

DRAFT

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
January 7, 2010

MEMBERS PRESENT: Gary Brown, Julie Gregg, Doug Kinniburgh, Dennis Landguth, Linda Marchand, Steve Rolinger, Andrew Scull and Pat Wyss. Karen Gunderson-Olsen, Council Liaison was also present

STAFF PRESENT: Marcia Elkins, Bob Dominicak, Monica Heller, Vicki Fisher, Karen Bulman, Patsy Horton, Ali DeMersseman, Jim Flaaen, Mary Bosworth, Ted Johnson, Karley Halsted, Tim Behlings, Mike Schad and Carol Campbell.

Scull called the meeting to order at 7:05 a.m.

Scull reviewed the Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Consent Agenda for individual consideration.

Staff requested that Items 22, 23 and 33 be removed from the Consent Agenda for separate consideration.

Planning Commission requested that Items 1, 4, 34 and 37 be removed from the Consent Agenda for separate consideration.

Motion by Gregg, Seconded by Marchand and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 37 in accordance with the staff recommendations with the exception of Items 1, 4, 22, 23, 33, 34 and 37. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

---CONSENT CALENDAR---

2. No. 09CA028 - Rushmore Center

A request by Dream Design International, Inc. to consider an application for a **Summary of Adoption action on an Amendment to the adopted Comprehensive Plan to change the land use designation from Medium Density Residential with a Planned Residential Development to General Commercial with a Planned Commercial Development** on a portion of Tract C of Rushmore Center, located in the E½ of the SE¼, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: commencing at the northwesterly corner of Tract C of Rushmore Center, common to a corner on the southerly boundary of Tract A of Block 2 of Rushmore Crossing, and the point of beginning, Thence first course: S60°50'50"E, along the northerly boundary of said Tract C, common to the southerly boundary of said Tract A, a distance of 306.52 feet to the southeasterly corner of said Tract A, common to the southwesterly corner of Tract B of Block 2 of Rushmore Crossing; Thence, second course: S60°50'50"E, along the northerly boundary of said Tract C, common to the southerly boundary of said Tract B, a distance of 471.28 feet; Thence, third course: S50°54'28"W, distance of 950.41,

to a point on the westerly edge of Luna Avenue right-of-way; Thence, fourth course: N01°57'56"E, along the westerly edge of said Luna Avenue right-of-way, distance of 19.99 feet; Thence, fifth course: curving to the left, along westerly edge of said Luna Avenue right-of-way, on a curve with a radius of 1970.00 feet, a delta angle of 01°48'09", a length of 61.97 feet, a chord bearing of N01°03'52"E, and chord distance of 61.97 feet; Thence, sixth course: N00°09'48"E, along the westerly edge of said Luna Avenue right-of-way, distance of 816.92 feet; Thence, seventh course: curving to the left, along westerly edge of said Luna Avenue right-of-way, on a curve with a radius of 476.00 feet, a delta angle of 03°25'22", a length of 28.44 feet, a chord bearing of N01°32'53"W, and chord distance of 28.43 feet; Thence, eighth course: N86°44'26"E, distance of 60.00 feet, to a point on the westerly boundary of said Tract C, common to a point on the easterly edge of said Luna Avenue right-of-way; Thence ninth course: curving to the left, along the westerly boundary of said Tract C, common to the easterly edge of said Luna Avenue right-of-way, on a curve with a radius of 536.00 feet, a delta angle of 05°10'30", a length of 48.41 feet, a chord bearing of N05°50'50"W, and chord distance of 48.40 feet, to the point of beginning, more generally described as being located at 1520 Luna Avenue.

Planning Commission approved the Summary of Adoption and authorized publication in the Rapid City Journal.

3. No. 09CA030 - Fravel Tract

A request by City of Rapid City to consider an application for a **Summary of Adoption action on an Amendment to the adopted Comprehensive Plan to change the land use designation from Low Density Residential to Medium Density Residential with a Planned Residential Development** on Lots 1 thru 10 of Fravel Tract and Lot 1 of the NW1/4 SW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2828 Orchard Lane.

Planning Commission approved the Summary of Adoption and authorized publication in the Rapid City Journal.

5. No. 09OA009 – Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance Amendment to Amend Section 17.18.030(16) of the Rapid City Municipal Code to allow manufactured homes to be used as a caretaker residence as a Conditional Use in the General Commercial Zoning District.**

Planning Commission recommended that the Ordinance Amendment to Amend Section 17.18.030(16) of the Rapid City Municipal Code to allow manufactured homes to be used as a caretaker residence as a Conditional Use in the General Commercial Zoning District be approved.

*6. No. 09PD032 - Section 24, T1N, R7E

A request by Centerline, Inc. for PLM Land Development, LLC to consider an application for a **Planned Residential Development - Initial and Final Development Plan** for a portion of the unplatted balance of the N1/2 NW1/4 and the unplatted balance of the SW1/4 NW1/4, all in Section 24, T1N, R7E, BHM,

Rapid City, Pennington County, South Dakota, more particularly described as follows: commencing from the Point of Beginning, the northeast corner of Lot 33 in Block 1 of PLM Subdivision consisting of a 5/8" rebar with Hanson #6251 cap, thence first course - N85°57'24"E a distance of 32.35', thence second course - N78°30'13"E a distance of 229.00', thence third course - S84°12'27"E a distance of 224.17', thence fourth course - N86°55'12"E a distance of 205.00', thence fifth course - N80°28'46"E a distance of 241.41', thence sixth course - S83°06'22"E a distance of 205.42', thence seventh course - S70°31'14"E a distance of 300.02', thence eighth course - S20°04'47"W a distance of 407.59' to the southwest corner of Lot 16 of Block 1 of PLM Subdivision, thence ninth course - N89°42'39"W a distance of 564.79' along the north boundary of Eastridge Estates Subdivision, thence tenth course - N88°31'55"W a distance of 119.66', thence eleventh course - N72°48'55"W a distance of 309.01', thence twelfth course - N72°34'37"W a distance of 131.54', thence thirteenth course - N90°00'00"W a distance of 164.21', thence fourteenth course - N0°00'00"E a distance of 294.68' to the Point of Beginning. Said Parcel containing 13.1855 acres more or less, more generally described as being located east and north of Stumer Road, south of Enchanted Pines Drive at the eastern terminus of Conestoga Court.

Planning Commission continued the Planned Residential Development - Initial and Final Development Plan to the January 21, 2010 Planning Commission meeting.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*7. No. 09PD053 - St. Martins Village

A request by FMG, Inc. for Good Samaritan Society to consider an application for a **Planned Residential Development - Final Development Plan** for an unplatted parcel of land located in the SE1/4 SW1/4 and the SW1/4 SE1/4 and the NE1/4 SE1/4 and the NW1/4 SE1/4 and the SW1/4 NE1/4 and less Lot A of the W1/2 SE1/4, Section 29, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of S.D. Highway 79 (Sturgis Road) and south of Hidden Valley Road.

Planning Commission continued the Planned Residential Development - Final Development Plan to allow the construction of townhomes with attached garages and the construction of the utilities and roads to serve the townhomes to the March 4, 2010 Planning Commission meeting with the applicant's concurrence.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*8. No. 09PD096 - Black Hills Center

A request by FourFront Design, Inc. for Eagle Ridge Properties, LLC to consider an application for a **Major Amendment to a Planned Residential Development** on for Lots 2A and 2B of Block 1 of Black Hills Center, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 121 Stumer Road.

Planning Commission continued the Major Amendment to a Planned Residential Development to the January 21, 2010 Planning Commission meeting.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*9. No. 09PD097 - Big Sky Business Park

A request by Dennis Hettich for Conrads Big "C" Signs to consider an application for a **Major Amendment to a Planned Commercial Development** for Lot 2 of Block 1 of Big Sky Business Park, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 747 Timmons Boulevard.

Planning Commission continued the Major Amendment to a Planned Commercial Development to revise the sign package to the January 21, 2010 Planning Commission.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*10. No. 09PD098 - Heartland Retail Center

A request by Dennis Hettich for Conrads Big "C" Signs to consider an application for a **Major Amendment to a Planned Commercial Development** for Lot 2 of Block 1 of Heartland Retail Center, Sections 27 and 34, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4030 Cheyenne Boulevard.

Planning Commission continued the Major Amendment to a Planned Commercial Development to revise the sign package to the January 21, 2010 Planning Commission.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning

Commission.

*11. No. 09PD099 - Tuscany Square Subdivision

A request by Bob Brandt for Good Guys, LLC to consider an application for a **Major Amendment to a Planned Commercial Development** for Tract 1 and Tract 2 of Tuscany Square Subdivision, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 333 Omaha Street.

Planning Commission continued the Major Amendment to a Planned Commercial Development to the January 21, 2010 Planning Commission meeting.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*12. No. 09PD105 - Medicine Ridge Subdivision

A request by Sperlich Consulting, Inc. for Schriener Investments, LLC to consider an application for a **Planned Residential Development - Initial and Final Development Plan** for Lots 1 thru 6 of Block 1, Lots 1 thru 5 of Block 2 and Lot 1 of Block 3 of Medicine Ridge Subdivision, located in the SE1/4 NE1/4 NE1/4, and the NE1/4 SE1/4 NE1/4, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the western terminus of Enchanted Pines Drive west of Stumer Road.

Planning Commission approved the Planned Residential Development - Initial and Final Development Plan with the following stipulations:

- 1. The residences conform architecturally to the plans, elevations and color palette submitted as part of this Planned Residential Development;**
- 2. The request to reduce the front yard setback from 25 feet to 18 feet in front of the garage from Medicine Ridge Road for Lot 1 of Block 3 is hereby denied. A minimum 25 foot front yard setback shall be provided in the front of the garage;**
- 3. The request to reduce the front yard setback from 25 feet to 15 feet in front of the house from Medicine Ridge Road for Lot 1 of Block 3 be approved;**
- 4. Fire flows of 1500 GPM shall be provided or residential fire sprinkler system be provided;**
- 5. An Air Quality Permit shall be obtained prior to any surface disturbance of one acre or more; and,**
- 6. The Planned Residential Development shall expire if the use has not commenced within five years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of five years.**

The Rapid City Planning Commission's action on this item is final unless

any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

13. No. 09PL024 - Pleasant View Subdivision

A request by D.C. Scott Co. Land Surveyors for William M. Jobgen to consider an application for a **Preliminary Plat** for proposed Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located between Carlin Street and Crane Drive.

Planning Commission continued the Preliminary Plat to the January 21, 2010 Planning Commission meeting.

14. No. 09SV012 - Pleasant View Subdivision

A request by D.C. Scott Co. Land Surveyors for William M. Jobgen to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code** for proposed Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located between Carlin Street and Crane Drive.

Planning Commission continued the Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code to the January 21, 2010 Planning Commission meeting.

15. No. 09PL040 - _____ Subdivision, Section 19, T1N, R8E

A request by Centerline, Inc. for Lazy P-6 Land Co., Inc. to consider an application for a **Layout Plat** for proposed Lot 1 in Block 1 and Lots 1 thru 4 in Block 2 of _____ Subdivision, legally described as a parcel of land located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, more generally described as being located at the southeast corner of the intersection of Fifth Street and Catron Boulevard.

Planning Commission continued the Layout Plat to the January 21, 2010 Planning Commission meeting.

16. No. 09SV015 - _____ Subdivision, Section 19, T1N, R8E

A request by Centerline, Inc. for Lazy P-6 Land Co., Inc. to consider an application for a **Variance to the Subdivision Regulations to reduce the pavement width from 12 feet to 11 feet per lane as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lot 1 in Block 1 and Lots 1 thru 4 in

Block 2 of the _____ Subdivision, legally described as a parcel of land located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, more generally described as being located at the southeast corner of the intersection of Fifth Street and Catron Boulevard.

Planning Commission continued the Variance to the Subdivision Regulations to reduce the pavement width from 12 feet to 11 feet per lane as per Chapter 16.16 of the Rapid City Municipal Code to the January 21, 2010 Planning Commission meeting.

17. No. 09PL047 - PLM Subdivision

A request by Centerline, Inc. for PLM Land Development, LLC to consider an application for a **Preliminary Plat** for proposed Lots 36 thru 53 of Block 1 of PLM Subdivision, legally described as the unplatted balance located in the N1/2 NW1/4 and the unplatted SW1/4 NW1/4 of Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the eastern extension of Conestoga Court.

Planning Commission continued the Preliminary Plat to the January 21, 2010 Planning Commission meeting.

18. No. 09PL072 - Hillsvieview Subdivision

A request by Renner & Associates for Royal Nielsen to consider an application for a **Preliminary Plat** for proposed Lots A and B of Lot 15 Revised of Hillsvieview Subdivision, legally described as Lot 15 revised of Hillsvieview Subdivision and the sought 293 feet of Lot 6 of Marshall Subdivision, located in the NE1/4 of the SE1/4 and in the SE1/4 of the NE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located adjacent to the north side of East S.D. Highway 44 between Rockhill Road and Hillside Drive.

Planning Commission continued the Preliminary Plat to the January 21, 2010 Planning Commission meeting.

19. No. 09PL074 - Mahoney Addition No. 2

A request by Fisk Land Surveying & Consulting Engineers for Ehli Family Trust to consider an application for a **Preliminary Plat** for proposed Lots C, D and E of Mahoney Addition No. 2, legally described as the east 90 feet less north 8.5 feet of Block 103, the west 50 feet less the north 8.5 of Block 102, the east 115 feet less the north 8.5 feet of Block 102 all in Mahoney Addition No. 2, located in the SE1/4, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 125, 131 and 133 MacArthur.

Planning Commission recommended that the Preliminary Plat be approved with the following stipulations:

1. **Prior to Preliminary Plat approval by the City Council, the applicant shall dedicate one foot of additional right-of-way or obtain a Variance to the Subdivision Regulations;**

2. **Prior to Preliminary Plat approval by the City Council, the applicant shall provide construction plans for Mac Arthur Street extending the pavement surface from 24 feet in width to 27 feet in width or obtain a Variance to the Subdivision Regulations;**
3. **Prior to Preliminary Plat approval by the City Council, a cost estimate for any required subdivision improvements shall be submitted for review and approval;**
4. **Upon submittal of a Final Plat application, surety shall be posted for any required subdivision improvements that have not been completed and the subdivision inspection fees shall be paid;**
5. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and**
6. **The approved Preliminary Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.**

20. No. 09SV025 - Mahoney Addition No. 2

A request by Fisk Land Surveying & Consulting Engineers for Ehli Family Trust to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to allow a one foot public access and utility easement in lieu of a one foot right-of-way dedication and to reduce the pavement width from 27 feet to 24 feet as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lots C, D and E of Mahoney Addition No. 2, legally described as the east 90 feet less the north 8½ feet of Block 103, the west 50 feet less the north 8½ feet of Block 102, the east 115 feet less the north 8½ feet of Block 102 all in Mahoney Addition No. 2, located in the SE¼ of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 125, 131 and 133 MacArthur.

Planning Commission recommended that the Variance to the Subdivision Regulations to waive the requirement to allow a one foot public access and utility easement in lieu of a one foot right-of-way dedication and to reduce the pavement width from 27 feet to 24 feet as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations:

1. **Prior to Preliminary Plat approval by the Planning Commission, the applicant shall submit a revised plat document identifying a one foot Public Access and Utility Easement along the north lot lines; and**
2. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the pavement improvement.**

21. No. 09PL083 - Mahoney Addition No. 2

A request by Fisk Land Surveying & Consulting Engineers for Stephen M. Gowan to consider an application for a **Preliminary Plat** for proposed Lots A and B of Mahoney Addition No. 2 and dedicated right-of-way, legally described as the east 90 feet of Block 122 and the west half of Block 123 of Mahoney Addition No. 2, located in the SE1/4, Section 25, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 134

Anamosa Street.

Planning Commission continued the Preliminary Plat to the February 4, 2010 Planning Commission meeting.

24. No. 09PL086 - Spring Canyon Estates

A request by Dream Design International, Inc. to consider an application for a **Layout Plat** for proposed Lots 1, 2 and 3 of Lots 5R and 6R of Block 1 of Spring Canyon Estates, legally described as Lots 5R and 6R of Block 1 of Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 5703 and 5707 Pioneer Circle.

Planning Commission continued the Layout Plat to the January 21, 2010 Planning Commission meeting.

25. No. 09SV028 - Spring Canyon Estates

A request by Dream Design International, Inc. to consider an application for a **Variance to the Subdivision Regulations to reduce the pavement width from 27 feet to 20 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Pioneer Circle, to reduce the width of the private access and utility easement from 49 feet to a verifying width of 46.9 feet to five feet, to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the private access and utility easement, to reduce the width of the access easement from 49 feet to a verifying width of 40 feet to 20 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the access easement as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lots 1, 2 and 3 of Lots 5R and 6R of Block 1 of Spring Canyon Estates, legally described as Lots 5R and 6R of Block 1 of Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 5703 and 5707 Pioneer Circle.

Planning Commission continued the Variance to the Subdivision Regulations to reduce the pavement width from 27 feet to 20 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Pioneer Circle, to reduce the width of the private access and utility easement from 49 feet to a varying width of 46.9 feet to 5 feet, to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the private access and utility easement, to reduce the width of the access easement from 49 feet to a varying width of 40 feet to 20 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the access easement as per Chapter 16.16 of the Rapid City Municipal Code to the January 21, 2010 Planning Commission meeting.

26. No. 09PL087 - South Creek Industrial Park

A request by FourFront Design, Inc. for Jim Mirehouse to consider an application for a **Layout Plat** for proposed Lot D of Block 1 of South Creek Industrial Park, legally described as Block 1 less Lots 1 thru 8 of South Creek Industrial Park,

Section 8, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2230 Cambell Street.

Planning Commission recommended that the Layout Plat be approved with the following stipulations:

- 1. Upon submittal of a Preliminary Plat application, the plat document shall be revised to show the existing road extending south along the west lot line of the property within a minimum 59 foot wide access easement or the road shall be relocated to the existing 30 foot wide access and utility easement located on the adjacent property. In addition, construction plans shall show the street located within a minimum 59 foot wide access easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;**
- 2. Upon submittal of a Preliminary Plat application, construction plans for Cambell Street shall be submitted for review and approval. In particular, the construction plans shall show a sidewalk along both sides of the street or a Variance to the Subdivision Regulations shall be obtained;**
- 3. Upon submittal of a Preliminary Plat application, a Master Utility Plan showing existing and proposed private and public utilities shall be submitted for review and approval. In addition, the plat document shall be revised to show utility easements as needed;**
- 4. Upon submittal of a Preliminary Plat application, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval if subdivision improvements are required. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction;**
- 5. Upon submittal of a Preliminary Plat application, a grading plan and a drainage plan in compliance with the Drainage Criteria Manual shall be submitted for review and approval. In addition, the drainage plan shall demonstrate that the design flows do not exceed pre-developed flows or on-site detention shall be provided. The plat document shall also be revised to provide drainage easements as necessary;**
- 6. Upon submittal of a Preliminary Plat application, a water analysis prepared by a Registered Professional Engineer for the existing water main extending into the property shall be submitted for review and approval demonstrating that adequate fire and industrial flows are being provided. In addition, the plat document shall be revised to show the existing water main located within a minimum 20 foot wide public utility easement centered on the water main;**
- 7. Upon submittal of a Preliminary Plat application, the applicant shall verify that the 75 foot wide access and utility easement as shown on the construction plans for the existing sewer main has been recorded. In addition, the plat document shall be revised to show the recorded easement, including book and page. Construction plans shall also be submitted for review and approval showing the access and utility easement constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a**

Variance to the Subdivision Regulations shall be obtained. If the easement has not been recorded then the plat document shall be revised to show the existing sewer main extending south along the western portion of the property within a minimum 25 foot wide public utility easement centered on the sewer main;

8. **Upon submittal of a Preliminary Plat application, a cost estimate of the required subdivision improvements shall be submitted for review and approval;**
 9. **Prior to submittal of a Preliminary Plat application, an Exception shall be obtained to allow an access easement to serve as access to six lots in lieu of a maximum of four lots as per the Street Design Criteria Manual or the plat document shall be revised to comply with the requirement.**
 10. **Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid;**
 11. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,**
 12. **The approved Layout Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.**
27. No. 09SV029 - South Creek Industrial Park

A request by FourFront Design, Inc. for Jim Mirehouse to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Cambell Street and the 30 foot access easement, to reduce the width of the access easement from 59 feet to 30 feet, and to reduce the pavement width from 26 feet to 20 feet as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lot D of Block 1 of South Creek Industrial Park, legally described as Block 1 less Lots 1 thru 8 of South Creek Industrial Park, Section 8, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2230 Cambell Street.

Planning Commission recommended that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer along Cambell Street be denied without prejudice;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Cambell Street be approved with the following stipulation:

1. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvement;**

That the Variance to the Subdivision Regulations to waive the requirement reduce the pavement width from 26 feet to 20 feet and to install curb, gutter, sidewalk, street light conduit, water and sewer along the existing 30 foot access easement and to reduce the width of the access easement from

59 feet to 30 feet be approved with the following stipulations:

- 1. That the plat document be revised to show the existing street located on the property within a 59 foot wide access easement; and**
- 2. That the 59 foot wide access easement be constructed with a minimum 20 foot wide paved surface.**

28. No. 09RD007 - Section 29, T2N, R7E

A request by City of Rapid City to consider an application for a **Resolution for a Road Name Change on a portion of St. Martin's Drive to City Springs Road** on 100 foot wide St. Martins Drive right-of-way located in the SE1/4 of the NW1/4, NE1/4 of the SW1/4 and the W1/2 of the SE1/4, all located in Section 29, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Sturgis Road and south of Hidden Valley Road.

Planning Commission recommended that the 100 foot wide Saint Martin's Drive Right-of-way located in the SE ¼ of NW ¼, NE ¼ of SW ¼, and W ½ of the SE ¼ all located in Section 29, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota be changed to City Springs Road.

29. No. 09RZ055 - Melody Acres No. 2

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to Mobile Home Residential District** of Lot 19 of Melody Acres No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2807 Cactus Drive.

Planning Commission recommended that the Rezoning from No Use District to Mobile Home Residential District be approved.

30. No. 09RZ056 - Section 4, T1N, R8E

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to General Agriculture District** of Lot D and Lot E of the SW1/4 SW1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of South Valley Drive and south of S.D. Highway 44.

Planning Commission recommended that the Rezoning from No Use District to General Agriculture District be approved.

31. No. 09SR114 - Robbinsdale Addition No. 10

A request by James Walz to consider an application for a **SDCL 11-6-19 Review to allow a structure on public property** on Lot 2 of Block 11, less Lot H1, H2, H3 and right-of-way, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4415 Parkview Drive.

Planning Commission continued the SDCL 11-6-19 Review to allow a structure on public property to the January 21, 2010 Planning Commission meeting.

32. No. 09SR115 - Original Town of Rapid City

A request by George Lanson for American Cancer Society to consider an application for a **SDCL 11-6-19 Review to allow temporary structures on public property** on the Seventh Street Right-of-way located adjacent to Lots 16 and 17 of Block 84 and alley right-of-way adjacent to Lots 1 and 32 of Block 83 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on Seventh Street between Main and St. Joseph Street.

Planning Commission continued the SDCL 11-6-19 Review to allow temporary structures on public property to the January 21, 2010 Planning Commission meeting.

35. No. 09SR118 - Section 32, T2N, R7E

A request by Randy Lyons for City of Rapid City Parks and Recreation to consider an application for a **SDCL 11-6-19 Review to allow a structure on public property** on City Springs Park located in the S1/2 NE1/4 and the NE1/4, Section 32, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 514 City Springs Road.

Planning Commission continued the SDCL 11-6-19 Review to allow a structure on public property to the January 21, 2010 Planning Commission meeting.

36. No. 09VR008 - Sections 4 and 9, T1N, R8E

A request by Fisk Land Surveying & Consulting Engineers for Recreational Adventures to consider an application for a **Vacation of Section Line Highway** on the portion of undeveloped Section Line Right-of-way, located in Tract A of the SE1/4 SW1/4 of Section 4 and the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3010 East Highway 44.

Planning Commission recommended that the Vacation of Section Line Highway be approved with the following stipulation:

1. **Prior to City Council approval, the applicant shall submit a response from Prairiewave Communications to the Growth Management Department indicating no conflicts with the proposed vacation.**

---END OF CONSENT CALENDAR---

1. Approval of the December 10, 2009 Planning Commission Meeting Minutes.

Brown moved, Gregg seconded and unanimously carried to approve the December 10, 2009 Planning Commission Meeting Minutes. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

Gregg moved, Marchand seconded and unanimously carried to reconsider Item No. 2. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

2. No. 09CA028 - Rushmore Center

A request by Dream Design International, Inc. to consider an application for a **Summary of Adoption action on an Amendment to the adopted Comprehensive Plan to change the land use designation from Medium Density Residential with a Planned Residential Development to General Commercial with a Planned Commercial Development** on a portion of Tract C of Rushmore Center, located in the E½ of the SE¼, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: commencing at the northwesterly corner of Tract C of Rushmore Center, common to a corner on the southerly boundary of Tract A of Block 2 of Rushmore Crossing, and the point of beginning, Thence first course: S60°50'50"E, along the northerly boundary of said Tract C, common to the southerly boundary of said Tract A, a distance of 306.52 feet to the southeasterly corner of said Tract A, common to the southwest corner of Tract B of Block 2 of Rushmore Crossing; Thence, second course: S60°50'50"E, along the northerly boundary of said Tract C, common to the southerly boundary of said Tract B, a distance of 471.28 feet; Thence, third course: S50°54'28"W, distance of 950.41, to a point on the westerly edge of Luna Avenue right-of-way; Thence, fourth course: N01°57'56"E, along the westerly edge of said Luna Avenue right-of-way, distance of 19.99 feet; Thence, fifth course: curving to the left, along westerly edge of said Luna Avenue right-of-way, on a curve with a radius of 1970.00 feet, a delta angle of 01°48'09", a length of 61.97 feet, a chord bearing of N01°03'52"E, and chord distance of 61.97 feet; Thence, sixth course: N00°09'48"E, along the westerly edge of said Luna Avenue right-of-way, distance of 816.92 feet; Thence, seventh course: curving to the left, along westerly edge of said Luna Avenue right-of-way, on a curve with a radius of 476.00 feet, a delta angle of 03°25'22", a length of 28.44 feet, a chord bearing of N01°32'53"W, and chord distance of 28.43 feet; Thence, eighth course: N86°44'26"E, distance of 60.00 feet, to a point on the westerly boundary of said Tract C, common to a point on the easterly edge of said Luna Avenue right-of-way; Thence ninth course: curving to the left, along the westerly boundary of said Tract C, common to the easterly edge of said Luna Avenue right-of-way, on a curve with a radius of 536.00 feet, a delta angle of 05°10'30", a length of 48.41 feet, a chord bearing of N05°50'50"W, and chord distance of 48.40 feet, to the point of beginning, more generally described as being located at 1520 Luna Avenue.

Scull stated that he would be abstaining from discussion and voting due to a conflict of interest.

Rolinger moved, Brown seconded and carried to approve the Summary of Adoption and authorized publication in the Rapid City Journal. (7 to 0 to 1 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger and Wyss voting yes and none voting no and Scull abstaining)

4. No. 09CA031 - Rapid City Greenway Tract

A request by Renner & Associates for Rapid City Area School District No. 51-4 to consider an application for a **Summary of Adoption action on an Amendment to the Adopted Comprehensive Plan to change the land use designation from Public with Flood Hazard to Civic Center** on a portion of Tract 19 of

Rapid City Greenway Tract, located in Section, 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: commencing at the southeasterly corner of Lot RU-302A of the Original Townsite of Rapid City, common to a corner on the north boundary of Tract 19 of the Rapid City Greenway Tract, and the point of beginning, Thence, first course: S12°41'52"W, a distance of 204.24 feet; Thence, second course: N76°56'41"W, a distance of 367.77 feet; Thence, third course: N13°03'19"E, a distance of 301.94 feet, to a point on the northerly boundary of said Tract 19, common to a point on the southerly boundary of said Lot RU-302A; Thence, fourth course: S77°18'14"E, along the northerly boundary of said Tract 19, common to the southerly boundary of said Lot RU-302A, a distance of 65.68 feet, to a corner on the northerly boundary of said Tract 19, common to a corner on the southerly boundary of said Lot RU-302A; Thence, fifth course: S12°41'52"W, along the northerly boundary of said Tract 19, common to the southerly boundary of said Lot RU-302A, a distance of 100.00 feet, to a corner on the northerly boundary of said Tract 19, common to a corner on the southerly boundary of said Lot RU-302A; Thence, sixth course: S77°18'13"E, along the northerly boundary of said Tract 19, common to the southerly boundary of said Lot RU-302A, a distance of 300.20 feet, to a corner on the northerly boundary of said Tract 19, common to southeasterly corner of said Lot RU-302A, and the point of beginning, said Parcel contains 81,160 square feet or 1.863 acres more or less, more generally described as being located south of Central High School between North Mount Rushmore Road and West Boulevard North and north of Omaha Street.

Kinniburgh stated that he would be abstaining from discussion and voting due to a conflict of interest.

Brown moved, Rolinger seconded and unanimously carried to approve the Summary of Adoption and authorize publication in the Rapid City Journal. (7 to 0 to 1 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no and Kinniburgh abstaining)

Fisher requested items 22 and 23 be taken concurrently

22. No. 09PL085 - Huffman Subdivision

A request by Bob Brandt for Frontera Chicos, LLC to consider an application for a **Preliminary Plat** for proposed Lots 2A, 2B and 2C of Huffman Subdivision, legally described as Lot 2 of Huffman Subdivision, located in the N1/2 of the SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southeast of the intersection of East North Street and North Cambell Street.

23. No. 09SV026 - Huffman Subdivision

A request by Bob Brandt for Frontera Chicos, LLC to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water, reduce the pavement width from 26 feet to 20 feet and to reduce the right-of-way width from 59 feet to 26 feet and 24 feet respectively as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lots 2A, 2B and 2C of Huffman Subdivision, legally described as Lot 2 of Huffman Subdivision, located in the

N1/2 of the SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southeast of the intersection of East North Street and North Cambell Street.

Fisher presented the staff recommendation to approve the Preliminary Plat and Variance to the Subdivision Regulations requests with stipulations. Fisher added that the applicant has obtained approval from the City Council to allow an exception to the design of the water and sewer lines to cross over the other proposed lots. Fisher identified the three lots that are being created by the Preliminary Plat request.

Scull stated that he would be abstaining from discussion and voting due to a conflict of interest.

Rolinger moved, Brown seconded and carried to approve the Preliminary Plat be approved with the following stipulations:

- 1. Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department;**
- 2. Prior to Preliminary Plat approval by the City Council, water data shall be submitted for review and approval demonstrating that the existing water supply system has adequate capacity to provide domestic and fire protection requirements for the existing and proposed development of the property or construction plans shall be submitted for review and approval showing a connection to the High Level Service Zone as per the City's Water Service Zone Master Plan**
- 3. Prior to Preliminary Plat approval by the City Council, data for the existing sewer system shall be submitted for review and approval identifying the flow(s) and capacity calculations for the system. In addition, prior to submittal of a Final Plat application, the sewer improvements shall be completed or surety posted for the improvement;**
- 4. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show all of the detention pond located within a Major Drainage Easement or as-built construction plans shall be submitted for review and approval demonstrating that the detention pond is located in the Major Drainage Easement;**
- 5. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to provide a non-access easement along Century Road except for the approved approach location and along East North Street;**
- 6. Prior to Preliminary Plat approval by the City Council, construction plans for E. North Street shall be submitted for review and approval showing a sidewalk along both sides of the street or a Variance to the Subdivision Regulations shall be obtained;**
- 7. Prior to Preliminary Plat approval by the City Council, construction plans shall be submitted for review and approval showing the access easements located within a 59 foot wide easement and constructed with curb, gutter, sidewalk, street light conduit, water and sewer or a**

- Variance to the Subdivision Regulations shall be obtained;
8. Prior to Preliminary Plat approval by the City Council, construction plans for Century Road shall be submitted for review and approval showing sewer and a sidewalk along both sides of the street or a Variance to the Subdivision Regulations shall be obtained
 9. Prior to submittal of a Final Plat application, the plat document shall be revised to show the dedication of a minimum 59 foot wide right-of-way for Century Road as it abuts the property or a Final Plat shall be approved for that portion of the right-of-way to be dedicated as a part of the proposed plat for Lot 1, Vista Ridge Subdivision or the right-of-way shall be secured as an H Lot or a Variance to the Subdivision Regulations shall be obtained;
 10. Prior to submittal of a Final Plat application, an Exception shall be obtained to allow the existing sign located on Lot 2A to advertise "On the Border" located on Lot 2B as an off-premise sign as per Section 15.28.050.Q or the plat document shall be revised to show the sign on the same lot as the use or the sign shall be removed. In addition, the Ordinance Amendment (No. 5569) to Chapter 15.28.050.Q to allow off-premise advertisement on an existing sign, which is a direct result of the platting of the property, for up to two specific parcels shall be approved and an Exception shall be obtained to allow future advertisement on the sign for Lot 2C or the sign may not be utilized for advertising any use(s) to be located on Lot 2C;
 11. Prior to submittal of a Final Plat application, the plat document shall be revised to show "US Highway 14 & 16" as "East North Street";
 12. Prior to submittal of a Final Plat application, the Covenant Agreement securing the existing parking lot as shared parking for all three lots shall be signed and recorded at the Register of Deed's Office. In addition, a copy of a recorded Covenant Agreement must be submitted to the Growth Management Department;
 13. Prior to submittal of a Final Plat application, a Covenant Agreement to allow water and sewer lines to cross another lot shall be recorded.
 - 14.. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid;
 15. Prior to the City's acceptance of the public improvements, a Warranty Surety shall be submitted for review and approval as required; and,
 16. The approved Preliminary Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water, reduce the pavement width from 26 feet to 20 feet and to reduce the right-of-way width from 59 feet to 26 feet and 24 feet, respectively, along the access easements be approved with the following stipulations:

1. Prior to City Council approval, the construction plans shall be revised to show curb and gutter along the southern terminus of the 24 foot wide access easement located on proposed Lot 2A;
2. All access easements serving as an access aisle within a parking lot with backing into the easements shall be constructed with a minimum 26 foot wide paved surface;
3. A sidewalk connection shall be provided along the front of the buildings and secured within a sidewalk easement;

That the Variance to the Subdivision Regulations to waive the requirement to install a sidewalk along both sides of E. North Street and the service road be approved with the following stipulations:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvement;
2. A sidewalk shall be provided along the south side of the service street and along the south side of E. North Street; and,

That the Variance to the Subdivision Regulations to waive the requirement to install sewer along Century Road be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvement;

That the Variance to the Subdivision Regulations to reduce the right-of-way width along Century Road from 59 feet to 30 feet be denied.

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along both sides of Century Road from the service road to E. North Street be denied. (7 to 0 to 1 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger and Wyss voting yes and none voting no and Scull abstaining)

33. No. 09SR116 - Section 21, T2N, R8E

A request by FourFront Design for City of Rapid City to consider an application for a **SDCL 11-6-19 Review to allow a temporary structure on public property** on the south 464.64 feet of the SE1/4 NW1/4 NE1/4, the south 464.64 feet of the NE1/4 NE1/4 less Lot H1, E1/2 SW1/4 NE1/4, SE1/4 NE1/4, Section 21, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located approximately 1.25 miles north of Exit 61, Interstate 90 on Elk Vale Road.

Wyss stated that he would be abstaining from discussion and voting due to a conflict of interest.

Landguth moved, Marchand seconded and carried to approve the SDCL 11-6-19 Review request to allow a temporary structure on public property. (7 to 0 to 1 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger and Scull voting yes and none voting no and Wyss abstaining)

Items 34 and 37 were taken concurrently.

34. No. 09SR117 - Meadowwood

A request by Feber Engineering Co., Inc. for South Dakota Game Fish and Parks to consider an application for a **SDCL 11-6-19 Review to allow construction of**

a street in the public Right-of-way and to extend public utilities on public property on Lot 2 of NWE Subdivision and the Dean Lane right-of-way adjacent to Lot 2 of NWE Subdivision, Block 2 of Tract G, Lots 1, 2, 3, 4, 5, 6 and 9 of Block 1 of Tract G and the north 30 feet of the west 100 feet of Lot 7 and the east 124 feet of Lots 7 and 8 of Meadowwood Subdivision all located in Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4130 Dean Lane.

37. No. 09VR009 - NWE Subdivision

A request by Ferber Engineering Co., Inc. for South Dakota Game Fish and Parks to consider an application for a **Vacation of Right-of-Way** on the Dean Lane right-of-Way located in Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota more particularly described as: Commencing at a found plastic cap marked Renner #2652 at the Northwest corner of Lot 4 of Block 1 of Tract G of Meadowwood the True Point of Beginning; Thence, N02°03'12"E, a distance of 60.58 feet; Thence, S88°00'10"E, a distance of 356.54 feet; Thence, N86°54'00"E, a distance of 24.87 feet to a found nail; Thence, N86°41'03"E, a distance of 292.86 feet to a found cap marked Renner #2652; Thence, S03°05'15"E, a distance of 60.14 feet; Thence, S86°45'56"W, a distance of 320.15 feet to a found cap marked FMG #6119; Thence, N88°05'47"W, a distance of 135.29 feet, to a found cap marked Renner #2652; Thence, N88°09'07"W, a distance of 224.20 feet to the True Point of Beginning, more generally described as being located west of Sturgis Road and east of North 40th Street.

Scull and Wyss stated that they would be abstaining from discussion and voting due to a conflict of interest.

Brown moved, Marchand seconded and carried to continue the SDCL 11-6-19 Review to allow construction of a street in public right-of-way and to extend public utilities on public property and the Vacation of Right-of-Way to the January 21, 2010 Planning Commission meeting. (6 to 0 to 2 with Brown, Gregg, Kinniburgh, Landguth, Marchand and Rolinger voting yes and none voting no and Scull and Wyss abstaining)

---BEGINNING OF REGULAR AGENDA ITEMS---

*38. No. 09PD045 - Sunnyvale Subdivision

A request by Peggy A. Livermont of Piesano's Pacchia, Inc. to consider an application for a **Planned Commercial Development - Initial and Final Development Plan** for Lot 8 less Lot 8a and Lot 11 less Lot 11a of Tract D, Lot 12 less Lot A but including Lot B of Lot 12 of Tract D of Sunnyvale Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3618 Canyon Lake Drive.

Bulman presented the staff recommendation to approve the Planned Commercial Development with stipulations. Bulman stated that the original site plan identified three access points to the subject property. Bulman stated that the applicant has submitted a revised site plan identifying two access points.

Marchand moved, Kinniburgh seconded and unanimously carried to approve the Planned Commercial Development - Initial and Final Development Plan with the following stipulations:

- 1. The expansion of the on-sale alcohol use will be operated in conjunction with a full service restaurant;**
- 2. No video lottery sales are allowed at this location;**
- 3. No alcohol sales will be sold until after 4 p.m. Monday through Friday while school is in session;**
- 4. A building permit and an occupancy permit shall be obtained for the patio expansion;**
- 5. All applicable provisions of the currently adopted International Fire Code shall be continually met;**
- 6. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;**
- 7. A minimum of 50 parking spaces shall be provided with wheel stops on all spaces adjacent to sidewalks or public rights-of-way or building entrances and exits. Two of the spaces shall be handicap accessible with one of the handicap spaces being "van" accessible. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;**
- 8. Prior to initiation of the use of the patio, the agreement between the City of Rapid City and James Steele for the completion of the Planned Commercial Development improvements shall be in place;**
- 9. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Commercial Development. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Commercial Development. A sign permit shall also be obtained for any new individual sign; and,**
- 10 The Planned Commercial Development shall expire if the use has not commenced within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)**

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

***39. No. 09PD106 - Red Rock Meadows Subdivision**

A request by K1 Construction to consider an application for a **Major Amendment to a Planned Residential Development** for Lot 10 of Block 7 of Red Rock Meadows Subdivision, located in the NW1/4, Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 6515 Seminole Lane.

DeMersseman presented the staff recommendation to approve the Major

Amendment with stipulations. DeMersseman added that the applicant obtained approval for a Vacation of Minor Drainage and Utility Easement from the City Council on January 4, 2010. DeMersseman stated that the encroachment would not negatively impact the adjacent property.

Ron Bengs, the applicant's engineer stated that the error was identified through a location survey and that the applicant is taking steps to correct the encroachments.

Gregg moved, Brown seconded and unanimously carried to approve the Major Amendment to a Planned Residential Development with the following stipulations:

- 1. Prior to Planning Commission approval, the associated Vacation of Minor Drainage and Utility Easement request shall be approved by the City Council;**
- 2. On-going maintenance of the drainage channel shall be continually provided;**
- 3. The side yard setback is hereby reduced from 8 feet to approximately 4.2 feet along the north lot line of the property for the existing residence only. A minimum side yard setback of eight feet for a one story structure and 12 feet for a two story structure shall be provided along the balance of the property. In addition, a minimum 18 foot front yard setback shall be provided in front of the garage and a minimum 15 foot front yard setback shall be provided in front of the residence. A minimum 25 foot rear yard setback shall also be provided;**
- 4. All provisions of the Low Density Residential District shall be met unless otherwise specifically authorized as a stipulation of this Major Amendment to the Initial and Final Planned Residential Development or a subsequent Major Amendment;**
- 5. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 6. The structure shall continue to conform architecturally to the approved elevations and design plans for the Initial and Final Planned Residential Development. In addition, the color scheme shall consist of brown, white and/or blue earth tone shades;**
- 7. All streets and turnarounds shall be designed and constructed in compliance with the Street Design Criteria Manual and the currently adopted International Fire Code. In addition, fire hydrants shall be in place and operational prior to any building construction. Street signs and lot addresses shall also be posted prior to, or in conjunction with any building construction. The currently adopted International Fire Code shall be continually met; and,**
- 8. The Planned Residential Development shall allow for the construction of single family residence(s). However, the Planned Residential Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. A time extension may be granted if identified and requested as a part of a phasing schedule submitted with the Final Commercial Development**

Plan application; or upon written request to the Growth Management Director, and prior to the Final Development Plan approval expiration date, a one year extension for Final Development Plan approval may be granted. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*40. No. 09PD107 - Elks Country Estates

A request by Lawrence Bulman for Elks Lodge #1187 to consider an application for a **Planned Residential Development - Initial and Final Development Plan to allow an on-sale liquor establishment** for Tract 2, Tract 3R and Tract 4 of the E1/2 of Section 16, Tract 5R, and Lots GC1 of Block 1 of Elks Country Estates and Lot GC-2 revised of Block 2 of Elks Country Estates, all located in Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 333 Jolly Lane.

Horton presented the staff recommendation to approve the Planned Residential Development with stipulations.

Brown moved, Marchand seconded and carried to approve the Planned Residential Development - Initial and Final Development Plan to allow an on-sale liquor establishment with the following stipulations:

- 1. The following uses shall be allowed: a lodge, clubhouse with on-sale liquor, a golf course, cart barns, member-only temporary recreational vehicle parking, accessory structures and associated recreational uses, including tennis courts. Any other use shall require a Major Amendment to the Planned Residential Development;**
- 2. Prior to issuance of a Certificate of Occupancy for the clubhouse, the applicant shall provide documentation that the fire sprinkler system is operational throughout the entire clubhouse/lodge;**
- 3. Prior to issuance of a building permit for any additional structure(s) and/or parking lot expansion(s), a grading plan and a drainage plan shall be submitted for the entire site, including the clubhouse, cart barn, pump house(s), maintenance building(s) and associated parking lots;**
- 4. The proposed structure(s) shall conform architecturally to the approved plans, elevations and color palette submitted as part of this Planned Residential Development Plan;**
- 5. All signage shall conform to the sign package submitted and shall be limited to the existing signs. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Residential Development. No electronic signs are being approved as a part of this sign package. The addition of any other sign shall be submitted for review and approval as a Major Amendment to the Planned Residential Development. Changes to the**

- proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Residential Development. The Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;
6. The International Fire Code shall be continually met. In particular, fire hydrants shall be installed and operational as required prior to the issuance of any building permit(s) and/or any construction on the site using combustible material(s). In particular, on-site fire hydrants shall be provided as needed. In addition, all weather access roads shall be constructed in compliance with the Street Design Criteria Manual in order to accommodate Fire Department apparatus. The clubhouse/lodge structure shall be fully fire sprinkled and fire alarmed as per the 2003 International Fire Code;
 7. A minimum of 7,653,296 landscaping points shall be provided. Approval of this Planned Residential Development allows a reduction of the 50% requirement adjacent to the parking lot for a total of 456,000 points near the parking lots as currently exists. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 8. Prior to issuance of a building permit for a parking lot expansion(s) or improvement(s), landscaping planters shall be installed as required in Chapter 17.50.300 of the Rapid City Municipal Code;
 9. All provisions of the General Agriculture District shall be met unless otherwise specifically authorized as a stipulation of this Final Residential Development Plan application or a subsequent Major Amendment;
 10. A minimum of 207 parking spaces shall be provided with seven handicap accessible spaces. One of the handicap spaces shall be "van" accessible. All provisions of the Off-Street Parking Ordinance shall be continually met. Expansion of the permitted uses shall be allowed contingent upon the minimum number of off-street parking spaces being provided pursuant to the Parking Regulations;
 11. A six foot high wood privacy fence shall be installed and maintained around any proposed outdoor trash receptacles;
 12. The Planned Residential Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

Fisher requested that items 41 and 42 be taken concurrently.

41. No. 09PL076 - Vista Ridge Subdivision

A request by Britton Engineering & Land Surveying for Vantage Properties, LLC to consider an application for a **Preliminary Plat** for proposed Lot 1 of Vista Ridge Subdivision, legally described as Lot 4 and a portion of Lot 3 and a portion of the NW1/4 SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of East North Street between Cambell Street and Anamosa Street.

42. No. 09SV027 - Vista Ridge Subdivision

A request by Bob Brandt to consider an application for a **Variance to the Subdivision Regulations to waive the requirements to install sewer and sidewalk along East North Street, sewer along Century Road and sidewalk along a portion of Century Road as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lot 1 of Vista Ridge Subdivision, legally described as Lot 4, a portion of Lot 3 and a portion of the unplatted portion of the NW1/4 SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of East North Street between Cambell Street and Anamosa Street.

Fisher presented the staff recommendation to approve the Preliminary Plat and the Variance to the Subdivision Regulations with stipulations.

Scull stated that he would be abstaining from discussion and voting due to a conflict of interest.

Rolinger moved, Wyss seconded and carried to recommend that the Preliminary Plat be approved with the following stipulations:

1. **Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department;**
2. **Prior to Preliminary Plat approval by the City Council, construction plans for East North Street shall be submitted for review and approval showing sewer and a sidewalk along both sides of the street or a Variance to the Subdivision Regulations shall be obtained;**
3. **Prior to Preliminary Plat approval by the City Council, construction plans for Century Road shall be submitted for review and approval showing sewer and a sidewalk along both sides of the street or a Variance to the Subdivision Regulations shall be obtained;**
4. **Prior to Preliminary Plat approval by the City Council, a water system and water usage analysis shall be submitted for review and approval verifying that the existing water supply system provides adequate fire and domestic flows or construction plans shall be submitted for review and approval showing a connection to the High Level Service Zone as per the City's Water Service Zone Master Plan;**
5. **Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to provide a non-access easement along**

East North Street:

6. **Prior to Preliminary Plat approval by the City Council, a vacation of right-of-way petition document shall be signed by the two abutting property owners, Century Resources Inc. and Frontera Chicos LLC, documenting concurrence with the proposed alley vacation. In addition, written documentation shall be submitted identifying that all of the affected utility companies concur with the vacation request;**
7. **Prior to submittal of a Final Plat application, the plat document shall be revised to show the dedication of a minimum 59 foot wide right-of-way for Century Road as it abuts the property or a Final Plat shall be approved for that portion of the right-of-way to be dedicated as a part of the proposed plat for Lot 2A, 2B and 2C of Huffman Subdivision or the right-of-way shall be secured as an H Lot or a Variance to the Subdivision Regulations shall be obtained;**
8. **Prior to submittal of a Final Plat application, the plat document shall be revised to show "US Highway 14 & 16" as "East North Street";**
9. **Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid;**
10. **Prior to the City's acceptance of the public improvements, a Warranty Surety shall be submitted for review and approval as required; and,**
11. **The approved Preliminary Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.**

That the Variance to the Subdivision Regulations to waive the requirement to install sewer along Century Road and along a portion of East North Street be approved with the following stipulation:

1. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvement;**

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along both sides of East North Street be approved with the following stipulations:

1. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvement;**
2. **A sidewalk shall be provided along the south side of the street; and,**

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along a portion of Century Road be denied. (7 to 0 to 1 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger and Wyss voting yes and none voting no and Scull abstaining)

43. No. 09SR110 - Section 29, T2N, R7E

A request by FMG, Inc. for Good Samaritan Society to consider an application for a **SDCL 11-6-19 Review to construct a public utility and to authorize the acquisition of a utility easement** on in the SE1/4 SW1/4 and SW1/4 SW1/4 and the NE1/4 SW1/4 and the NW1/4 SE1/4, Section 29, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being

located west of Sturgis Road, south of Hidden Valley Road and west of St. Martins Drive.

DeMersseman presented the staff recommendation to continue the SDCL 11-6-19 Review to the January 21, 2010 Planning Commission meeting.

Rolinger moved, Marchand seconded and unanimously carried to continue the SDCL 11-6-19 Review to construct a public utility and authorize the acquisition of a Utility Easement to the January 21, 2009. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

44. No. 09SR113 - Whispering Pines Subdivision

A request by CETEC Engineering Services, Inc. for Colonial Pine Hills Sanitary District to consider an application for a **SDCL 11-6-19 Review to construct a public utility** on Lot 1 of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ less Lot A & Lot B of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, less Flannery Subdivision, less Lot H1 and less Lot P1 of Colonial Pine Hills Sanitary District Well Lot of Lot 1 all located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, Lots 1 & 9, Block 1 of Whispering Pines Subdivision, Section 32, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, Croyle Avenue right-of-way located adjacent to Lots A & B of Lot 1 of Rohrer Subdivision, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, Croyle Avenue right-of-way located adjacent to Lots 1 thru 9 of Block 1 of Whispering Pines Subdivision, Section 32, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, and, Nonanna Street right-of-way located adjacent to Lot 1 of Block 1 of Colonial Village Estates No. 3, Section 32, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located adjacent to Croyle Avenue south of Sheridan Lake Road and north of Nonanna Street.

DeMersseman presented the staff recommendation to approve the SDCL 11-6-19 Review.

Rolinger moved, Marchand seconded and unanimously carried to approve the SDCL 11-6-19 Review to construct a public utility. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

45. No. 09SR120 - Section 18, T1N, R8E

A request by Ryan Viel for Institutions Services to consider an application for a **SDCL 11-6-19 Review to allow structure on public property** on a portion of Tract B of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota and a portion of the South 18.4 feet of Tract A of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as beginning at the northeast corner of said South 18.4 feet of Tract A; Thence S00°09'50"E a distance of 344 feet, more or less; Thence S89°50'10"W a distance of 424 feet, more or less; Thence N00°09'50"W a distance of 344 feet, more or less; Thence S89°50'10"E a distance of 424 feet, more or less to a point of beginning, more generally described as being located at 3505 Cambell Street.

Elkins presented the staff recommendation to approve the SDCL 11-6-19 Review with the condition that the landscaping requirements be installed by June 30, 2010. Elkins indicated that Pennington County was requesting an exception to reduce the landscaping points. She identified the location of the proposed landscape buffer.

Sheriff Don Holloway stated that the Pennington County Sheriff's Department pledges its commitment to provide the required landscaping buffer by June 30, 2010.

Wyss expressed his concern that the project was not meeting the minimum landscape requirements as outlined in the Municipal Code. He expressed his support for both public and private development being required to meet the landscape requirements.

Rolinger moved, Brown seconded and unanimously carried to approve the SDCL 11-6-19 Review for a structure on public property with the reduction in the minimum number of landscape points. (7 to 1 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger and Scull voting yes and Wyss voting no)

46. No. 09TI003 - The Villaggio at Golden Eagle

A request by Sperlich Consulting, Inc. for Villaggio, LLC to consider an application for a **Tax Increment District No. 61 - Third Revised Project Plan** on Lot 1, Stoney Creek South #2 Subdivision; Unplatted portion of E1/2 NW1/4 SE1/4; NE1/4 SW1/4 SE1/4 and Golden Eagle Drive located in the NE1/4 SW1/4 SE1/4 including Lots H3 and H4; Lot H1 in the SE1/4 SW1/4 SE1/4; Lot H2 in the SW1/4; Lot H2 in the SW1/4 NW1/4 SE1/4 and the NW1/4 SW1/4 SE1/4; W1/2 NW1/4 SE1/4 less Springbrook Acres Subdivision and Less Lot H2; NW1/4 SW1/4 SE1/4 less Lot H2; S495 feet of NE1/4 SE1/4 less Lot 1; SE1/4 SE1/4; Lot 1, Bendert Subdivision; all located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; and, Lots 4 and 5, Owen Hibbard Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located between Sheridan Lake Road and South Highway 16 and adjacent to Catron Boulevard.

Bulman presented the Tax Increment Finance Committee's recommendation to approve the Third Revised Project Plan. Bulman identified the cost reallocation requested by the applicant.

In response to Scull's question, Bulman stated that the Tax Increment District will continue to run for the full twenty years and that will not change.

Rolinger moved, Gregg seconded and unanimously carried to recommend that the Third Revised Project Plan for Tax Increment District No. 61 be approved. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

In response to Scull's question, Elkins stated that all of the Tax Increment

Districts that have been approved have been established for the full twenty years. Elkins explained that due to the change economic conditions, the district may not be paid back as quickly as originally anticipated. Discussion followed.

*47. No. 09UR027 - Control Data Addition

A request by Dave and Betsy Lyons for Someone's in the Kitchen to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment** for Lot B of Lot 1, Tract B of Control Data Addition, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2210 Haines Avenue.

Bulman presented the staff recommendation to approve the Conditional Use Permit with stipulations. Bulman added that the applicant has provided a revised parking plan and has provided the required surety for the required parking lot improvements.

In response to Rolinger's question, Bulman identified the changes in the parking to allow for enough aisle space.

Wyss moved, Gregg seconded and unanimously carried to approve the Conditional Use Permit to allow an on-sale liquor establishment with the following stipulations:

- 1. The on-sale alcohol use will be operated only in conjunction with cooking classes at the kitchen store;**
- 2. All applicable provisions of the currently adopted International Fire Code shall be continually met;**
- 3. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;**
- 4. Prior to Planning Commission approval, a revised parking plan must be submitted for review and approval. A minimum of 24 parking spaces shall be provided with one of the spaces shall be "van" handicap accessible. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;**
- 5. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Commercial Development. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Commercial Development. A sign permit shall also be obtained for any new signs; and,**
- 6. The Planned Commercial Development shall expire if the use has not commenced within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)**

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning

Commission.

48. Discussion Items

- A. Rezoning of rights-of-way of Blocks 8 and 18 of the Original Town of Rapid City.

Elkins presented the request for Planning Commission to authorize staff to advertise for a public hearing on an ordinance amendment to the zoning and vacations of rights-of-way.

In response to Gunderson-Olsen, Elkins stated that the request will clean up and consolidate the zoning boundaries in the area around the Journey Museum and the proposed rights-of-way.

Brown moved, Marchand seconded and unanimously carried to authorize staff to advertise an Ordinance. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

49. Staff Items

- A. Elkins reminded the Planning Commission of the Training Session on Tuesday, January 19, 2010
- B. Elkins introduced Jim Flaaen.

50. Planning Commission Items

51. Committee Reports

- A. City Council Report (December 21, 2009)
The City Council concurred with the recommendations of the Planning Commission.
- B. Sign Code Board of Appeals
- C. Zoning Board of Adjustment
- D. Parks and Recreation Subcommittee
- E. Capital Improvements Subcommittee
- F. Americans With Disabilities Act Compliance Committee
- G. Drinking Water Protection Committee
- H. Tax Increment Financing Committee
- I. Off-Premise Sign Permit Committee
- J. Infrastructure Development Partnership Fund Committee
- K. Floodplain Boundary Policy Committee
- L. Landscape Code Committee
- M. Smart Growth Committee
- N. Others

There being no further business, Rolinger moved, Gregg seconded and unanimously carried to adjourn the meeting at 7:50 a.m. (8 to 0 with Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

