

Subj: **38th St. Sidewalk Repair**
Date: 5/3/2005 11:20:34 A.M. Mountain Standard Time
From: Ted.Vore@rcgov.org
To: Malcom.Chapman@rcgov.org
CC: Dirk.Jablonski@rcgov.org

Malcom,

Code Enforcement will send letters to all the 38th St. addresses you gave Dirk and give the residents an allotted time to make the repairs. At the end of said time, Engineering will create an assessment project to complete any sidewalks not repaired. We will be checking out the hole on 38th & Burns and make the necessary repairs. We will also be addressing the intersections needing repair when the assessed project is created. If there is not a need for an assessed project, we will make the intersection repairs adjacent to the newly repaired sidewalks. We don't have designated funds to fix and make all intersections ADA compliant.

Ted

PUBLIC WORKS COMMITTEE
JANUARY 16, 2002

No. PW011602-09 – Hanks moved to Authorize staff to advertise for bids for One (1) New Current Model Year Motorgrader with Wing Plow for Street Division. Seconded by Dreyer. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-10 – Waugh moved to Authorize staff to advertise for bids for One (1) New Current Model Year Backhoe for Water Division. Seconded by Murphy. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-11 – Murphy moved to Authorize staff to advertise for bids for Meter Reading Equipment for Cold Water Meters. Seconded by Waugh. Motion carried. **Place Item on Consent Calendar.**

AUTHORIZE MAYOR AND FINANCE OFFICER TO SIGN

No. PW011602-12 – Dreyer moved to Authorize the Mayor and Finance Officer to sign an Application and Agreement for Electric Service Extension with Black Hills Power, Inc. for the Owen Hibbard Subdivision (Fire Station). Seconded by Waugh. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-13 – Hanks moved to Authorize the Mayor and Finance Officer to sign a 2002 Service Contract with Intellesys, Inc. for Annual Software Upgrades and Unlimited Telephone Support for an amount not to exceed \$450. Seconded by Waugh. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-14 – Steinburg moved to Authorize the Mayor and Finance Officer to sign the QualServe Self-Assessment and Peer Review Participating Utility Agreement for an amount not to exceed \$26,240. Seconded by Waugh. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-15 – Hanks moved to Authorize the Mayor and Finance Officer to sign a Professional Service Agreement with Ferber Engineering Company to Design DR01-1157, LaCrosse/East New York Street Drainage Project for an amount not to exceed \$11,660. Seconded by Murphy. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-16 – Hanks moved to Authorize the Mayor and Finance Officer to sign a Professional Service Agreement with McLaughlin Water Engineers, Ltd for WRF02-1174, Construction Phase Services for the Co-Compost Facility, WRF Administration Building, WRF Equipment Installation, and WRF Expansion Construction Projects for an amount not to exceed \$741,894.00; contingent upon review and approval by the South Dakota Department of Environment and Natural Resources. Seconded by Waugh. Motion carried. **Place Item on Consent Calendar.**

ENGINEERING DIVISION

No. PW011602-17 – Dreyer moved to Approve the Proposed 38th Street Sidewalk Construction. Seconded by Murphy. Engineering Division Nelson asked for direction on how to proceed with this project. In the past, Council required all affected property owners required to construct sidewalks be notified or an invitation extended inviting them to a public meeting for input. Public Works Director Bjerke noted there would be a public meeting on this sidewalk construction at

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the January 30, 2002 Public Works Committee meeting. Upon a vote being taken on the motion, motion carried. **Place Item on Consent Calendar.**

No. PW011602-18 – Hanks moved to refer the Proposed additional curb cut for 3115 Cadillac Drive in the Copperfield Subdivision to Council without recommendation. Seconded by Steinburg. Motion carried.

PARKS/RECREATION DIVISION

Hanks moved to continued the Land acquisition costs for Girls' Softball Complex to the January 30, 2002 Public Works Committee meeting. Seconded by Steinburg. Motion carried.

(Information only) Operations Management Engineer Johnson reported on the Pool Committee's Roosevelt Pool Design Concepts. The consensus is that there is a need for an indoor, twenty-five yard lap pool with an adjacent leisure pool. The Committee focused on existing plans developed six or eight years ago for a recreation center. They determined these plans were adaptable for Roosevelt Park. They also discussed funding for this project. Kriebel suggested the 2012 Committee convene to discuss funding of this project. Johnson spoke in support of using existing plans for Roosevelt Park. Staff was directed to provide an estimated cost for this project and present the costs to the 2012 Committee.

Hadley entered the meeting at this time.

STREET DIVISION

No. PW011602-19 – Steinburg moved to Approve the purchase of one (1) new current model year 3/4 Ton 2x4 crew cab pickup from Lamb Motors, Inc. for a total purchase price of \$21,475 under State Contract #13384 for the Street Division. Seconded by Dreyer. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-20 – Hanks moved to Approve the purchase of one (1) new current model year 3/4 Ton 4x4 standard cab pickup from Wegner Auto Company, Inc. for a total purchase price of \$21,152 under State Contract #13387 for the Street Division. Seconded by Murphy. Motion carried. **Place Item on Consent Calendar.**

No. PW011602-21 – Hanks moved to Approve the purchase of two (2) new current model year 3/4 Ton 4x4 extended cab pickups from Wegner Auto Company, Inc. for a total purchase price of \$46,326 under State Contract #13387 for the Street Division. Seconded by Waugh. Motion carried. **Place Item on Consent Calendar.**

WATER DIVISION

Hanks moved to Approve the purchase of two (2) new current model year 3/4 Ton 2x4 regular cab, long box pickups from Wegner Auto Company, Inc. for a total purchase price of \$35,962 under State Contract #13387 for the Water Division. Seconded by Steinburg. Motion carried. **Place Item on Consent Calendar.**

- Knight; Midwest Alarm Co., Inc., Larry McMillen; Gas Fitting Apprentice: Kevin Bad Wound, Todd Dietrich, Darrin Esser, Nick Williams; Gas Fitter: Jeff Adam, Justin Burke, Roland W. Fielder, Alphonse Fleck, Donald L. Herman, Steve Hyk, Ken Kenitzer, Ernie Kouba, Ronald Kramer, John B. Miller, Kevin Morris, Lonny Ryman, Loren Ryman, Michele Seaman, Ralph Schad, Wade Smith, George Thompson, Nick Walenta, Allan Weinand; Gas Contractor: Steve Armour, Mike's Mobile Home Service; Chino Caekaert, A to Z Maintenance & Repair; Cody Champion, Champion Home Service & Supply, Inc.; Roy Follum, Follum Supply; Quentin E. Kubas, Montana-Dakota Utilities Co.; Duane Lassegard, Cenex/Land O Lakes; Dave J. McCarthy, McCarthy Services; Ronald Ryman, D & R Service, Inc.; Rick Salyers, B & R Services; Lee Seaman, L & M Appliance Specialists, Inc.; Plumbing Apprentice: David C. McClaskey; Residential Contractor: Craig Anderson, Anderson Remodeling & Repair; Neil Foust, Foust Construction, Inc.; David Hirning, David Hirning Construction; Paul Holt, Paul Holt Construction; David or Patricia Karas, Karas Construction; Wayne Loof, Integrity Homes by Wayne Loof; Joyce Sauer, Red Rock Remodeling; Donovan & Sharon Synsteliien, Donovan's Investments, LLC; Second Hand: Software Etc. #1257, Rushmore Mall, Chris A. Laferty; Security Business: Alpha Omega Systems, Inc., Forrest D. Fanning; Tri-State Security & Patrol, Randy Lee Beal; Sign Contractor: Brendan Casey, Epic Outdoor Advertising, LLP; Gary French, French's Upholstery; Gene & Roxy Hunter, Sign Express; Mikal Lewis, Signworks; Donald E. Mattson, Black Hills Tent & Awning; Lesley Rutter, Unique Signs, Inc.; Hank Sponder, HJS Indoor Adv., Sponder Outdoor Advertising; Craig Stump, Stump Sign Company; Taxi Business: A-1 City Cab, Inc., Jeffrey K. Winchester.
49. LF011602-09 - Authorize Mayor and Finance Officer to sign Amendment of Award of Allocation for Historical Preservation.
 50. Approve Appointment of Mike Diedrich and Duane Whalen to the Civic Center Board.

Raffle

51. No. CC012102-01 - Notification from Easter Seals of South Dakota of intent to conduct a raffle from February through August, 2002.
52. No. CC012102-02 - Notification from Rushmore Chapter of ABATE, Inc. of intent to conduct a raffle from February through August, 2002.
53. No. CC012102-03 - Notification from American Heart Association of intent to conduct a raffle on February 9, 2002

End of Consent Calendar

y The next item discussed by the Council was No. PW011602-17, approve the Proposed **38th Street Sidewalk Construction**. Kriebel stated that it was his understanding that the City would hold off on this item until staff notified affected property owners of the public hearing. Motion was made by Kriebel and seconded by Hadley to refer this issue back to the Public Works Committee for review. Staff noted that the direction from committee was to proceed with the project. The property owners will be notified of a public hearing to be held on February 13, 2002. Substitute motion was made by Kriebel, seconded by Rodriguez and carried to set the proposed 38th Street Sidewalk Construction project for hearing on February 13, 2002.

Motion was made by Johnson and seconded by Steinburg to approve No. PW011602-22 - Accept the concept as outlined by the Parks & Recreation Subcommittee on the **Mary Hall Park** Kiwanis Project. Gerti Janss submitted a handout of Mary Hall Park and asked the Council to consider putting spurs to various locations rather than a gravel walkway near the creek. This area floods often and the maintenance costs will be lower with the alternative plan. Planning Director Elkins stated that this issue was submitted to the Parks & Rec Subcommittee. Several changes were made to the plan, but this particular item was not incorporated. Kriebel stated that he will not support the motion because he feels there will be flooding and maintenance issues in the future. Hanks noted that the Kiwanis Club has agreed

Public Works Committee to set an information meeting and notify Council members of the date, time and location of the meeting. Seconded by Rodriguez. Motion carried. **Place Item on Consent Calendar.**

John Holdaway, contractor for 5315 Carriage Hills explained that when the permit was issued for this property the driveway was to be the standard twenty-foot wide driveway. The homeowner and the concrete contractor agreed to make the driveway forty-five feet wide. He understood that a thirty-foot wide driveway was acceptable for a three-car garage. He explained that there are other driveways in the neighborhood that exceed the standard and are even wider than forty-five feet. Alderman Hanks remarked that other violations are not a valid reason to grant a variance. Engineering Division Manager Nelson commented that staff has not agreed to accept the forty-five feet wide driveway and a variance must be granted by the Council. Johnson moved to allow a thirty-foot wide driveway at 5315 Carriage Hills. Motion was seconded. Kriebel offered an amendment to the motion to allow the forty-five foot wide driveway to remain until the property had gone through the process to obtain a variance for the driveway. Amendment was seconded. Alderman Hanks asked Johnson to restate his motion – to grant an exception to the Street Criteria Manual to allow for a thirty-foot driveway. Johnson restated his motion. Question was called, there being no objection a vote was taken on the amendment, amendment failed with Kriebel voting yes. Upon a vote being taken on the motion as restated, motion carried. **Place Item on Consent Calendar.**

Dale Schmidt, Buck's Electric reported that his company placed yard lights on both sides of the driveway at 5315 Carriage Hills and located those lights two feet inside the public right-of-way. He requested a variance to allow these structures in the public right-of-way. Rodriguez moved to deny the request. Seconded by Waugh. Discussion continued. Question was called, there being no objection a vote was taken on the motion, motion carried with Kriebel voting NO.

ALDERPERSONS' ITEMS & COMMITTEE REPORTS

Hanks asked for a report on the hours of operation of the ice arena at Monday night's Council meeting, as he understood they had been changed since the adoption of a Resolution establishing the hours of operation. He also read a letter from Todd Wolk asking that a Citizen Task Force be established to review the merits of privatizing the City's golf courses. Kriebel asked for updates on a new building code; notification to property owners on the 38th Street sidewalk project; and participation, revenues and use of the new ice arena. Rodriguez asked whether staff notified the local contractors about their use of Sheridan Lake Road. Bjerke noted that the Policy Department will monitor this roadway. She asked for an update on the roadway markings on LaCrosse at the new Wal-Mart traffic signal. Nelson reported that when weather permits the contractor will stripe the roadway with paint and in the spring permanent tape marks will be in place.

As there was no further business, the Committee meeting adjourned at 3:55 P.M.

from State Farm Insurance. They will be reviewing an intersection that the South Dakota Department Of Transportation is designing. Motion carried. **Place Item on Consent Calendar.**

No. PW021302-08 – Hanks moved to Authorize the Mayor and Finance Officer to sign South Dakota Department Of Transportation Amendment No. 02 to Agreement No. 711812 for P-BRF 1746(02) PCEMS 4338, Canyon Lake Drive. Seconded by Steinburg. Motion carried. **Place Item on Consent Calendar.**

ENGINEERING DIVISION

(Information only) Traffic Engineer Adelman reported he reviewed the timing of the traffic signal at St. Patrick/East St. Joseph Street and he is in the process of implementing some timing change to flush east/west movements and also the south bound left turn on to St. Patrick Street immediately after the railroad arms are raised. Adelman also reported a citizen complaint about the school crossing on Mt. Rushmore Road at Franklin Street. He reported there is a crossing guard at this location. The complaint is about inconsiderate drivers challenging the crossing guard. Because Mt. Rushmore Road is a designated State highway he is visiting with the Department Of Transportation about possibly reducing the speed limit at this location. Under State law a 15 MPH speed limit is required if adjacent to a school.

Todd Esquibel, 1216 Fulton Street requested permission to spot repair his sewer service line without requiring him to sign a "Waiver of Right to Protest" for any future assessed project. He wasn't certain he could honor such an agreement because he did not have enough information. If there was no cap on the expenditures he believed he could not afford the project. He asked that he be given time to research and to identify whether the current program is equitable to the homeowners, as it is to the City. Public Works Director Bjerke recommended that Todd Esquibel be allowed to do a spot repair of his sewer service line, with the stipulation that he agree to sign a "Waiver of Right to Protest" for an assessed project funded under the City's current assessment policy. If he does not wish to sign the waiver, staff recommends his request be denied. Discussion followed regarding the assessment process. It was suggested that 1214, 1216 and 1218 all be party to an assessed project to extend the sanitary sewer main. It was explained that two-thirds of all affected properties could force an assessed project. Hanks moved to deny a request from Todd Esquibel, 1216 Fulton Street for a sewer service line spot repair in the right-of-way. Seconded by Waugh. Discussion continued. Waugh called the question, and there being no objection a vote was taken on the motion. Motion carried. **Place Item on Consent Calendar.**

No. PW013002-17 – Hanks moved to Approve an Initial Resolution Setting Time and Place for Hearing on March 18, 2002 for SS02-1191, Fulton Street Sanitary Sewer Extension Project. Seconded by Murphy. Substitute motion was made by Johnson, seconded by Waugh and carried to continue this item to the February 27 Public Works Committee meeting. *(Secretary's Note: This item was reconsidered at the end of the meeting and referred to Council without recommendation.)*

No. PW011602-17 – Hanks moved to Approve the Proposed 38th Street Sidewalk Construction. Seconded by Murphy. Alice Vanderpol, John Hammond, Tom Bosworth, Jim Erickson, Bick Tisher and Barb Olson all spoke in opposition to constructing sidewalks along 38th Street. Paul Lawrence objected to the walk but if it was determined a necessity and ordered in, he asked that he be allowed to contract with a private contractor to build the retaining wall and sidewalk in

accordance with the City's specifications. He believed the City's cost for the construction of sidewalk and retaining wall were too high. Public Works Director Bjerke explained that if the City deemed the sidewalk a necessity the property owners would have the opportunity to construct their sidewalk at their expense, or have the City construct the sidewalk and share in the construction costs under a five-year assessed project. Substitute motion was made by Steinburg, seconded by Hanks to continue this item to the February 27 Public Works Committee meeting to allow Council members an opportunity to look at the area. Upon a roll call vote being taken on the substitute motion, the following voted AYE: Hanks, Steinburg, Murphy, Waugh; NO: Hadley, Johnson, Kriebel. Substitute motion carried 4-3.

PARKS/RECREATION DIVISION

No. PW021302-09 – (Information only) Recreation Director Lowe reviewed the January revenues generated from the operation of the Roosevelt Ice Arena. The Committee suggested Lowe prepare a budget should the City decide to keep the facility open beyond March.

PLANNING DEPARTMENT

No. 02FV001 – Hanks moved to Approve with stipulations a Fence Height Variance for petitioner Mark Krenn for Western Wireless Corp. to allow a 9' fence in the front yard setback and to allow a 9' fence along the side and rear yard in the Public Zoning District on Lot 2 of Owen Hibbard Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Golden Eagle Drive and adjacent to old Marine Life. Seconded by Waugh. Motion carried. **Place Item on Consent Calendar.**

PUBLIC WORKS DIRECTOR'S ITEMS

No. PW013002-18 – Hanks moved to Approve Request For Proposals for Tree Removal on City owned property at the east end of Orchard Lane (Rapid Valley). Seconded by Waugh. Public Works Director Bjerke suggested that the trees would be sold in lots, and there would be only three lots. Separate prices would be accepted for each lot, as well as an overall price for all three lots. Trees have also been set aside for City use. Upon a vote being taken on the motion, motion carried. **Place Item on Consent Calendar.**

VISITOR ITEMS

Hanks moved to Grant an exception to the Street Criteria Manual to allow for a thirty-foot driveway at 5315 Carriage Hills Drive. Seconded by Waugh. Marsha Gemeny, owner acknowledged that her builder and concrete contractor were in error when they constructed the driveway. She remarked that there are a number of other driveways in the neighborhood that are over thirty-foot wide. She requested that her forty-five foot driveway be allowed. Alderman Kriebel remarked that because of the width of the lot, he believed this request was reasonable and voiced his support for revising the Street Criteria Manual. Substitute motion was made by Hadley, seconded by Kriebel to grant an exception to the Street Criteria Manual to allow for a forty-five foot driveway at 5315 Carriage Hills Drive. Discussion continued. Upon a roll call vote being taken on the substitute motion, the following voted AYE: Hadley, Kriebel; NO: Hanks, Johnson, Steinburg, Murphy, Waugh. Substitute motion failed 5-2. Upon a vote being taken on the original motion, motion carried. **Place Item on Consent Calendar.**

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Amendment No. 01 to a Professional Service Agreement with Baffuto Architecture to Design FD02-870, Rapid City Fire Station #6 for an amount not to exceed \$9,357.00. Seconded by Murphy. Motion carried with Johnson voting NO.

No. PW022702-10 – Hanks moved to Continue the Authorization for the Mayor and Finance Officer to sign a Professional Service Agreement with West Plains Engineering to Design PR02-1197, McKeague Field Lighting Project for an amount not to exceed \$2,845.80 to the March 13 Public Works Committee meeting. Seconded by Waugh. Motion carried.

ENGINEERING DIVISION

No. PW011602-17 – Rodriguez moved to Approve the Proposed 38th Street Sidewalk Construction. Seconded by Hanks. Wallace Wood, 3802 Canyon Lake Drive spoke in opposition to the sidewalk project and asked the Council to consider the need and the fact that few property owners supported the project. Discussion ensued relative to retain walls and the current City ordinance governing sidewalk construction. Substitute motion was made by Johnson, seconded by Hadley and carried to Deny the Proposed 38th Street Sidewalk Construction. **Place Item on Consent Calendar.**

PARKS/RECREATION DIVISION

Recreation Director Lowe reported the Pool and Ice Committee recommendation to extend the operation of the Roosevelt Ice Arena to April 30th. Hanks moved to Approve the Change in Roosevelt Ice Arena Seasonal Scheduling to extend the season through April 30th. Seconded by Murphy. Hanks asked that if there is a demand for this ice arena beyond April 30th, staff return to Council with another recommendation to extend the operating season, but also taking into consideration the subsidy to continue operations. Discussion ensued relative to staffing the facility. Question was called by Hanks and there being no objection a vote was taken on the motion. Motion carried with Hadley, Kriebel and Steinburg voting NO.

No. PW022702-14 – Hanks moved to Approve the Proposed 2002 Swimming Pool Rates. Seconded by Rodriguez. Recreation Director Lowe reported a change in the rental rate for the Rapid City Racers. Hanks suggested the Pool Committee review this change. Substitute motion was made by Hanks, seconded by Waugh and carried to Continue the Approval of the Proposed 2002 Swimming Pool Rates to the March 13th Public Works Committee meeting.

PLANNING DEPARTMENT

No. 02FV002 – Hanks moved to Approve a Fence Height Variance for the petitioner, Rapid City Police Department to allow an 8 foot chain link fence with a three strands barbed wire system on top for an overall fence height of 9.5 feet on Tract A of Wasteland Subdivision in Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located approximately 2900 feet south of the intersection of Catron Blvd. and South Highway 79 on the west side of South Highway 79. Seconded by Steinburg. Motion carried. **Place Item on Consent Calendar.**

Alcoholic Beverage License Applications

This was the time set for hearing on the application of Kelly's Sports Lounge, Inc. dba **Kelly's Sports Lounge**, 825 Jackson Boulevard, for an On-Off Sale Malt Beverage License Transfer (from Gold Rush Casino). Upon motion made by Hadley, seconded by Rodriguez and carried, the Council approved the application.

This was the time set for hearing on the application of Derby Advertising, Inc. dba **Canyon Lake Chophouse**, 2720 Chapel Lane, for an Off-Sale Liquor License (New License – No Video Lottery). Upon motion made by Hadley, seconded by Rodriguez and carried, the Council approved the application.

This was the time set for hearing on the application of D&S Time Square Casino, Inc. dba **Time Square Casino**, 355 Eleventh Street, for an On-Off Sale Malt Beverage License Transfer (from 2004, Inc.-same location). Upon motion made by Hadley, seconded by Rodriguez and carried, the Council approved the application.

Upon motion made by Hadley, seconded by Rodriguez and carried, the Finance Officer was directed to publish notice of hearing on the following applications, said hearings to be held on Monday, March 18, 2002:

7. Black Hills Heritage Festival, Inc. dba **Black Hills Heritage Festival**, Memorial Park, for a special malt beverage license to be used July 3, 4, 5 and 6, 2002.
8. Gregory L. Serfling dba **Uptown Bar**, 615 Main Street, for an On-Sale Liquor License Transfer (from Jim Didier)

Other

Motion was made by Hadley, seconded by Rodriguez and carried to authorize consumption of alcoholic beverages at **The Journey Museum**, 222 New York Street, on Saturday, June 29, 2002 (No. CC030402-03).

Consent Calendar Items

The following items were removed from the Consent Calendar:

22. No. PW022702-09 – Authorize the Mayor and Finance Officer to sign a Professional Service Agreement with Kadrmas Lee & Jackson for a Preliminary Design for ST02-1189, Intersection Improvements at North LaCrosse & East Anamosa for an amount not to exceed \$16,710.49.

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

Set for Hearing (None)***Public Works Committee Items***

10. No. PW022702-01 – Approve the bid award of Knollwood Metering Dam Maintenance Project DR02-1177 to lowest responsible bidder meeting specifications, Patino Construction Services, for the low unit prices bid for a total base bid amount of \$62,914.50.
11. No. PW022702-02 – Approve the bid award of Fifth Street PCC Panel Repair Phase 2 Project STCM02-1181 to lowest responsible bidder meeting specifications, Shovelhead Excavating for the low unit prices bid for a total contract amount of \$219,534.25.

12. No. PW022702-03 – Approve the bid award of One (1) New Current Model Year High Capacity 4-Wheel Drive Rotary Mower for Parks Division to the lowest responsible bidder meeting specifications, Midwest Turf and Irrigation for the base bid of \$40,735.
13. No. PW022702-04 – Approve Change Order No. 01 for ST01-917, Central Boulevard Reconstruction Project to R.C.S. Construction, Inc. for an increase of \$14,737.75.
14. No. PW022702-05 – Authorize staff to advertise for bids RD02-870, Rapid City Fire Department Station #6.
15. No. PW022702-07 – Authorize staff to advertise for bids One (1) New Current Model Year Skid Steer Loader for Golf Courses.
16. Authorize staff to advertise for bids Ready Mixed Concrete for Various City Departments.
17. Authorize staff to advertise for bids Asphalt Maintenance Mixtures for Various City Departments.
18. Authorize staff to advertise for bids Hot Mixed Asphaltic Concrete and Asphalt Maintenance Mixtures for Various City Departments.
19. Authorize staff to advertise for bids Transportation Natural Gas for City/School Common Energy Plant.
20. Authorize staff to advertise for bids Propane Gas for Various City Departments.
21. Authorize staff to advertise for bids Oxygen and Acetylene for Various City Departments.
23. No. PW022702-11 – Authorize the Mayor and Finance Officer to sign a South Dakota Department of Transportation Bridge Re-inspection Program Resolution for Use with South Dakota Department Of Transportation Retainer Contracts.
24. No. PW022702-12 – Authorize the Mayor and Finance Officer to sign a Federal Aid Bridge Replacement or Rehabilitation Program Resolution.
25. No. PW011602-17 – Deny the Proposed 38th Street Sidewalk Construction.
26. No. 02FV002 – Approve a Fence Height Variance for the Rapid City Police Department to allow an 8 foot chain link fence with a three strands barbed wire system on top for an overall fence height of 9.5 feet on Tract A of Wasteland Subdivision in Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located approximately 2900 feet south of the intersection of Catron Blvd. and South Highway 79 on the west side of South Highway 79.

Legal & Finance Committee

27. LF022702-01 - Authorize Mayor and Finance Officer to sign Worksite Agreement with Western Dakota Technical Institute.
28. No. LF022702-02 - Authorize Mayor and Finance Officer to sign Intergovernmental Agreement for Hazardous Materials Emergency Assistance with Hughes County, Harding County, Meade County, Butte County, Rosebud Indian Reservation, Lawrence County, Fall River County, and Custer County.
29. No. LF022702-03 - Authorize staff to apply for and accept grant money from The Homeland Defense Program in the Sum of \$14,865.
30. No. LF022702-04 - Approve Resolution Declaring Property Surplus.

RESOLUTION DECLARING PROPERTY SURPLUS

WHEREAS the below-described property is no longer necessary, useful or suitable for municipal purposes

NOW, THEREFORE, BE IT RESOLVED that the following property be declared surplus and disposed of according to state statutes, including disposal, sale, transfer to other government agency, or trade-in on new equipment:

Water Division

Water Plant Telephone System, Inv. No. 00005

extension. Upon a vote being taken on the motion, motion carried with Johnson, Dreyer and Hanks voting NO.

No. 02VE010 – Motion was made, seconded and carried to Approve a Vacation of a portion of the side yard Utility Easement and Minor Drainage Easement for petitioner Doug Sperlich for Del Vanden Hoek on Lot 11 of Block 2, Edinborough Subdivision, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1343 Edinborough Drive. **Place Item on Consent Calendar.**

02TP005 – Motion was made, seconded and carried to Approve the Final Draft of the 2003-2007 Rapid City Area Transportation Improvement Program. **Place Item on Consent Calendar.**

VISITOR ITEMS

No. PW081402-12 – Todd Ossenfort, Elks Country Estates Homeowners' Association President explained he had applied for a subdivision variance as directed by staff. The variance required them to seek a waiver for actually placing the conduit in the ground. He continued by explaining the homeowners' association only requires a waiver from installing the streetlights at this time. They desire to have the conduit installed for future streetlights. They believe they have adequate lighting from their yard lights. The developer also favors installing the conduit for future streetlights. He reported the Homeowners' Association met with City staff from the Planning and Engineering Departments and agreed to present the Public Works recommendation to waive the requirement for streetlights, at this time. Alderman Dreyer commented there is a reason for streetlights, one being a safety issue. Being part of Rapid City, streetlights should be installed. Motion was made and seconded to Approve the Elks Country Estates Homeowners Association Request for a Waiver of Street Lights. Bill Knight, Assistant Fire Chief commented that well lighted streets and intersections are safer for their emergency equipment to maneuver. Motion carried with Dreyer voting NO.

Paul Lawrence, 1636 38th Street requested a permit to place a retaining wall in public right-of-way in front of his home. He reminded members of the Committee of a recent City project that replaced the sewer and water mains and reconstructed the street; a gas main was relocated at this time as well. He also reminded the Committee of recent events that led the Council to deny a sidewalk project for 38th Street residents. He explained he has hired a concrete contractor who prepared the base, poured the footings and has set the forms for the retaining wall; all that remains is to pour the concrete for the wall. City Attorney Altman reminded the Committee that given the defeat of a previous proposed ordinance there is no real mechanism for Council to grant the request. Structures are not allowed in the public right-of-way. Motion was made and seconded to Grant a Permit to Paul Lawrence, 1636 38th Street to place a retaining wall in the public right-of-way; and should the wall need to be removed the property owner will remove the wall at his own expense. Altman reminded the Committee that there is no such permit. He suggested that if the Committee were directing some type of agreement, the Attorney's Office would not be able to assist in the preparation because it is an illegal agreement. Lengthy discussion followed about the appropriate uses of the public right-of-way. Substitute motion was made and seconded to Refer without recommendation a request from Paul Lawrence, 1636 38th Street to place a retaining wall in the public right-of-way. Alderman Hanks asked staff to research and report if the engineer's sidewalk project design placed retaining walls in the public right-of-way. Altman responded that if the City determines that it is in the public's interest to

place a City structure in the ROW, the City has the authority to do so. It is private structures that are not allowed in the ROW. Hanks questioned whether it would be appropriate for the property owner to donate the wall to the City so that it becomes public property. Altman responded that only if it is in the public's interest and the Council desires to take control and maintain the wall. Second substitute motion was made and seconded to Determine that the structure in the right-of-way is necessary for the City of Rapid City, and constructed as designed by the City Engineer. Discussion continued about the wall design. Lawrence reported that the wall is located five feet behind the curb and is only four feet high. Altman commented that if the City makes a finding that the wall is a public necessity, it then becomes difficult to shift the burden to a private landowner to construct the wall. If it is needed there to benefit the public then the City should be building and maintaining the wall. Lengthy discussion continued about the City's assessment process for a City project. Question was call, there being no objection a vote was taken on the second substitute motion. Motion carried with Murphy voting NO. Motion was made and seconded to Direct staff to work with the property owner and come back with an agreement for Council approval that would allow the structure in the right-of-way at the applicant's cost and include a maintenance clause. Discussion continued. Upon a vote being taken on the motion, motion carried with Murphy voting NO.

John Scheltens representing Wilma Keene, 1311 38th Street explained that August 3, 1998 the Council order sidewalks for this address based upon a complaint received by the City. In recent Council action they denied a sidewalk order for other properties on 38th Street. He believed in all fairness, because no other 38th Street residents have to install sidewalks Wilma Keene needed to be reimbursed for the costs she incurred to install the sidewalks ordered by Council. Discussion followed on the history of the 38th Street sidewalk project. Motion was made and seconded to Deny a request from Wilma Keene, 1311 38th Street for reimbursement for costs associated with her sidewalk construction. Discussion continued about the City's complaint base system, City ordinances and subdivision regulations. Motion carried unanimously. **Place Item on Consent Calendar.**

ALDERPERSONS' ITEMS & COMMITTEE REPORTS

Motion was made, seconded and carried to Continue discussions on the Catron Boulevard Drainage Basin Plan to the August 28, 2002 Public Works Committee meeting.

Alderman Kooiker reported he has received complaints from the 700 block of Franklin Street about noise on 8th Street. He explained that the Police Department is working on enforcement on 8th Street to help alleviate the problem. He had some concern about the current locations of some Noise Ordinance Signage on 8th Street. He asked staff to look at the current locations of the signs and if a few more signs could be justified in the area from St. Patrick to South Street. The Chair responded that this is a State highway and signage is up to the State DOT. Motion was made and seconded to Direct staff to visit with the South Dakota Department of Transportation about adding more locations for noise ordinance signs and the costs for adding these signs. Discussion followed about enforcement. Upon a vote being taken on the motion, the Chair declared the motion failed.

Alderman Kooiker reported difficulties with left turn movements on to 5th Street from Kansas City Street. He requested a left turn signal at this intersection. He reported a traffic study was completed at this intersection, but believed the results of the study was not sufficient enough to

Motion was made by Kooiker and seconded by Waugh to approve a one year extension for McMahon Investments, Inc. (No. 99PL086) on a **Layout Plat** on E1/2, E1/2, Section 24, T2N, R7E, less Lot 1 of Hubbard Subdivision, Section 24, T2N, R7E and less Tract A of NE1/4 NE1/4 less Lot 1 of Hubbard Subdivision, Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the north side of Mall Drive and south of Country Road. Johnson stated that he can see no reason to continue a layout plat which has been sitting in the Planning Office for two years. Roll call vote was taken: AYE: Kooiker, Dreyer, Kroeger, Waugh, Murphy and Hadley; NO: Hanks and Johnson. Motion carried, 6-2.

Motion was made by Kooiker and seconded by Johnson to approve No. PW081402-12, request from the Elks Country Estates Homeowners Association for a **Waiver of Street Lights**. Bjerke noted that the conduit will be installed by the developer. The only item being delayed is installation of the actual street lights. He added that if the property owners in this development want a different type of street light pole than what the city would normally install, they should be required to pay the difference in cost. Dreyer stated that he feels street lights are a safety issue and they should be installed. Hadley called the question and there were no objections. Upon vote being taken, the motion to approve the request carried with Dreyer voting no.

Motion was made by Kroeger and seconded by Hanks to table the determination that the **structure (retaining wall) located in the right-of-way** at 1636 38th Street (Paul Lawrence) is necessary for the City of Rapid City, and constructed as designed by the City Engineer. Roll call vote was taken: AYE: Hanks, Dreyer, Kroeger, Murphy and Hadley; NO: Kooiker, Waugh, Johnson and Kriebel. Motion to table carried, 5-4.

Motion was made by Hanks and seconded by Kroeger to direct staff to work with property owner Paul Lawrence, 1636 38th Street, and come back with an agreement for Council approval that would **allow the structure** in the right-of-way at the applicant's cost and include a maintenance clause. Asst. City Attorney Jason Green explained that local government has an obligation to maintain public rights-of-way for use by the public, for public purposes. The City Attorney's Office, as part of the city staff, is willing to work with Mr. Lawrence to attempt to find a way for him to have a retaining wall while at the same time protecting the public right-of-way as required by local government. Upon vote being taken, the motion carried unanimously.

Motion was made by Murphy and seconded by Hanks to direct staff to look at the intersection of 5th Street/Kansas City for a possible **left turn signal** and report their findings within 60 days. Kooiker stated that he feels there is a need for this left turn signal now, without additional study. Substitute motion was made by Kooiker and seconded by Waugh to direct staff to install a left-turn signal at the intersection of 5th & Kansas City Streets. Roll call vote was taken: AYE: Kooiker, Dreyer, Kroeger, Waugh, Johnson, Kriebel and Hadley; NO: Hanks and Murphy. Substitute motion carried, 7-2.

Motion was made by Kooiker, seconded by Johnson and carried to approve a Policy Eliminating **Bicycle Use in the Skateboard Park** (No. PW081402-13). Hadley encouraged the City to provide some sort of bicycle recreation area for the community.

Bills

The following bills having been audited, it was moved by Hadley and seconded by Waugh to direct the Finance Officer to issue warrants or treasurers check, drawn on the proper funds, in payment thereof:

Payroll Ending 7-31-02, Paid 7-31-02	1,864.80
Payroll Ending 8-10-02, Paid 8-16-02	663,075.52
Payroll Ending 8-10-02, Paid 8-16-02	3,012.80