 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 and seconded by Hadley to deny the requested variance. Larry Kostaneski read an e-mail that he sent to the Council members on this item. Neither of the property owners abutting this section line road have a clear idea of how the road should go through this area. He requested that the City accept a WORP from Lazy P-6 Land Company rather than require them to construct this road. There was discussion about the terrain in this area and how the road and utilities would be located in the development. Kostaneski added that the consultant for the adjoining property owner has indicated that they intend to submit a preliminary plat in the very near future. Vicki Fisher from the Planning Director explained that the layout plat for this property shows a collector road within the section line right-of-way. She confirmed that a preliminary plat will be submitted in the near future so now is the right time for these two property owners to sit down and make these decisions relative to the roadway. This will allow all parties to secure the right-of-way in the location that will work best for both properties. Hanks asked about the difference between a bond and a waiver of right to protest. City Attorney Green explained that a waiver would be effective if there was an assessed project. Generally it is preferable for the city to have improvements put in at the time the plat is approved or surety posted. However, the city could enforce a waiver of right to protest agreement. Kostaneski requested that this item be continued so that the affected property owners can get these issues taken care of. Substitute motion was made by Hadley, seconded by Kroeger and carried to continue this item until September 15, 2003.

Motion was made by Kooiker, seconded by Waugh 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, sidewalk, street light conduit, water, sewer and pavement along Sheridan

Lake Road and the section line highway as it abuts 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. (03SV026)

The Mayor presented 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. 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 a future assessment for the improvements; and 2) Upon submittal of a Preliminary Plat, a revised plat document be submitted showing an additional 17 feet of Right of Way along Sheridan Lake Road where it abuts the subject property.

Ordinances & Resolutions

Ordinance 3961 (No. CC080403-06) 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, having passed the first reading on August 4, 2003, it was moved by Partridge and seconded by Rodriguez that the title be read the second time. Finance Officer Preston noted that taking advantage of lower interest rates available at this time will save the city approximately \$100,000 over the life of these bonds. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 3961 was declared duly passed upon its second reading.

Ordinance 3962 (No. 03OA003) 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, having passed the first reading on August 4, 2003, it was moved by Partridge and seconded by Rodriguez that the title be read the second time, with the text change recommended by the Legal & Finance Committee. Dave Marvin noted that the language presented at the Committee meeting is acceptable to Western Wireless. Vicki Fisher from the Planning Department clarified that the change being proposed by this ordinance will only affect Chapter 17.14.030. It was originally contemplated changing Section 17.14.020 which would allow these uses as a permitted use. However, at the direction of the Council, this facilities will require a conditional use. The following voted AYE; Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 3962 was declared duly passed upon its second reading.

The Mayor announced the meeting was open for hearing on **Ordinance 3963** (No. 03OA005) entitled An Ordinance Amending Chapter 100 to create Temporary Zoning Controls for an Airport Zoning District on the following property: 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. Notice of hearing was published in the Rapid City Journal on August 7, 2003. Ordinance 3963, having had the first reading on August 4, 2003, it was moved by Partridge and seconded by Waugh that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3963 the second time.

The Mayor announced the meeting was open for hearing on No. 03RZ025, second reading of **Ordinance 3964**, 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. Motion was made by Rodriguez, seconded by Waugh and carried to continue this item to September 2, 2003 in order to allow the applicant to submit a planned development designation. Upon vote being taken, the motion carried with Kooiker and Kriebel voting no.

The Mayor announced the meeting was open for hearing on No. 03RZ026, second reading of **Ordinance 3965**, 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. Motion was made by Rodriguez, seconded by Waugh and carried to continue this item to September 2, 2003 in order to allow the applicant to submit a planned development designation. Kooiker noted that Council members have received numerous concerns about this rezoning request. Upon vote being taken, the motion carried unanimously.

The Mayor announced the meeting was open for hearing on No. 03RZ027, second reading of **Ordinance 3966**, 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. Motion was made by Rodriguez, seconded by Kroeger and carried to continue this item to September 2, 2003 in order to allow the applicant to submit a planned development designation. Upon vote being taken, the motion carried unanimously.

Ordinance 3968 (No. 03OA004) entitled An Ordinance Amending the Fee for Appeals to the Zoning Board of Adjustment by Amending Section 17.54.020(A) of the Rapid City Municipal Code, was introduced. Motion was made by Partridge and seconded by Rodriguez to approve first reading and set second reading for Tuesday, September 2, 2003. Roll call vote was taken: AYE: Hanks, French, Murphy, Waugh, Rodriguez, Kroeger and Partridge; NO: Kooiker, Hadley and Kriebel. Motion carried, 7-3.

Legal & Finance Committee Items

The next item discussed by the Council was No LF073003-03, a request by Mike Madden on behalf of the **Enchanted Hills Water Board** to work with the City relative to the Loan Repayment. Finance Officer Preston explained that the interest rate causes the repayment amount to be a moving target. This action would allow the Finance Officer to execute the repayment documents. Motion was made by Hanks, seconded by Partridge and carried to authorize the Finance Officer to work with Mike Madden and the Enchanted Hills Water Board to come up with a loan repayment plan, and execute the loan repayment documents.

The following Resolution (No. LF081303-16) was introduced, read and Rodriguez moved its adoption:

Resolution to Establish Additional Staffing in the Finance Department

WHEREAS, the Finance Officer has indicated that additional staffing will be necessary to provide the necessary services in the Finance Department; and

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City Council to authorize an increase of one full-time equivalent (FTE) for the remainder of the 2003 fiscal year.

Dated this 18th 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, Kroeger, Kriebel and Partridge; NO: Hadley, whereupon said Resolution was declared duly passed and adopted.

The next item on the agenda was a Report from the **Capital Improvement Program Committee**. Finance Officer Preston distributed a packet of information which was also submitted at the Legal & Finance Committee meeting. These are base documents for the CIP Spreadsheet and the Five Year Plans for Streets & Drainage, Parks and Recreation and Government Buildings. Preston noted that he will report any changes to these documents to the Legal & Finance Committee, as directed by the City Council. At the last CIP meeting, the committee decided to be pro-active relative to the Out of the Dust Program and the unpaved alleys in the downtown area. Staff will contact the affected property owners on this rather than waiting for the property owners to make a request of the city. These projects are typically paid for 60% by the affected property owners and 40% by the City. Staff will report their findings to the CIP Committee. Kriebel asked what constitutes an "amendment" to the

Plan. Acting City Attorney Green stated that an amendment is any action by the CIP which alters the base documents that have been submitted to the Council today. Kriebel noted that changes to the plan require ten days notices. This is different from other entities like the 2012 Committee. Kooiker asked about the status of the Knollwood Detention Dam improvements project. On July 18th, the CIP Committee minutes note that there is no further information available on this project. Kooiker stated that he would like to vote on this item because this is the second time those improvements have been delayed. Hanks noted that the main purpose of the CIP Committee is to prioritize projects in three categories: Streets & Drainage, Parks & Rec, and Government Buildings. Once the priority is established, the City Council must approve the advertising and bid award for the project. No action was taken.

Public Works Committee Items

The next item discussed was a **Resolution Relating to Providing Services Outside the City Limits** which was approved by the Council on March 18, 2002 (No. CC081803-04). Kriebel requested that the Council review this issue. There was a recent request from a sanitary district for city services and after reviewing all the information, they indicated that the city rates would be prohibitive. Since the mix of the council has changed, Kriebel felt that this issue should be reviewed. Motion was made by Kooiker, seconded by Kriebel and carried to refer this issue to the next Public Works Committee meeting for discussion.

The next item before the Council was No. 03FV004, a request by Lund Associates, Ltd. for Pennington County for a **Fence Height Exception** to allow a 14 foot screening and security fence on Lots 1 thru 32, Block 97; Lots 10 thru 15, Block 98 and the vacated alley adjacent to said lots; Lots 1 thru 9 and Lots 16 thru 32, Block 98, the vacated alley adjacent to said lots, and the vacated 3rd Street adjacent to Lots 16 and 17, Block 98; all located in the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the Pennington County Courthouse Complex. Motion was made by Kooiker, seconded by Rodriguez and carried to approve the requested exception, with the following stipulations: 1) A 9.5 foot high screening fence shall be allowed along the west side of the new jail in compliance with the elevations and location as shown on the site plan; and, 2) A 12 foot high security fence shall be allowed in compliance with the elevations and location as shown on the site plan.

The next item on the Agenda was No. PW081203-13, a request from Dave Heard, 1302 St. Cloud, to place a **retaining wall in the public right-of-way**. Heard asked the Council for help with the erosion problem that is occurring with the new construction of his house. He submitted pictures of the property in question showing the steep terrain in the area. Heard explained that he would like to place three retaining walls in the right-of-way. They are four feet high, engineered and will help control the erosion in this area. Heard explained the proposed location of the retaining walls and how they would be located in the right-of-way. The closest wall would be 18' from the street so there wouldn't be any problems with future use of the property. He added that he submitted a letter to the City Attorney which states that he will hold the city harmless from any future costs relating to the location of this wall in the right-of-way. The City Attorney has now indicated that it is against city ordinance to locate structures in the right-of-way. Motion was made by Kooiker and seconded by Hadley to approve the request. Acting Public Works Director Ted Vore recommended that this item be denied because it is against city ordinance to place structures in the public right-of-way. He also recommended that the applicant go through the vacation process for the portion of the right-of-way that is needed for this project. Vore added that staff feels a vacation of this right-of-way would benefit the applicant as well as the city. Kooiker withdrew his motion. Kriebel noted that a motion cannot be withdrawn without the unanimous consent of the council and he does not consent. Substitute motion was made by Hanks and seconded by Rodriguez to deny this request and recommend that the applicant apply for a vacation of this right-of-way. Roll call vote was taken: AYE: Hanks, Kooiker, Murphy, Rodriguez, Waugh, Kroeger and Partridge; NO: Hadley and Kriebel. Motion to deny carried, 7-2.

Motion was made by Kooiker, seconded by Rodriguez and carried to approve No. PW081203-01, **Change Order No. 02** for Omaha Street Water & Sewer Utilities and Median Beautification Project SSW02-1106 & PR02-1215 to Stanley J. Johnsen Concrete Contractor, Inc. for an increase of \$1,035.50.

Motion was made by Kooiker, seconded by Kroeger and carried to approve No. PW081203-02, **Change Order No. 01F** for Miscellaneous Improvements Project MIP02-1153 to Simon Contractors of South Dakota for an increase of \$3,570.78.

Motion was made by Kooiker, seconded by Hanks and carried to approve No. PW081203-06 - Finding that the **Impact Fee** for 801 Mount Rushmore Road, JBMR, LLC does not apply.

Motion was made by Kooiker, seconded by Kroeger and carried to find that the **Impact Fee** for 917 West Street, Nick & Rosilee St. Nicholas does not apply.

The next item discussed by the Council was authorize staff to proceed with the annexation and to proceed with the creation of an overlapping TIF; and to proceed with design of the **Red Rocks Water Storage Reservoir** at Site "E". Motion was made by Hanks and seconded by Murphy to continue this item until September 2, 2003. Don Ward from Red Rocks Development Company explained that they met with the Borgmeyers last week and came to an agreement in principal on what he wants to do to proceed with this project. The details are being reviewed by the attorneys for all parties. Ward concurred with the motion to continue for two weeks. Substitute motion was made by Partridge and seconded by Hadley that before this item comes up again, that all documentation on these issues be submitted in writing. Upon vote being taken, the substitute motion carried unanimously. Kriebel asked if deadlines would be missed if this item was delayed for two weeks. Fisher noted that there is a very tight time line to complete this project by the November 1st deadline. Kriebel suggested that the council approve this action tonight so that staff can proceed with the process. Hani Shafai requested that this item be approved tonight in order to expedite the process. Then Mr. Borgmeyer will have an opportunity to review all the documents relative to this issue. Substitute motion was made by Kooiker and seconded by Waugh to authorize staff to proceed with the annexation and proceed with creation of an overlapping TIF, and to proceed with the design of the Red Rocks Water Storage Reservoir at site "E". Fisher noted that since this is a voluntary annexation, there is no action the staff can take. It is up to Mr. Borgmeyer to sign the necessary petition. Upon vote being taken, the substitute motion carried unanimously.

Fire Department Items

Motion was made by Kooiker, seconded by Kriebel and carried to amend the agenda to include the following item: Request to provide ambulance service for the Celtic Festival.

Fire Chief Shepherd explained that from time to time the Department gets requests for **mobile medics** (ambulance crews without the ambulance) to stand by at different events. Most of the time these requests are under contract, but sometimes they are from non-profit organizations that request the service be provided at no charge. Most recently a request was received from the Celtic Festival & Highland Games for an ambulance and crew to stand by at their event scheduled for Saturday, August 30, 2003. They are also requesting that this service be donated. Kroeger asked what the cost to the city would be to provide this service. Shepherd estimated the cost would be approximately \$500. Motion was made by Rodriguez and seconded by Waugh to approve the request and provide a mobile medic crew only to provide service to this event. Hanks noted that if we provide the service for this event, we will have to provide it for every event held in the city. Shepherd explained that there is a regular rate for this service and a different rate for the School District. Rodriguez withdrew the motion. Motion was made by Partridge, seconded by Kooiker and carried to table this item.

Executive Session

Motion was made by Hanks, seconded by Rodriguez and carried to go into executive session to discuss pending litigation. The Council came out of executive session at 11:40 P.M with the following members present: Hanks, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge.

Motion was made by Rodriguez, seconded by Kroeger and carried to authorize the Finance Officer to issue a treasurer’s check to the Trust Account of Costello, Porter, Hill, Heisterkamp, Bushnell & Carpenter, for Don and Melinda Finn, in an amount not to exceed \$40,000.

Approval of Bills

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

Payroll Paid Ending 08-09-03, Paid 08-15-03	716,889.97
Payroll Paid Ending 08-09-03, Paid 08-15-03	1,055.73
Pioneer Bank, Taxes Paid 08-15-03	168,856.70
Pioneer Bank, Taxes Paid 08-15-03	80.76
Berkley Risk Administrators, July Claims	67,923.41
First Administrators, claims Paid 8-06-03	62,483.45
First Administrators, claims Paid	47,563.37
West Forty Realty, water rights acquisition	1,000.00
BH Power & Light, electricity	44,044.94
US Postmaster, billing postage	1,100.00
Computer Bill List	<u>3,521,228.36</u>
Total	<u>\$4,632,226.69</u>

Payroll Paid Ending 08-09-03, Paid 08-15-03	2,658.40
Pioneer Bank, Taxes Paid 08-15-03	194.60
City of Rapid City, petty cash	22.46
City of Rapid City, health insurance	699.88
City of Rapid City, postage	189.16
Dakota Business Center, copier maintenance	8.35
First Administrators, Section 125 Fee	3.25
SD Retirement, pension	278.15
SD School of Mines, telephone	52.64
Standard Life, insurance	<u>7.92</u>
Total	<u>\$4,636,341.50</u>

Treasurers Checks

Stanley Johnsen Concrete	<u>\$ 1,035.50</u>
Total	<u>\$4,637,377.00</u>

Hadley stated that there is an item on the bill list from D&F Transmissions in the amount of \$1,500. He stated that he thought when we had bad transmissions we sold them illegally without a resolution. Upon vote being taken, the motion carried with Kooiker voting no.

Adjourn

As there was no further business to come before the Council at this time, the meeting adjourned at 11:45 P.M.

CITY OF RAPID CITY

ATTEST:

Mayor

Finance Officer

(SEAL)