

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

January 4, 2010

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, January 4, 2010 at 7:00 P.M.

The following members were present: Mayor Alan Hanks and the following Alderpersons: Bill Waugh, Patti Martinson, Sam Kooiker, Aaron Costello, Lloyd LaCroix, Malcom Chapman, Karen Gundersen Olson, Ron Weifenbach, Ron Kroeger and Deb Hadcock; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Assistant City Attorney Joel Landeen, Public Works Director Robert Ellis, Growth Management Director Marcia Elkins, Police Chief Steve Allender, Fire Chief Mark Rohlfing, Community Resource Director Kevin Thom, Parks and Recreation Director Jerry Cole and Administrative Coordinator Amber Sitts.

ADOPTION OF AGENDA

The following items were added to the agenda:

- Recommend carrying forward \$112,800 into 2010 for Memorial Park North Irrigation to allow staff to begin design for the project
- Cancel the January 11, 2010 special Council meeting
- Reset the public hearing for the Downtown Business Improvement District

Motion was made by Chapman, second by Costello and carried to adopt the agenda as amended.

APPROVE MINUTES

Motion was made by LaCroix, second by Costello and carried to approve the minutes for December 21, 2009 regular Council meeting and December 29, 2009 special Council meeting

AWARDS AND RECOGNITIONS

Mayor Hanks presented Alderman Chapman with a recognition award from the South Dakota State Senate for excellence in municipal government.

GENERAL PUBLIC COMMENT

Herman Roberts expressed his concern with disrespectful snow plowing in his neighborhood.

NON-PUBLIC HEARING ITEMS -- Items 1 – 62

Motion was made by Chapman, second by LaCroix and carried to open the public comment for Items 1 – 48. No comments were offered.

Motion was made by Waugh, second by Chapman and carried to close the public comment for Items 1 – 48.

CONSENT ITEMS – Items 1 – 46

31. Request that the confirmation request for new board members from the Mayor's office include a list of the current board members with their expiration dates.
39. Recommend carrying over the \$70,000 for cemetery road paving and irrigation into 2010 to allow staff to begin design work for that project.

Motion was made by LaCroix, second by Chapman and carried to approve the following items as they appear on the Consent Items.

Vacations of Right-Of-Way Set for Hearing (February 1, 2010)

1. No. 09VR008 - A request by Fisk Land Surveying & Consulting Engineers for Recreational Adventures for a **Vacation of Section Line Right-of-way** of 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, located at 3010 East Highway 44.
2. No. 09VR009 - A request by Ferber Engineering Co., Inc. for South Dakota Game Fish and Parks for a **Vacation of Right-of-Way** of the North 40th Street 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 Subdivision along the southern right-of-way line of Dean Lane, the true point of beginning; THENCE, S01°57'54"W, a distance of 149.60' feet to a found cap marked Polenz #4208; THENCE, S01°57'54"W, a distance of 130.02 feet; THENCE, N88°03'10"E, a distance of 60.06 feet; THENCE, N01°58'10"E, a distance of 279.68 feet to a found cap marked FMG #4225; THENCE, N00°22'58"E, a distance of 89.86 feet to a found cap marked Renner #2652; THENCE, S88°00'09"E, a distance of 60.09 feet; THENCE, S02°03'12"W, a distance of 60.58 feet to the true point of beginning. Said North 40th Street vacation contains 0.47 acres, more or less, located southwest of the intersection of Knutson Lane and Sturgis Road.

Alcoholic Beverage License Applications Set for Hearing (January 19, 2010)

3. TADY LLC DBA Sports Buzz, 2101 Mt. Rushmore Rd. for a Retail (on-off sale) Malt Beverage License WITH Video Lottery TRANSFER from MG Oil DBA Clock Tower Lounge, 2525 W Main
4. First National Bank Rapid City, 909 St. Joseph Street for a Retail (on-sale) Liquor License TRANSFER from George Motor and Supply Company DBA Murphy's Bar, 510 9th Street
5. Rapid City Area Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled February 18, 2010 at Print Mark-et, 404 St. Onge St.
6. Rapid City Area Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled March 9, 2010 at A&B Business, 1822 Kansas City St.
7. Rapid City Area Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled March 18, 2010 at Prairie Edge Trading Company and Galleries, 606 Main Street

Public Works Committee Consent Items

8. Authorize Staff to Solicit Proposals for Energy Efficiency and Renewable Energy Initiative for Rapid City Facilities. Estimated cost \$35,000.00.

9. No. PW122909-01 – Approve Change Order No. 1 to Rapid Construction Company LLC for the Rapid River Subdivision Sanitary Sewer Extension, Project No. SS06-1587 / CIP No. 50653, for a decrease of \$1,387.77.
10. No. PW122909-02 – Approve Change Order No. 1 to Simon Contractors of SD, Inc. for the 5th Street Pedestrian Crossing, Project No. ST08-1764 / CIP No. ST08-1764, for an increase of \$1,140.00.
11. No. PW122909-03 – Approve Change Order No. 2 to Seco Construction, Inc. for the Milo Barber Transportation Center, Project No. GB08-1765 / CIP No. 50476, for an increase of \$25,897.00.
12. No. PW122909-04 – Approve Hartland Court Relocation (Dover Drainage Improvements), Project No. DR05-1452 / CIP No. 50025. Estimated Cost: \$350,000.00.
13. No. PW122909-05 – Approve Well No. 13 Raw Water Meter Installation, Project No. W10-1846 / CIP No. 50781. Estimated Cost: \$30,000.00.
14. No. PW122909-06 – Approve Oak Avenue, Oak Drive, and Oakland Street, Robbinsdale Reconstruction Project, Phase Two, Project Four, Project No. SSW09-1824 / CIP No. 50424. Estimated Cost: \$1,650,000.00.
15. No. PW122909-07 – Approve 2010 Street Division Dump Truck with Snow Plow Attachment. Budgeted item to replace 1995 IHC with 107,337 miles. Estimated cost: \$130,000.
16. No. PW122909-08 – Approve 2010 Street Division Pothole Patch Truck. Budgeted item to replace 1998 ThermoLay Patch Truck with 91,000 miles. Estimated cost: \$155,000.00.
17. No. PW122909-09 – Approve 2010 Street Division Vacuum Street Sweeper. Budgeted item to replace 2001 Elgin GeoVac with 5,938 hours. Estimated cost: \$225,000.00.
18. No. PW122909-10 – Authorize Mayor and Finance Officer to Sign Agreements Necessary for Black Hills Power and Light to Provide Electrical Services for the Landfill Gas Collection System, Project No. LF09-1795 / CIP No. 50762. Agreements include: Application and Agreement for Electrical Services Extension, Right of Way Permit, and Grade Agreement.
19. No. No. PW122909-11 – Authorize Mayor and Finance Officer to Sign Agreements Necessary for Black Hills Power and Light to Provide Electrical Services for the Landfill Leachate Removal and Remediation, Project No. LF07-1681 / CIP No. 50694. Agreements include: Application and Agreement for Electrical Services Extension, Right of Way Permit, and Grade Agreement.
20. No. PW122909-12 – Authorize Mayor and Finance Officer to Sign an Agreement with American Engineering Testing, Inc. for Sampling, Analysis, and Reporting Related to 2010 Environmental Monitoring for the Rapid City Landfill. Amount not to exceed \$47,484.28.
21. No. PW122909-13 – Authorize Mayor and Finance Officer to Sign an Agreement with American Engineering Testing, Inc. for Calculating Greenhouse Gas Emissions for the Rapid City Landfill. Amount not to exceed \$2,000.00.
22. No. PW122909-14 – Authorize Mayor and Finance Officer to Sign a Professional Services Agreement with HDR Engineering, Inc. for 2010 Water Reclamation Facility Improvements, Project No. WRF10-1856 / CIP No. 50791, in the amount of \$92,496.00.

23. No. PW122909-15 – Authorize Mayor and Finance Officer to Sign an Agreement with David and Cara Wise for the Acquisition of a Permanent Utility Easement and H Lot.
24. No. PW122909-16 – Authorize Mayor and Finance Officer to Sign an Agreement with the Hawthorne Ditch Co. for Vacation and Release of Irrigation Right of Way across Portions of Tract 1 and 2 of Bradsky No. 2 Subdivision.
25. No. PW122909-17 – Authorize Mayor and Finance Officer to Sign Agreements Necessary for the State to Reconstruct Highway 16B (Catron Boulevard). Agreements include: Right-Of-Way Agreement, Quit Claim Deed, and Temporary Construction Easement.
26. No. PW122909-18 – Authorize Staff to Purchase Roadway Deicing Salt for 2010 off State Contract. Estimated cost: \$500,000.00.

Legal & Finance Committee Consent Items

27. No. LF123009-01 – Confirm appointment of Tim Erickson, Jim Mann, and Floyd Schafer to the Trenching Board.
28. No. LF123009-02 – Confirm appointment of Gary Brown to the Sign Board of Appeals (Planning Commission Representative).
29. No. LF123009-03 – Confirm appointment of William Morrison and David Ashbridge to the Residential Contractor Board.
30. No. LF123009-04 – Confirm appointment of Bill Waugh to the Tax Increment Financing Guidelines Review Committee.
32. No. LF120209-03A – Acknowledge report regarding 2012 Process – Phase 4.
33. No. LF123009-05 – Acknowledge Capital Improvements Program Committee monthly update for December 2009.
34. No. LF123009-06 – Approve the Capital Plan for Streets, Drainage, MIP Projects for December 2009.
35. Approve recommendation to move forward with the traffic safety analysis to be funded out of the 2010 PL funds.
36. No. LF123009-07 – Approve recommendation of the allocation of Parks and Recreation CIP contingency funds in the amount of \$18,226 to the Wilderness Park Playground Renovation Project.
37. Authorize the Parks and Recreation Director to go directly to Council to request emergency funding (\$50,000) in the event that a boiler at the Rapid City Swim Center fails and Request staff to bring back a report to the January 13, 2010, Legal and Finance Committee meeting regarding an investigation into the warranty on the boilers.
38. Recommend carrying over the \$70,000 for cemetery road paving and irrigation into 2010 to allow staff to begin design work for that project.
40. Request staff to prepare a report regarding the professional service contracts entered into in 2009 under \$25,000 and bring the report to the January 13, 2010, Legal and Finance Committee

meeting and request quarterly reports thereafter regarding the same to the Legal and Finance Committee meeting.

- 41. No. LF123009-08 – Approve Resolution No. 2009-173 Writing Off Credit Balance Water Billing Accounts.

RESOLUTION 2009-173
RESOLUTION WRITING OFF CREDIT BALANCE WATER BILLING ACCOUNTS

WHEREAS, The City Finance Office has determined that certain water billing accounts, shown on Appendix A, attached, and totaling \$861.26 are determined to be expired for refund.

WHEREAS, It is necessary to relieve the accounts payable of the City of Rapid City for these accounts.

NOW, THEREFORE BE IT RESOLVED, that the City Finance Officer be directed to remove such accounts from the active accounts of the city, said accounts being detailed in the official files of the City Finance Office.

Dated this 4th day of January, 2010.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 42. No. LF123009-09 – Approve Resolution No. 2009-174 Writing Off Uncollectable Utility Billing Accounts as amended (\$50 to BHPL).

RESOLUTION 2009-174
RESOLUTION WRITING OFF UNCOLLECTABLE UTILITY BILLING ACCOUNTS

WHEREAS, The City Finance Office has determined that certain utility billing accounts, shown on Appendix A, attached, and totaling \$48,344.10 are uncollectible; and

WHEREAS, It is necessary to relieve the accounts receivable of the City of Rapid City for these accounts.

NOW, THEREFORE BE IT RESOLVED, by the City of Rapid City, that the City Finance Officer be directed to remove such accounts from the active receivable of the City, said accounts being detailed in the official files of the City Finance Office.

Dated this 4th day of January, 2010.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

43. No. LF123009-10 – Authorize Mayor and Finance Officer to sign Combined Election Agreement with Pennington County for the 2010 Municipal Election to be held on June 8, 2010.
44. No. LF123009-11 – Authorize Mayor and Finance Officer to sign Second Amendment to Professional Service Agreement by and Between the City of Rapid City and Occupational Health Network, Inc.
45. No. LF123009-12 – Authorize Mayor and Finance Officer to sign Medical Director Agreement with Dr. Kelly Manning.
46. No. LF123009-13 – Authorize Mayor and Finance Officer to sign Release with Walgar Development Corporation.

END OF CONSENT CALENDAR

Motion was made by Olson, second by Chapman, to approve a request that the confirmation request for new board members from the Mayor's office include a list of the current board members with their expiration dates. Mayor Hanks explained that the Council should have received a list of all committee appointments, and he noted that it will be posted online as well. Hadcock expressed her appreciation. Motion carried.

Motion was made by Olson, second by LaCroix and carried to recommend carrying forward \$112,800 into 2010 for Memorial Park North Irrigation to allow staff to begin design for the project.

CONTINUED CONSENT ITEMS – Items 47 – 48

Motion was made by LaCroix, second by Costello and carried to approve the following items as they appear on the Continued Consent Items.

Continue the following items until January 19, 2010:

47. No. 08PL145 - A request by Sperlich Consulting, Inc. for Ronald Shape for a **Preliminary Plat** on Lot 13 of Block 6, Lots 2 thru 11 of Block 7, Lots 2 thru 11 of Block 8 of Homestead Subdivision, located in a portion of the SE1/4 of the NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 of the NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the eastern terminus of Homestead Street and north of Carl Avenue.
48. No. 09PL061 - A request by Fisk Land Surveying & Consulting Engineers for Hwey Clemmons for a **Layout and Preliminary Plat** on Lots A and B of Clemmons Addition, located in the S1/2 SW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of the balance of Lot 3 of the S1/2SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded on October 1, 1963 and filed in "Plat File N"; Beginning at the northeast corner of said balance of Lot 3, said point being located along the north-south quarter section line and also along the southerly edge of the adjoining railroad right-of-way; thence, southerly along said quarter section line, S00°04'53"W a distance of 1,050.36 feet, more or less; thence, N63°41'40"W a distance of 205.00 feet, more or less; thence, N84°39'26"W a distance of 270.00 feet, more or less; thence, N33°30'20"W a distance of 84.00 feet, more or less; thence, N00°00'00"W a distance of 796.70 feet, more or less; thence, N57°23'22"W a distance of 117.40 feet, more or less; thence, N03°48'46"E a distance of 95.00 feet, more or less; thence, N12°39'32"W a distance of 150.00 feet more or less to a point on the north line of said Lot 3; thence, easterly along the north line of said Lot 3, S89°55'53"E a distance of 168.93 feet more or less to a point on the southerly line of the adjoining railroad right-of-way;

thence, southeasterly along the southerly edge of the adjoining right-of-way, curving to the left on a curve with a radius of 5907.9 feet, a delta of 04°17'31", an arc length of 442.55 feet, and a chord bearing and distance of S62°19'02"E 442.44 feet, more or less; thence, continuing southeasterly along the southerly edge of the adjoining right-of-way, S64°32'29"E a distance of 72.19 feet more or less, to the point of beginning, located at 6299 East Highway 44.

END OF CONTINUED CONSENT ITEMS

NON-CONSENT ITEMS – Items 49 – 62

Motion was made by Olson, second by Chapman and carried to open the public comment for Items 49 – 62.

Ken Abel stated his opposition to the waterfowl feeding ban and said that will not fix the problem. He also pointed out that the Canadian geese eat grass and weeds in the lake. He explained that they are attracted to the open, warm water and sidewalks, so he suggested other options, such as bypassing the warm water discharge, strobe lights and draining the lagoon.

Bob Brandt spoke in reference to Item 56 and explained why he would like the request approved.

Ken Fuerst explained his request, which is Item 58. Ron Bengs also explained the issue and said it was discovered after the home was already built. He indicated that Mr. Fuerst is looking at how this can be avoided in the future.

Debra Jenson, Patricia Pummel, Lisa Modrick, Mike Quasney, Rich Grabel, Jeanette Deurloo, and Mike Modrick all spoke in opposition to the sign code appeal by Lamar Outdoor Advertising. They discussed concerns with the size of the sign and safety due to visual clutter. Terry Olson represented Lamar and explained the intentions of the sign which would grow the business. He mentioned that they offered to remove a sign in exchange for the approval of this request.

Motion was made by LaCroix, second by Olson and carried to close the public comment for Items 49 – 62.

Ordinances

Ordinance 5571 (No. 09RZ055) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by the City of Rapid City 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, located at 2807 Cactus Drive. Motion was made by Olson, second by Waugh and carried that Ordinance 5571 be placed upon its first reading, and the title was fully and distinctly read and second reading set for Tuesday, January 19, 2010.

Ordinance 5572 (No. 09RZ056) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by the City of Rapid City 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, located east of South Valley Drive and south of S.D. Highway 44. Motion was made by Olson, second by LaCroix and carried that Ordinance 5572 be placed upon its first reading, and the title was fully and distinctly read and second reading set for Tuesday, January 19, 2010.

Ordinance 5501 (No. LF040109-24A) An Ordinance to Prohibit the Feeding of Wildlife and Waterfowl in the City of Rapid City by Establishing Chapter 6.16 of the Rapid City Municipal Code. Motion was made by Olson, second by Chapman, that Ordinance 5571 be placed upon its first reading.

Substitute motion was made by Hadcock, second by Weifenbach, to deny first reading of the ordinance. Hadcock said the main issue is clean up. She added that some of the plan is good, but we need to try other things. She pointed out that other cities in South Dakota are doing it right without having to make an ordinance or feeding ban. Olson said that the waterfowl management plan includes strategies to move geese to other locations, and she noted that feeding songbirds will not be illegal under this ordinance. She explained that the first step is management of the waterfowl flock. Weifenbach said he is against the feeding ban and feels that this ordinance is to pacify the Game, Fish and Parks. He discussed keeping the area clean. He mentioned the duck mitigation program at the airport and pointed out there is no feeding ordinance there. He also said we could ask people not to feed the ducks and explain why. He suggested bringing more citizens into the conversation who want to feed the ducks. Kroeger said the problem will not go away with this ordinance as the feeding of ducks and geese does not have anything to do with the number of birds that are here. He suggested an ordinance that prohibits feeding with no fines. Upon vote being taken, the following voted AYE: Hadcock, Kooiker, Weifenbach and Kroeger; NO: Waugh, Martinson, Costello, LaCroix, Chapman and Olson. Motion failed.

Amendment motion was made by Martinson and seconded to change the penalty from \$25.00 to \$5.00. Green confirmed that the ordinance would be enforced but could not confirm the priority it would receive. He said if the Council wants the penalty to be something different than the general penalty it must be specified in the ordinance. There must be a penalty. Kroeger said the Game, Fish and Parks do not need this ordinance to implement a management plan. Chapman said he hopes that they can work together to provide what is sustainable for the community. Green confirmed that you could require someone to leave the park for the day, but it would not be very effective. Olson said that the Game, Fish and Parks is trying to abide by federal rules in order to make any changes to the population of waterfowl within city boundaries. Hadcock said cleaning up the area is the biggest issue and asked how much the City will be fined for not cleaning up. She said if the Game, Fish and Parks require this of Rapid City it should be required across the state. Green confirmed that the ordinance would apply throughout the City, and he also confirmed that the deer management plan includes a fine for feeding deer. He said there were several times that Code Enforcement has used the ordinance to encourage people to stop feeding deer and it was successful. Olson pointed out that the ordinance is broader than waterfowl. Kooiker suggested a friendly amendment to change the fine to \$5 with no court costs, but Green indicated that this request exceeds the authority of City Council. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, and Olson; NO: Weifenbach, Kroeger and Hadcock. Amendment motion carried.

Chapman stated that he hopes those with objection to the ordinance can get together and work to change some things by second reading. Kroeger asked what the plan is to clean up the parks even if this ordinance passes. Mayor Hanks pointed out that he assumes the intent of the motion is to strike Items B and C in the ordinance. Green said we can strike all of the language and the new language will be brought to committee for second reading. Hadcock pointed out that cleaning up the park will cost \$200,000. She hopes that the wildlife group can find out how we can do the clean up plan and fund it. Upon vote being taken, the following voted AYE: Martinson, Costello, LaCroix, Chapman, Olson and Waugh; NO: Kooiker, Weifenbach, Kroeger and Hadcock. Motion carried.

Ordinance 5569 (No. LF120209-01A) An Ordinance to Allow for the Conversion of an On-Premises Sign to Off-Premises Sign for More than One Parcel by Amending Subsection Q of Section 15.28.050 of the Rapid City Municipal Code having passed its first reading on December 21, 2009; motion was made by Olson, second by Chapman, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5569 was declared duly passed upon its second reading.

Legal & Finance Committee Items

Motion was made by Olson, second by Waugh and carried to (No. LF121609-11) Authorize the Mayor and Finance Officer to sign License Agreement for Police Department Training at 108 E. Main Street.

Motion was made by Olson, second by LaCroix, to approve (No. LF123009-14) A request to authorize Mayor and Finance Officer to sign Supplemental Memorandum of Understanding between the City of Rapid City and The Rapid City Area School District to Provide for Reimbursement of Design Expenses for a Performing Arts Facility. Chapman said the City has a great opportunity to figure out how to get historical preservation done inclusive as a process of renovation. He also mentioned the McGillicuddy House and said he hopes the same opportunity is taken with that facility. Motion carried.

Public Works Committee Items

Motion was made by Costello, second by LaCroix, to (No. 09EX117) acknowledge the applicant's withdrawal of a Request to allow a residential driveway approach opening width greater than 20' for a residential lot located at 4122 Quiment Court in Red Rock Meadows Subdivision. Elkins explained that the owner of the home indicated they were no longer interested in pursuing the exception request. Costello pointed out that the builder originally tried to sneak this by the City until a City inspector discovered the issue. Motion carried.

Motion was made by Costello, second by Weifenbach, to grant the (No. CC010410-05) request by Bob Brandt for Exception to City Standards to Allow a Non-Conforming Water and Sewer Line contingent upon the approval of the appropriate documentation. Ellis explained the background on the water and sewer lines and said better upfront planning would have prevented this. He said it was not an extraordinary circumstance. Responding to Chapman, Brandt explained how the lines are set up and said there is no way to get the line to Century Road at this point. The line sizes were briefly discussed, and Ellis confirmed that there is currently no safety issue. It was clarified that the approval is contingent upon approval of the covenant agreement and the creation of an easement. Chapman indicated that he will not support the motion as it will create a problem for a future Council. Ellis explained that there are three options: install public mains, approve the non-conforming lines, or dedicate the mains as public mains. The third option would be least desirable. Landeen confirmed he is comfortable with the current motion but said that if the agreements are not approved then there would be no variance. If the exception is denied, Brandt said that On The Border would have to shut down so they can reroute the sewer. He also confirmed the original intention was to have the water, sewer and parking lots as a common area between the three lots but said they need to split the lots now due to ownership issues with a minor partner of On The Border. Upon vote being taken, the following voted AYE: Costello, LaCroix, Weifenbach, Kroeger, Hadcock and Waugh; NO: Kooiker, Chapman, Olson and Martinson. Motion carried.

Motion was made by Costello, second by LaCroix and carried to (No. 09FV014) approve a request by FMG, Inc. for Good Samaritan Society to consider an application for a **Fence Height Exception to allow a seven foot high fence in the Medium Density Residential and General Agriculture Zoning Districts** on the SE1/4 SW1/4 and the SW1/4 SW1/4 and the NE1/4 SW1/4 and the NW1/4 SE1/4 all in Section 29, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of St. Martins Drive and Sturgis Road with the following stipulation: The fence shall be constructed in conformance with the architectural plans and elevations submitted as part of this Fence Height Exception.

Motion was made by Costello, second by LaCroix, (No. 09VE017) to Approve a request by K1 Construction, Inc. to consider an application for a **Vacation of a portion of a Minor Drainage and Utility Easement** on Lot 10 of Block 7 of Red Rock Meadows Subdivision, located in the SW1/4 NW1/4, Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 6515 Seminole Lane. Responding to Hadcock, Fuerst confirmed his intention is to have

this request approved. Landeen explained that the committee decided to ask staff to take this to the Residential Contractor Board for solutions. Responding to Weifenbach, Fuerst explained that builders often do their own layout, and he said he inadvertently found an incorrect pin which caused these problems. Elkins explained that years ago the Council chose not to change the ordinance that would have required that pins are identified by a surveyor. She also confirmed that they have reviewed the area to ensure adequate drainage. The engineer confirmed that he accepts the liability and said he has demonstrated that the easement will handle the one hundred year event. Elkins stated that the basis for the staff approval recommendation is Mr. Bengs' engineering efforts. Costello hopes there is a solution for this situation in the future that does not employ extra man hours by the City. LaCroix mentioned sending other related issues to the Residential Contractor Board for recommendation to help the Council make decisions. Motion carried.

RESOLUTION 2010-003

RESOLUTION OF VACATION OF A PORTION OF A MINOR DRAINAGE AND UTILITY EASEMENT

WHEREAS it appears that a portion of the minor drainage and utility easement on Lot 10 of Block 7 of Red Rock Meadows Subdivision, located in the SW1/4 NW1/4, Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 6515 Seminole Lane, is no longer needed; and

WHEREAS the owner(s) of the above-described property desire that said portion of the utility and drainage easement be vacated and released.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the portion of the utility and drainage easement heretofore described, as shown on Exhibit "A", attached hereto and incorporated herein, is not needed and is hereby vacated.

Dated this 4th day of January, 2010.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

Bids

The following companies submitted bids for (No. CC122109-02.1) Wilderness Park Playground Project No. PR08-6004 opened December 8, 2009: Complete Concrete Inc., Second Nature, MAC Construction Company Inc., J Scull Construction Service Inc., SECO Construction Inc., RCS Construction Inc., J&J Asphalt, and Tru-Form Construction Inc. Staff reviewed the bids and recommends bid award to Second Nature. Motion was made by LaCroix, second by Chapman and carried to approve the bid award to the lowest responsible bidder, Second Nature, in the amount of \$111,445, which includes the base bid for \$81,200, Alternate 2 for \$6,575 and Alternate 3 for \$23,670.

The following company submitted a bid for (No. CC010410-02) High Nitrate Content Hay Bales opened December 29, 2009: Triple T Ranch. Staff reviewed the bid and recommends bid award to Triple T Ranch. Ellis explained that the price translates to \$41.75 per ton, which is a good price. Motion was made by Chapman, second by Weifenbach, to award the bid to the lowest responsible bidder, Triple T Ranch, in the amount of \$12,608.40. Motion carried.

Staff Items

Ellis addressed the (No. CC010410-03) Vision 2012 Update and indicated there is on change order update for the Civic Center project which was approved by Council on December 7, 2009 for \$15,832.00. Motion was made by Waugh, second by Olson and carried to acknowledge the report.

Appeals

Sign Code Appeals

Motion was made by Olson, second by Hadcock, to (No. CC010410-04) deny an application for a **Variance to the Sign Code to exceed the height and square footage of an off premise sign, to reduce the spacing from other off premise signs, to allow an on premise sign within 50 feet of an off premise sign and to allow an over head service lateral for an off premise sign per Section 15.28.160 of the Rapid City Municipal Code** located at 1808 Mount Rushmore Road, legally described as Lot 1-3, Block 21, West Boulevard, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. Weifenbach commented on Lamar's willingness to work with the City on sign codes. It was indicated that moving the sign down would cause obstructions, and Weifenbach encouraged a compromise. Waugh reminded the Council that the sign board is made of people from the sign industry and encouraged Council to uphold the denial. Kooiker briefly discussed the history of the sign and said if Mt. Rushmore Road is stuck with the sign it should be left as is rather than an LED. Motion carried.

PUBLIC HEARING ITEMS – Items 63 – 68

Motion was made by Olson, second by LaCroix and carried to open the public hearing for Items 63 – 68. No comments were offered.

CONTINUED PUBLIC HEARING CONSENT ITEMS – Items 63 – 64

Motion was made by Weifenbach, second by Waugh and carried to approve the following items as they appear on the Continued Public Hearing Consent Items.

Continue the following items until January 19, 2010:

63. Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of curb, gutter, street light conduit, sidewalk along one side of the street and water along the access street as they abut a portion of the balance of Lot 3 of the S½SW¼, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded on October 1, 1963 and filed in "Plat File N"; Beginning at the northeast corner of said balance of Lot 3, said point being located along the north-south quarter section line and also along the southerly edge of the adjoining railroad right-of-way; thence, southerly along said quarter section line, S00°04'53"W a distance of 1,050.36 feet, more or less; thence, N63°41'40"W a distance of 205.00 feet, more or less; thence, N84°39'26"W a distance of 270.00 feet, more or less; thence, N33°30'20"W a distance of 84.00 feet, more or less; thence, N00°00'00"W a distance of 796.70 feet, more or less; thence, N57°23'22"W a distance of 117.40 feet, more or less; thence, N03°48'46"E a distance of 95.00 feet, more or less; thence, N12°39'32"W a distance of 150.00 feet more or less to a point on the north line of said Lot 3; thence, easterly along the north line of said Lot 3, S89°55'53"E a distance of 168.93 feet more or less to a point on the southerly line of the adjoining railroad right-of-way; thence, southeasterly along the southerly edge of the adjoining right-of-way, curving to the left on a curve with a radius of 5907.9 feet, a delta of 04°17'31", an arc length of 442.55 feet, and a chord bearing and distance of S62°19'02"E 442.44 feet, more or less; thence, continuing southeasterly along the southerly edge of the adjoining right-of-way, S64°32'29"E a distance of 72.19 feet more or less, to the point of beginning located at 6299 East Highway 44. (09SV020)

64. No. 09SV020 - A request by Fisk Land Surveying & Consulting Engineers for Hwey Clemmons for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the street surface width from 24 feet to 18 and 10 feet, respectively, as per Chapter 16.16 of the Rapid City Municipal Code** on Lots A and B of Clemmons Addition, located in the S1/2 SW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as A portion of the balance of Lot 3 of the S½SW¼, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded on October 1, 1963 and filed in "Plat File N"; Beginning at the northeast corner of said balance of Lot 3, said point being located along the north-south quarter section line and also along the southerly edge of the adjoining railroad right-of-way; thence, southerly along said quarter section line, S00°04'53"W a distance of 1,050.36 feet, more or less; thence, N63°41'40"W a distance of 205.00 feet, more or less; thence, N84°39'26"W a distance of 270.00 feet, more or less; thence, N33°30'20"W a distance of 84.00 feet, more or less; thence, N00°00'00"W a distance of 796.70 feet, more or less; thence, N57°23'22"W a distance of 117.40 feet, more or less; thence, N03°48'46"E a distance of 95.00 feet, more or less; thence, N12°39'32"W a distance of 150.00 feet more or less to a point on the north line of said Lot 3; thence, easterly along the north line of said Lot 3, S89°55'53"E a distance of 168.93 feet more or less to a point on the southerly line of the adjoining railroad right-of-way; thence, southeasterly along the southerly edge of the adjoining right-of-way, curving to the left on a curve with a radius of 5907.9 feet, a delta of 04°17'31", an arc length of 442.55 feet, and a chord bearing and distance of S62°19'02"E 442.44 feet, more or less; thence, continuing southeasterly along the southerly edge of the adjoining right-of-way, S64°32'29"E a distance of 72.19 feet more or less, to the point of beginning, located at 6299 East Highway 44.

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion was made by Waugh, second by Costello and carried to close the public hearing for items 63 – 68.

CONSENT PUBLIC HEARING ITEMS – Item 65 – 67

Motion was made by Hadcock, second by Olson and carried to approve the following items as they appear on the Consent Public Hearing Items.

Alcohol Licenses

65. Dadah Kids Corp. DBA Pauly's Pizzeria and Sub Co., 1624 E St. Patrick Street #101 for a Retail (on-off sale) Wine License
66. South City Investments LLC DBA South City Billiards, 640 E St. Patrick Street for a Retail (on-off sale) Malt Beverage License WITH Video Lottery TRANSFER from Michael O. Wieseler DBA Horseshoe Bar, 1407 ½ E North Street
67. Black Hills Chapter of Germans from Russia Heritage Society for a Special Event Beer License for an event scheduled for February 28, 2010 at the Parish Center, 4500 Jackson Blvd.

END OF CONSENT PUBLIC HEARING CALENDAR

NON-CONSENT PUBLIC HEARING ITEMS – Item 68

Ordinance 5568 (No. 09RZ054) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Renner & Associates for Rapid City Area School District No. 51-4 for a **Rezoning from Flood Hazard District to Civic Center District**

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, located south of Central High School between North Mount Rushmore Road and West Boulevard North and north of Omaha Street having passed its first reading on December 21, 2009; motion was made by Olson, seconded and carried that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5568 was declared duly passed upon its second reading.

Motion was made by Olson second by Chapman and carried to reconsider Item 4. Landeen explained that the address in Item 4 needs to be corrected.

Motion was made by Olson, second by Chapman and carried to approve a request from First National Bank Rapid City, 510 9th Street for a Retail (on-sale) Liquor License TRANSFER from George Motor and Supply Company DBA Murphy's Bar, 510 9th Street

BILLS

The following bills have been audited:

P/ROLL PERIOD END 12/31/09, PD 12/31/09		1,258,627.14
PIONEER BANK & TRUST	12/31/09 P/ROLL TAXES, PD 12/31/09	301,336.17
SD DEPT REVENUE	SALES TAX PAYABLE, PD 12/23/09	29,452.08
SD DEPT REVENUE	EXCISE TAX PAYABLE, PD 12/23/09	216.84
SD DEPT REVENUE	CCTR SALES TAX, PD 12/23/09	23,750.03
FIRST ADMINISTRATORS	PD 12/29/09	51,854.01
MONTANA DAKOTA UTILITIES	NATURAL GAS, PD 12/29/09	252.20
MONTANA DAKOTA UTILITIES	NATURAL GAS, PD 12/30/09	6,056.51
US BANK	CREDIT CARD CHARGES, PD 12/30/09	14,980.36
BLACK HILLS INSURANCE	2010 INSURANCES	898,839.96
CITY WORK COMP	2010 WORK COMP	449,297.00
CITY WORK COMP-CDEV	2010 WORK COMP	568.00
GOVT FINANCE OFFICERS ASSOC	GASB SUBSCRIPTION PLAN	205.00
HUMANE SOCIETY	2010 SUBSIDY	20,168.16
IIARC	2010 WORK COMP	149,766.00
IIARC-CDEV	2010 WORK COMP	189.00
RC CVB	SUBSIDY	3,489.59

CITY COUNCIL**JANUARY 4, 2010**

SD AIRPORT MANAGEMENT ASSOC	2010 ASSOCIATION DUES	25.00
SD BUILDING OFFICIALS' ASSOC	2010 ASSOCIATION DUES	90.00
SD ASSOC OF CODE ENFORCEMENT	2010 ASSOCIATION DUES	40.00
SD GOVT FINANCE OFFICERS' ASSOC	2010 ASSOCIATION DUES	160.00
SD GOVT HR ASSOC	2010 ASSOCIATION DUES	150.00
SD MUNICIPAL ATTORNEYS' ASSOC	2010 ASSOCIATION DUES	35.00
SD MUNICIPAL LEAGUE	2010 MEMBERSHIP DUES	24,462.34
SD POLICE CHIEFS' ASSOC	2010 MEMBERSHIP DUES	178.45
SD MUNIC STR MAINT ASSOC	2010 ASSOCIATION DUES	35.00
STATE BAR OF SD	2010 MEMBERSHIP DUES	1,660.00
UNITED STATES POSTMASTER	FIRST-CLASS PRESORT ANNUAL FEE	185.00
	SUBTOTAL	3,236,068.84
RSVP	2010 INSURANCES	193.04
RSVP	2010 WORK COMP	74.00
RSVP	2010 WORK COMP	25.00
	TOTAL	3,236,360.88

Preston requested to correct the SD Municipal Attorney's Association dues from \$35.00 to \$140.00. The new bill list total is \$3,236,465.88. Motion was made by Chapman, second by Costello and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof.

EXECUTIVE SESSION for the purposes permitted by SDCL 1-25-2

Motion was made by Chapman second by Costello and carried to go into Executive Session at 9:27 P.M. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 11:32 P.M. with all members present.

STAFF DIRECTION

Motion was made by Costello, second by Olson and carried to direct the Council Leadership to work with the City Attorney's Office in accordance with the discussion in executive session.

Green explained that there were not enough signatures on the BID petitions, so he recommended canceling the public hearing that was scheduled for January 11, 2010. Motion was made by Chapman, second by LaCroix and carried to cancel the special Council meeting on January 11, 2010.

Green said there has now been a sufficient number of signatures presented and pointed out that February 8, 2010 would be the soonest date the hearing could be set. Motion was made by Costello, second by Weifenbach, to reschedule the public hearing to a date to be determined.

Substitute motion was made by Waugh, second by LaCroix, to continue setting the hearing date to the January 19, 2010 City Council meeting. Green explained that all of the signatures pages were not turned in and some parcel owners did not sign for all parcels. Motion carried.

ADJOURN

As there was no further business to come before the Council at this time, the meeting was adjourned at 11:37 P.M.

ATTEST:

CITY OF RAPID CITY

Finance Office

Mayor

(SEAL)