

separation of on-premise and off-premise signs in the code. Landeen said in a lot of the discussion and complaints he's heard, there are some issues with on-premise signs. The complaints are generally with flashing and brightness. Flashing could be regulated under our current ordinance. In the new code that was proposed, there is a provision to regulate brightness. This would probably eliminate complaints on on-premise signs. If the Council wants to let businesses have a video-type sign but not allow a big billboard-type sign, his recommendation would be to consider having a size restriction. Off-premise and public purpose signs will have to become static and can change every 10 seconds. On-premise signs could change every 6 seconds. Eric Farrar said there are changes that need to be made to the on-premise signs. Landeen said the initiated ordinance may be a problem for separating on-premise and off-premise signs. He said another issue that will be controversial will be one that all signs that are out of compliance must be removed within a 10-year period. He encouraged all Council members that if they have questions, to schedule an appointment with him or send him an e-mail. Petersen said this is a political issue and this needs to keep moving forward. Petersen said she thinks the citizens voted overwhelmingly to have less signs. She believes it is better for the whole business environment to have less signs. Laurenti moved to continue Introduction and First Reading of Ordinance No. 5779 Modifying the City's Sign Code by Amending Chapter 15.28 of the Rapid City Municipal Code to the February 1, 2011, Legal and Finance Committee meeting and request the City Attorney's office to redraft the ordinance separating on-premise signs and off-premise signs and to reflect the other changes directed by the City Council. Second by Doyle. Motion carried with Laurenti, Mason, and Doyle voting "yes" and Petersen voting "no."

- 28) No. LF121411-17 – Petersen moved to approve Introduction and First Reading of Ordinance No. 5776 Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code. Second by Laurenti for discussion. An amendment to the motion was made by Laurenti to approve Introduction and First Reading of Ordinance No. 5776 Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code with a 500 foot buffer. Second by Petersen. Laurenti said he upped the buffer because of the future growth of Rapid City. Doyle said if we enforce this buffer, what we are really doing is freezing the number of casinos in Rapid City. She asked if the City wants to be in the business of infringing on the restriction of trade. She said a consideration needs to be made for what came first, the residential area or the commercial area. A substitute motion was made by Petersen to take this item to the December 19, 2011, City Council meeting without recommendation. Motion died for lack of a second. Petersen said it is her opinion that this ordinance just gives future Councils another guideline to follow. After further discussion, a vote was taken on the motion and the motion carried with Laurenti and Petersen voting "yes" and Mason and Doyle voting "no."
- 29) No. LF121411-18 – Laurenti moved to approve Introduction and First Reading of Ordinance No. 5777 to Prohibit Vehicle Operators from Parking Next to Curbs Painted Yellow by Amending Section 10.40.020 of the Rapid City Municipal Code. Second by Petersen. Motion carried.
- 30) No. LF121411-19 – Laurenti moved to approve Introduction and First Reading of Ordinance No. 5778 to Add a Time for Removal of Mountain Pine Beetle Infested Trees by Adding Section 12.40.105 to the Rapid City Municipal Code as amended. Second by Doyle. Motion carried.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Doyle, second by Laurenti and carried to adjourn the meeting at 3:45 p.m.

**Ordinances**

Ordinance No. 5773 (No. LF113011-15) Supplemental Appropriation #7 for 2011 having passed its first reading on December 5, 2011; motion was made by Mason, second by Davis, that the title be read the second time. Sumption reviewed the corrections to the Supplemental Appropriation #7. Upon vote being taken, the following voted AYE: Nordstrom, Mason, Sasso, Davis, Petersen, Roberts, Brown, Wright and Laurenti; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5773 as corrected was declared duly passed upon its second reading.

Ordinance No. 5774 (No. LF113011-16) An Ordinance Repealing Chapter 1.08 of the Rapid City Municipal Code Relating to Wards and Precincts and Adopting a New Revised Chapter 1.08 of the Rapid City Municipal Code having passed its first reading on December 5, 2011; motion was made by Mason, second by Davis, that the title be read the second time. Upon vote being taken, the following voted AYE: Nordstrom, Mason, Sasso, Davis, Petersen, Roberts, Brown, Wright and Laurenti; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5774 was declared duly passed upon its second reading.

Ordinance No. 5775 (No. 11OA013) An Ordinance Adding Colleges and Universities as a Conditional Use in the Medium Density Residential Zoning District by Amending Section 17.12.030 of the Rapid City Municipal Code having passed its first reading on December 5, 2011; motion was made by Mason, second by Roberts, that the title be read the second time. In response to a question from Wright, Mason clarified that the amended ordinance does include private universities and colleges. In response to a question from Petersen, Pier advised that the ordinance title is acceptable. Upon vote being taken, the following voted AYE: Nordstrom, Mason, Sasso, Davis, Petersen, Roberts, Brown, Wright and Laurenti; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5775 as amended was declared duly passed upon its second reading.

Ordinance No. 5776 (No. LF121411-17) An Ordinance Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code. Motion was made by Sasso, second by Laurenti that Ordinance No. 5776 with a 500 foot Minimum Separation be placed upon its first reading and the title was fully and distinctly read and second reading set for Tuesday, January 3, 2012. Mason and Brown recommended continuing the item to allow affected business owners the opportunity to present their concerns. A substitute motion was made by Davis, second by Brown to continue First Reading of Ordinance No. 5776 to the January 11, 2012 Legal & Finance Committee meeting. Davis encouraged concerned business owners to bring forward their recommendations prior to the January 11, 2012 meeting. Davis addressed his concerns with an ordinance that singles out a particular line of business and restricts that business's trade. Wright encouraged a review of processes and procedures and questioned the basis for determining the distance separation. Petersen addressed the benefits of having established guidelines when reviewing these types of applications. Sasso encouraged moving the issue forward noting that he could not support a further postponement. Mason indicated that the continuance will give the affected business owners the opportunity to voice their concerns. Mason addressed his concerns with the single business focus of the ordinance and the density and traffic impact this type of business brings into residential neighborhoods. Laurenti encouraged Council to develop a sensible buffer that would protect both the individual business and the residential neighborhoods. The motion to continue to the January 11, 2012 Legal & Finance Committee meeting carried with Sasso voting No.

Ordinance No. 5777 (No. LF121411-18) An Ordinance to Prohibit Vehicle Operators from Parking Next to Curbs Painted Yellow by Amending Section 10.40.020 of the Rapid City Municipal Code. Motion was made by Mason, second by Roberts and carried that Ordinance No. 5777 be placed upon its first reading and the title was fully and distinctly read and second reading set for Tuesday, January 3, 2012.

compression. There is something in this plan for all City employees. Motion carried. *Place item on the Consent Calendar*

**FINANCE DEPARTMENT**

- 7) No. LF011112-05 - Acknowledge Update on Reporting Requirements for Tax Increment Financing (TIF) Districts
- 8) No. LF011112-06 - Resolution No. 2012-002 Establishing 2012 Encumbrances
- 9) No. LF011112-07 - Resolution No. 2012-001A Fixing Time and Place for Hearing on Assessment Roll for Cleanup of Miscellaneous Property
- 10) No. LF011112-08 - Approval of Bill Paying Process Change for the Airport and Civic Center
- 11) No. LF011112-08 - Acknowledge Update on Library Bill Pay
- 12) No. LF011112-09 - Acknowledge Update on General Fund Cash Balances - December 2011

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- 13) No. LF011112-10 - Report Regarding Professional Service Contracts Entered into in the Fourth Quarter of 2011 Under \$25,000
- 14) No. LF011112-11 - Acknowledge Raffle Request from South Dakota Christian Home Educators

END OF CONSENT CALENDAR

**NON-CONSENT ITEMS**

Motion was made by Davis, second by Laurenti and carried to open public comment on Items 15-28.

Troy Erickson who works for M. G. Oil said he thinks Ordinance No. 5776 (LF121411-17) should be defeated. There is a conditional use permit process in place right now that does work. He thinks this is a deliberate way to starve out businesses here in Rapid City. Erickson said that because of the economy, they have taken some of their locations that were marginal and moved the license to another better location. There are a couple of bills that may be coming forward in the legislature, one of which would increase the bet limit and another one that would increase the number of machines per license.

Brandon Thompson is the owner of Black Hills Investigations. He supports security licensing (LF092811-30A) but at the state level. He said the last thing he needs as a new business owner is over-regulation at the city level. He said if Rapid City requires these licenses, every other town and city in the state will adopt the same ordinance.

Robert Brancato, CFE with Robert Dean & Associates, said the new definition of "security activity" (LF092811-30A) concerns him. He thinks that the definition would affect professionals like CPA's, auditors, paralegals and legal staff, etc. This would create a precedent that every municipality would follow.

Lester Dean (LF092811-30A) thinks this licensing is appropriate but at the state level. The way this is written makes him want to keep his work out of Rapid City. This is not cost effective.

Ken Orrock, a member of the ad hoc committee, an attorney, and also a security business owner, agrees that it would be nice to have this licensing done at the state level. There is a need for this type of licensing and regulation. He said the committee never envisioned this ordinance to cover CPA's or fraud

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investigators, etc. The committee wrote it as close as it could to address a very narrow scope. If a security company is not licensed, they are violating the existing ordinance. Private investigators were added in to give the City the ability to know who is out there. The price of a license (\$42 a year) is not cost prohibitive. He said he is sad that misinformation is being brought up. A lot of dedicated work went into the rewrite of this ordinance. Davis asked if the intent of the re-write was to regulate security personnel and private investigators. Orrock said yes.

Motion was made by Doyle, second by Laurenti and carried to close public comment on Items 15 – 28.

**POLICE DEPARTMENT**

- 15) No. LF011112-14 – Doyle moved to authorize Mayor and Finance Officer to sign Memorandum of Understanding between the City of Rapid City and the Fraternal Order of Police Relating to Overtime Procedure. Second by Laurenti. Motion carried. *Place item on the Consent Calendar*

**COMMUNITY PLANNING & DEVELOPMENT SERVICES**

- 16) No. 11OA012 – Laurenti moved to continue Introduction and First Reading of Ordinance No. 5772 Adopting New Subdivision Regulations by Amending Chapter 16 of the Rapid City Municipal Code to the February 1, 2012, Legal and Finance Committee meeting. Second by Doyle. Motion carried.

**FINANCE DEPARTMENT**

- 17) No. LF011112-12 – Doyle moved to approve Introduction and First Reading of Ordinance 5792 Regarding Supplemental Appropriation #1 for 2012. Second by Laurenti. Motion carried.

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- 18) No. LF011112-13 – Sasso moved to approve Introduction and First Reading of Ordinance No. 5796 to Prohibit Animals Which Disturb the Peace by Amending Section 6.08.090 of the Rapid City Municipal Code. Second by Laurenti. Motion carried.

- 19) No. LF121411-17 – Davis moved to continue Introduction and First Reading of Ordinance No. 5776 Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code until after the completion of the current legislative session. Second by Doyle. Motion carried with Mason, Doyle, and Davis voting "yes" and Laurenti and Sasso voting "no."

- 20) No. LF092811-30A – Doyle moved to continue Second Reading and Recommendation of Ordinance No. 5758 to Amend the Security License Regulations by Amending Chapter 5.52 of the Rapid City Municipal Code to the February 15, 2012, Legal and Finance Committee meeting. Second by Sasso. Motion carried.

- 21) No. LF122811-16 – Davis moved to approve Second Reading and Recommendation of Ordinance No. 5781 to Change the Assistant City Attorney Position from an Appointive Position to an Employee Position by Amending Section 2.16.030 of the Rapid City Municipal Code. Second by Doyle. Motion carried.

- 22) No. LF122811-17 – Doyle moved to approve Second Reading and Recommendation of Ordinance No. 5782 to Change the Assistant Finance Officer Position from an Appointive Position to an Employee Position by Amending Section 2.40.150 of the Rapid City Municipal Code. Second by Sasso. Motion carried.

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- 15) No. LF051612-09 – Resolution No. 2012-060 Declaring Property Surplus
- 16) No. LF051612-10 – Resolution No. 2012-061 Authorizing the Finance Officer to Create an Imprest Account for Payment of Certain Claims
- 17) No. LF051612-11 – Resolution No. 2012-062 Increasing Change Fund (Recreation Division)
- 18) No. LF051612-12 - Request for Property Tax Abatement: FMLC Inc % Julie Lien, 2011; \$29,989.72
- 18a) No. LF051612-23 – Approve Minneluzahan Senior Citizens Center Eagle Scout Project

**COMMUNITY RESOURCES**

- 19) No. LF051612-13 - Authorize Mayor and Finance Officer to Sign Bleacher Rental Agreement with the Tucker Day Rodeo
- 20) No. LF051612-14 – Petersen moved to approve Resolution No. 2012-058 to Amend the City of Rapid City Compensation Plan by Deleting Certain Position Titles. Second by Laurenti. Motion carried.
- 21) No. LF051612-15 – Mason moved to approve Resolution No. 2012-059 to Amend the City of Rapid City Compensation Plan by Modifying Certain Job Position Titles. Second by Petersen. Motion carried.
- 22) No. LF051612-16 - Authorize Mayor and Finance Officer to Sign Memorandum of Understanding between the City of Rapid City and International Association of Firefighters Local 1040 Regarding Changes to Appendix A of the Union Contract for 2013

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- 23) No. LF051612-21 – Authorize Mayor and Finance Officer to Sign Lease and Management Agreement between the City of Rapid City and the Museum Alliance of Rapid City, Inc.

END OF CONSENT CALENDAR

**NON-CONSENT ITEMS**

Motion was made by Davis, second by Doyle and carried to open public comment on Items 24 – 39.

Dave Kulish, General Manager of M. G. Oil, spoke against item No. 28 (LF121411-17). He said it is very unfair to be singling out businesses. He has never been approached that there is a problem or that a buffer is needed. Pam LaCroix said she has been in the gaming business for 22 years, and she feels like video lottery has gotten a bad rap. It brings revenue to the state and has created a lot of good paying, flexible hour jobs. They have combined some licenses to make double casinos to try and reduce their locations. She would like to see this ordinance tabled. Dana Geisey, general manager of Automatic Vendors, said he does not understand why this ordinance is needed. He has never seen any problems.

Motion was made by Doyle, second by Laurenti and carried to close public comment on Items 24 – 39.

**POLICE DEPARTMENT**

- 24) No. LF050212-28 – Davis moved to approve Second Reading and Recommendation of Ordinance No. 5837 to Change the Process for Immobilization of Vehicles for Outstanding Parking Violations by Amending Section 10.44.150 of the Rapid City Municipal Code. Second by Laurenti. Motion carried.

**COMMUNITY PLANNING & DEVELOPMENT SERVICES**

- 25) No. LF051612-17 – Doyle moved to recommend that the City Council find that all feasible and prudent alternatives to the demolition of the garage at 811 St. Andrew Street have been pursued and that all possible planning to minimize harm to historic property has taken place and recommend that the Council authorize the required notice to be forwarded to the State Historical Preservation Office, Office of History. Second by Petersen. Motion carried. *Place item on the Consent Calendar*

**FINANCE DEPARTMENT**

- 26) No. LF050212-18 – Doyle moved to approve Second Reading and Recommendation of Ordinance No. 5840 Regarding Supplemental Appropriation No. 3 for 2012. Second by Laurenti. Motion carried.
- 27) No. LF051612-18 – Doyle moved to approve Resolution No. 2012-032B Levying Assessment for Cleanup of Miscellaneous Property. Second by Laurenti. Motion carried. *Place item on the Consent Calendar*

**CITY ATTORNEY'S OFFICE**

- 28) No. LF121411-17 – Laurenti moved to approve Introduction and First Reading of Ordinance No. 5776 Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code. Second by Petersen. Laurenti said he understands the concerns of the business owners. He believes the residential areas that have been infringed upon with casinos need to be protected. He does not believe this inhibits growth but instead will allow growth as the city grows. Doyle stated that she does not understand why casinos were ever allowed in residential areas. The only place they can go now is commercial districts, and this ordinance would demolish their ability to go into commercial zones. The annual review of alcohol licenses will take care of any individual problems there are, but she does not think it is fair to punish all casinos. Davis said there is a very limited amount of space in the city now where casinos are currently available. This buffer would make it very difficult to put a new casino in. It has become a common practice to combine two casinos together and this ordinance would prevent that. That alone forces him to oppose the ordinance. Mason believes that this ordinance could affect restaurants that have alcohol and gambling onsite. He asked the Committee to consider the unintended consequences. Mayor Kooiker said the location of casinos is an issue that residents throughout the city are concerned about. This ordinance is an attempt to try to put into place some sort of a reasonable buffer. He would not be opposed to researching the possibility of allowing a consolidation of machines under an existing roof. A substitute motion was made by Petersen to continue Introduction and First Reading of Ordinance No. 5776 Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code and request the City Attorney's office to explore ways to allow the growth or consolidation of current casinos. Second by Laurenti. Motion carried.

stipulations: 1. Upon submittal of a Development Engineering Plan application, road construction plans for the southern 400 feet of Fairmont Boulevard shall be submitted for review and approval. In particular, the road construction plans shall show the street constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or an Exception shall be obtained prior to submittal of the Development Engineering Plan application; 2. Upon submittal of a Development Engineering Plan application, road construction plans for the proposed access easement shall be submitted for review and approval. In particular, the road construction plans shall show the easement with a minimum width of 52 feet and constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or an Exception shall be obtained prior to submittal of the Development Engineering Plan application; 3. Upon submittal of a Development Engineering Plan application, a drainage plan and a grading plan shall be submitted for review and approval if subdivision improvements are required or site grading is proposed; 4. Upon submittal of a Development Engineering Plan application, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual and the Infrastructure Design Criteria Manual shall be submitted for review and approval if subdivision improvements are required; 5. Upon submittal of a Development Engineering Plan application, a revised cost estimate which includes the access easement shall be submitted for review and approval; 6. Prior to submittal of a Final Plat application, the plat document shall be revised to show a non-access easement along proposed Tract 2 as it abuts Fairmont Boulevard or an Exception shall be obtained; 7. Prior to submittal of a Final Plat application, the plat document shall be revised to show a Major Drainage Easement across proposed Tract 2 to accommodate the 24 inch RCP storm sewer and storm water discharge as shown on the construction plans; 8. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and, 9. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

#### **Legal & Finance Committee Items**

Motion was made by Mason, second by Roberts and carried to (No. LF121411-17) Continue First Reading, Ordinance No. 5776, An Ordinance Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code and Request the Mayor to Authorize the City Attorney's Office to explore ways to allow the growth or consolidation of current casinos to the June 13, 2012 Legal & Finance Committee meeting.

#### **Bids**

The following companies submitted bids for (No. CC052112-02-2) Street Rehabilitation Project E. Centennial St and Redwood St Project No. 12-1987 / CIP No. 50844 opened on May 15, 2012: J & J Asphalt Company, Simon Contractors of SD, Inc. and Hills Materials Company. Staff reviewed the bid and recommends bid award to J & J Asphalt Company. Motion was made by Brown, second by Roberts and carried to award the total bid to the lowest responsible bidder, J & J Asphalt Company, in the amount of \$165,056.10.

The following companies submitted bids for (No. CC052112-02-1) 32nd Street Bridge Repairs Project No. 12-2023 / CIP No. 50752 opened on May 15, 2012: J.V. Bailey Co., Inc. and Heavy Constructors, Inc. Staff reviewed the bid and recommends bid award to J. V. Bailey Co., Inc.. Motion was made by Petersen, second by Nordstrom and carried to award the total bid to the lowest responsible bidder, J. V. Bailey Co., Inc., in the amount of \$92,138.00.

The following companies submitted bids for (No. CC052112-02-3) Star of the West Parking Lot Repairs Project No. 12-2030 / CIP No. 50909 opened on May 15, 2012: Simon Contractors of SD, Inc., Sacrison Paving, Inc., J & J Asphalt Company and Hills Materials Company. Staff reviewed the bid and recommends bid award to Simon Contractors of SD, Inc. Motion was made by Doyle, second by Roberts and carried to award the total bid to the lowest responsible bidder, Simon Contractors of SD, Inc., in the amount of \$119,083.00.

pursued and that all possible planning to minimize harm to historic property has taken place and moved to authorize the required notice to be forwarded to the State Historical Preservation Office, Office of History. Request for SDCL 1-19A-11.1. Second by Brown. Motion carried. *Place Item on the Consent Calendar*

**CITY ATTORNEY'S OFFICE**

- 25) No. LF121411-17 – City Attorney Joel Landeen said the concern from the Council members regarding the video lottery buffer seems to be the existing casinos and their ability to expand. He said he drafted changes to the ordinance so that existing casinos can now transfer their license without being subject to the buffer requirements. Petersen moved to take Introduction and First Reading of Ordinance No. 5776 Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code to the June 18, 2012, City Council meeting without recommendation. Second by Davis. Motion carried with Davis voting “no.”
- 26) No. LF061312-18 – Davis moved to approve Introduction and First Reading of Ordinance No. 5845 to Change the Terms and Criteria of the Life Safety Loan Program by Amending Chapter 3.28.020 of the Rapid City Municipal Code. Second by Brown. Motion carried.
- 27) No. LF061312-19 – Petersen moved to approve Introduction and First Reading of Ordinance No. 5847 Imposing Additional Requirements for Projects Approved through the Rapid City Economic Development and Civic Improvements Fund (The “Vision Fund”) by Amending Section 3.16.020 of the Rapid City Municipal Code. Second by Brown. City Attorney Joel Landeen questioned whether or not the flexibility given to the City Council in the previous ordinance was meant to be deleted when drafting this ordinance. Mason said by adding the operations and maintenance requirement he is trying to get the people bringing proposals forward to have a plan for the operations and maintenance of the project. Petersen withdrew her motion. Mason moved to approve Introduction and First Reading of Ordinance No. 5847 Imposing Additional Requirements for Projects Approved through the Rapid City Economic Development and Civic Improvements Fund (the “Vision Fund”) by Amending Section 3.16.020 of the Rapid City Municipal Code with the addition of the flexibility language and also to add language that if proposed projects do not fall within the city’s boundaries, they must benefit the city as a whole. Second by Davis. Motion carried.
- 28) No. LF053012-19 – Davis moved to approve Second Reading and Recommendation of Ordinance No. 5844 Clarifying the Permissible Fireworks in the City of Rapid City by Amending Section 8.24.020 of the Rapid City Municipal Code. Second by Petersen. Motion carried.
- 29) No. LF051612-19 – Davis moved to approve Second Reading and Recommendation of Ordinance No. 5841 to Give the Chief of Police Discretion to Designate Temporary Parking Zones by Adding Section 10.44.015 to the Rapid City Municipal Code. Second by Brown. Motion carried.
- 30) No. LF111611-21A – City Attorney Joel Landeen requested that if this ordinance moves forward, he be directed to make changes to allow for street signs and directional signs. He said that the public purpose signs that currently exist would be grandfathered in. Davis said he has concerns with the non-conforming sign clause in 15.28.230. Landeen said this provision existing in the previous ordinance and is standard when dealing with legal non-conforming property or structures. Mason has a concern with the sign credits on off-premise signs. Again, Landeen stated that this ordinance does not change anything regarding sign credits. They were adopted through the initiated ordinances. After further discussion, Petersen moved to approve Second



52. No. 12PL008 - A request by Century Resources, Inc. for a **Preliminary Plat** for proposed Lot 8 and Lot 9 of Block 1 of Menard Subdivision, legally described as a portion of the NE1/4 of the SW1/4 of Section 32, and a portion of the NW1/4 of the SE1/4 of Section 32 located in the NE1/4 of the SW1/4 and the NW1/4 of the SE1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on the south side of East Anamosa Street southeast of the intersection East Anamosa Street and North Creek Drive.

#### END OF CONSENT ITEMS

Motion was made by Brown, second by Roberts to (No. PW061212-03) Confirm Appointments to the Code Enforcement Board of Appeals. Doyle called attention to the limited ward representation provided by the proposed appointments. Doyle suggested more uniformity between the ward representations to account for different enforcement motivations. Mayor Kooiker acknowledged Doyle's concerns noting that the appointment recommendations are based on the individual's qualifications as required by the ordinance. Nordstrom addressed the level of complaints received from Wards 2 and 3 and recommended that the ward representation be taken into consideration. A substitute motion was made by Petersen, second by Nordstrom to continue the Confirmation to the July 2, 2012 Council meeting. Mayor Kooiker suggested that the issue of diversity is addressed by the representation criteria designated by the ordinance. Discussion followed regarding the qualifications of the individuals recommended for appointment. Laurenti recommended approving the appointments forward noting that the ward issue can be addressed with the reappointment of the one year terms. Discussion continued regarding balancing the ordinance requirements with uniform ward representations. Mayor Kooiker advised that the remaining applications would be reviewed with regard to ward representation noting that additional advertising would be conducted if necessary. The substitute motion carried.

Motion was made by Brown, second by Petersen and carried to (No. PW061212-12) Acknowledge Completion of Sidewalk Installation on Disk Drive. The Council acknowledged Hadcock, Costello and Dunham for their contributions to the project.

Motion was made by Brown, second by Wright to (No. PW061212-25) Direct the City of Rapid City to proceed with negotiations to purchase the property at 3213 Dover Street. Mason voiced support for the motion and recommended that the uniqueness of the situation be stipulated as a part of the negotiations. In response to a question from Laurenti, Nyberg briefly addressed the property's building permit history noting his opinion that the city has no liability with regard to the property. Wright voiced his opinion that the property was overlooked following the 1972 flood event noting the importance of purchasing the last residential property in the floodplain. Landeen clarified that the purchase is not an issue of liability and recommended that, if purchased, the site be leveled and converted to park land. Landeen recommended that the purchase be addressed in compliance with the current policy and availability of funds. Petersen indicated that the current action is to authorize negotiations. Nordstrom voiced support for the motion briefly addressing his concerns with purchasing the site. Brown clarified that the motion only authorizes negotiations to proceed. Mason concurred with the "no liability" findings of the City Attorney. Wright clarified that, if purchased, the structure would be removed from the site. Brown called the question; no objections were offered. Motion carried.

#### NON-CONSENT ITEMS

Motion was made by Mason, second by Roberts and carried to open public comment on Non-Consent Items 53 – 72a. Mayor Kooiker invited Jim Petersen to speak on Items 49 and 50 as the speaker request had been inadvertently overlooked. Jim Petersen (LF061312-24/FL061312-25) stated that the retention of the "public purpose" classification would provide an unfair advantage to the affected sign contractor. Petersen indicated that the five affected digital boards were installed without building permits and were allowed to remain under the "public purpose" dispensation. Petersen stated that the intent of the ordinance is to require both public and private signs to comply with the same rules. Troy Ericksen (LF121411-17) voiced opposition to the proposed casino ordinance. Ericksen stated that the ordinance

restrictions will damage business growth by limiting the available areas of operation.) The following comments were received on LF111611-21A, LF031412-23 and LF031412-24: Terry Olson indicated that while there are items in the ordinances they do not support they want to continue negotiations to further clarify the ordinances. Norma Thomsen requested support of the ordinances. Jim Petersen requested consideration of increasing the digital change interval to 60 seconds. Motion was made by Roberts, second by Mason and carried to close public comment on Items 53 – 72a.

### **Ordinances**

Ordinance No. 5776 (No. LF121411-17) An Ordinance Establishing a Minimum Separation between Certain Video Lottery Casinos and Residentially Zoned Property by Adding Section 5.64.030 to the Rapid City Municipal Code. Motion was made by Laurenti, second by Petersen that Ordinance No. 5776 be placed upon its first reading and the title was fully and distinctly read. Doyle presented the "commercial property" map calling attention to the unintended consequences of the proposed ordinance. Doyle stated that the current Use on Review (UOR) process provides more opportunity for neighborhood input. Doyle recommended that there be further research on the issues associated with casino requests. Nordstrom addressed his concern with the city placing restrictions on a legal business. Laurenti stated that the current process does not work and urged support for the ordinance. Laurenti addressed the issues associated with the casino business. Laurenti indicated that the ordinance does not restrict business growth but directs it away from the residential neighborhoods. Mason addressed the State Supreme Court findings with regard to the casino use noting that no evidence has been presented to substantiate a problem with the video lottery use. Brown suggested that the ordinance will result in business monopolies noting that lack of public comment on the ordinance. Petersen addressed the lack of guidelines for denial of a video lottery request. Petersen indicated that the ordinance will provide protection for the developed areas. In response to a question from Petersen, Landeen clarified that the Use on Review is triggered by the associated alcohol use and not the video lottery use. Landeen indicated that a denial must be based on substantiated evidence noting that the intent of the law is to defend property rights. Landeen indicated that the proposed ordinance will provide regulation of the video lottery business. Discussion followed regarding the balancing of the residential and commercial property rights. Mayor Kooiker addressed the votes require to pass the ordinance noting that the ordinance represents the effort to respond to the neighborhood concerns with the video lottery business. Mayor Kooiker recommended that the item be continued to the July 2, 2012 Council meeting. Nordstrom identified the casino request recently denied by the council. Mason expressed concern that future ordinance amendments could increase the boundary restrictions. Mason addressed the need to substantiate evidence that the video lottery use constitutes a safety issue. In response to a question from Petersen, Allender addressed the social and economic impact of gambling on the community. Petersen indicated that the ordinance provides the council with a sound legal standing when considering a casino request. Brown called the question; Doyle objected; Wright seconded the motion. Upon vote being taken the motion to call the question carried (5-3) with the following voted AYE: Petersen, Roberts, Brown, Wright and Nordstrom; NO: Laurenti, Mason and Doyle. Upon vote being taken the motion to approve first reading of Ordinance No. 5776 failed (2-6) with the following voted AYE: Petersen and Laurenti; NO: Roberts, Brown, Wright, Nordstrom, Mason and Doyle.

Ordinance No. 5845 (No. LF061312-18) An Ordinance to Change the Terms and Criteria of the Life Safety Loan Program by Amending Chapter 3.28.020 of the Rapid City Municipal Code. Motion was made by Mason, second by Doyle and carried that Ordinance No. 5845 be placed upon its first reading and the title was fully and distinctly read.

Ordinance No. 5847 (No. LF061312-19) An Ordinance Imposing Additional Requirements for Projects Approved through the Rapid City Economic Development and Civic Improvements Fund (The "Vision Fund") by Amending Section 3.16.020 of the Rapid City Municipal Code. Motion was made by Mason, second by Roberts that Ordinance No. 5847 be placed upon its first reading and the title was fully and distinctly read. In response to a question from Doyle, Landeen advised that the ordinance language would be amended to address Section 3.15.020(A) and to restore the project "time limit" restriction for