

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota  
February 2, 2004

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, February 2, 2004 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Alan Hanks, Jean French, Sam Kooiker, Tom Murphy, Bill Waugh, Martha Rodriguez, Ron Kroeger, Jeff Partridge and Rick Kriebel. The following Alderpersons arrived during the course of the meeting: Ray Hadley; and the following were absent: None.

Staff members present included Finance Officer Jim Preston, Growth Management Director Marcia Elkins, City Attorney Jason Green, Police Captain Chris Grant, Fire Chief Gary Shepherd, Engineering Division Manager Dan Coon and Administrative Assistant Jeri Lynn.

***Approval of Minutes***

Motion was made Waugh, seconded by French and carried to **approve the minutes** of January 19, 2004.

***Adoption of the Agenda***

The following changes were made to the agenda:

- Continue the Citizen of the Month Award until February 16, 2004
- Add No. 4A – Update from the Undoing Racism Task Force
- Add No. 4B – Travel Request from the Police Department
- Move No. 113 to Mayor's Items (4C)
- Add a discussion regarding changing the terms of office under Council Items (French)
- Add an Executive Session at the end of the meeting to discuss pending litigation
- Delay action on No. 111 until after the executive session
- Move No. 82 to the Mayor's Items (4D)
- Add Item 108A, First Reading of Ordinance 4023 dealing with adoption of the fire code

Motion was made by Kooiker, seconded by Rodriguez and carried to approve the agenda, as amended.

***General Public Comment***

Members of the **Allied Arts Fund Drive** invited the Council and public to the fund drive Kick-Off being held on Thursday, February 12, 2004 at the Radisson Hotel, beginning at 5:30 P.M.

Michael Lieberman, Yvonne Bear Stop and James Skinner presented a video to the City Council relative to the **Indian Warrior statue** in front of Prairie Edge in the downtown area. Lieberman explained that they started this project because they, as well as many others, disagree with what the statue portrays. They feel the statue represents that all people of native American heritage are a conquered, defeated people and they should be treated as such. Lieberman explained that they would like to the city to change the statue in some manner to show more dignity and pride among the Lakota and Native American people. Bear Stop asked that the Council not take any action relative to the statue until after they have viewed the video. Skinner stated that he feels the statue is offensive to Native American people. He would like a change made to show pride in the Lakota heritage and culture. Patti Behrens stated that she was disappointed when she first saw the statue because it could be a positive statement for the Indian people rather than a negative. She suggested that a

different statue be put up at this location, perhaps of a former governor or mayor. That would be a positive thing for the community. Victor Standing Soldier stated that he would be opposed to having the Indian warrior statue in front of Prairie Edge removed. He feels it should remain at this location even though it is thought provoking. The statue attracts people to this area of the community and gets the attention of Native American people when they come to Rapid City. Mayor Shaw explained that the statue is not owned by the City. It was commissioned by the people who own Prairie Edge; they own and maintain it. Other than allowing it in the public right-of-way, the city has no control over the statue. Shaw suggested that this issue be referred to the Public Art Committee and interested persons could meet to discuss this issue. Partridge commended the individuals who brought this issue to the Council tonight. He also recommended that interested persons meet with the Downtown Empowerment District because one of the issues they are discussing is how our city looks to new visitors to the community.

### ***Items from the Mayor***

Rod Johnson provided an update to the City Council on the **2012 Projects** currently under construction. French asked what amenities the new indoor pool will have. Johnson stated that it will have a large room that can be used for aerobic classes, dance classes and other similar activities. However, there will be no weight training equipment or cardio vascular equipment in the facility. The anticipated opening for the indoor pool is the middle of May.

Mayor Shaw briefed the Council on the meetings being held by the **Undoing Racism Task Force**. Their next meeting is scheduled for February 10, 2004 at 6:30 P.M. at the Rushmore Plaza Civic Center.

Motion was made by Partridge, seconded by Rodriguez and carried to approve a **travel request** from the Police Department to have three individuals from CALEA come to Rapid City to assist the department with its accreditation process, at an approximate cost of \$2,965.68.

### ***Items from Council Members/Liaison Reports***

The next item discussed by the Council was No. PW012704-01 – **Water damage from broken service line** (polyB) between main and curb stop, David Elkjer, 3401 Hallmark Court. Elkjer explained that his basement was flooded last December because of a broken polyb water line between the water main and the curb stop. He has submitted a request that the City reimburse him for approximately \$5,139.46 in damages to his personal property because of this water line break. He added that most insurance policies don't cover water damage from any external source. Elkjer stated that according to policy, the city has taken responsibility to repair polyb lines throughout the city. The policy also states that the city will only repair these lines when they brake, and that the city will not pay for damages caused by the broken water line. Elkjer stated that he has talked to individuals, including the former Public Works Director, who have indicated that the city has repaired polyb lines before they break in some circumstances; and also of the city either fixing personal or real property or paying for those repairs (driveways). Both of these instances are exceptions to the city's policy. No documentation was submitted to substantiate these claims. Elkjer stated that since the city has known about the problem with polyb lines for sometime, he feels they should pay for the repairs to his basement. Kriebel stated that the city has never been responsible for these lines. The city did agree to assist with repair costs when these lines break, because of the financial hardship it creates for citizens. He added that water lines were commonly made from this material and there was no negligence on the part of the city for these water lines. Kriebel stated that he feels the city should pay for the repair of the line from the main to the curb stop, but not for repairs to personal property. Hanks asked the City Attorney what the city's responsibility is on this issue. City Attorney Green explained that the ordinance clearly sets out that the responsibility for service lines lies with the owner of the property that is

served. The ordinance also clearly sets out that the service line is everything from the water main in the street to the house. The resolution previously approved by the council authorizes assistance with the replacement of polyb lines when they break. This does not alter the language of the ordinance. Even though the city has agreed to assist in the cost of replacing some polyb lines, that does not obligate the city to go beyond that to a case where we would compensate someone for damage suffered beyond the break in the water line. Motion was made by Rodriguez and seconded by Waugh to approve the request and authorize payment to David Elkjer in the amount of \$5,139.46. Green stated that it is his opinion that the motion on the floor is not authorized by the ordinance. However, if the council wishes to go through with it, a funding source for the payment should be identified. Substitute motion was made by Kriebel and seconded by Kroeger to follow the existing policy and pay for repair of the polyb line from the water main to the curb stop. Partridge referred to a letter prepared by the City's Risk Manager who did extensive research into this matter and could find no evidence of a lawsuit or settlement between the City and Larry Lewis for the Partridge Development. Partridge spoke in favor of the motion on the floor which will confirm the existing policy to pay for replacement of the lines, from the main to the curb stop.

Hadley entered the meeting at this time.

Kriebel stated that the question before the Council at this time is should the taxpayers pay for repair to Mr. Elkjer's personal property and he doesn't feel that they should. Hadley stated that according to the city's ordinance and policy on this issue, he cannot support the request to pay for personal property damage. There are many instances throughout the community where water or sewer lines fail and the city is not responsible for damages to personal property. Roll call vote was taken: AYE: Hanks, Kooiker, Murphy, Hadley, Kroeger, Kriebel and Partridge; NO: French, Rodriguez and Waugh. Substitute motion carried, 7-3.

Motion was made by Rodriguez, seconded by Murphy and carried to confirm appointment of Joel Landeen as **Assistant City Attorney** II (No. LF012804-17). Mayor Shaw issued the Oath of Office to Landeen and welcomed him to the City Attorney's Office.

Alderman French requested that the Council discuss changing the timeframe when newly elected council members take office. Historically, the new members are sworn in at the first regular meeting in the month following the election, at the end of the meeting. Motion as made by French and seconded by Hanks to take the terms of office to Legal & Finance to move up the installation of new members on Council to the beginning of the meeting. Kooiker stated that the Council adopted new Policies and Procedures and according to that document, newly elected officials will take office at the beginning of the meeting. City Attorney Green explained that state law mandates that the Council members take office at the first regular meeting in the month following the election. He added that the City Council procedures require that newly elected officials be sworn in at the beginning of the meeting rather than the end, beginning in 2004. Mayor Shaw ruled the motion on the floor out of order because this action is already in place. No further action was taken.

### ***Continued Items Consent Calendar – Items 5-34***

Motion was made by Hadley, seconded by Rodriguez and carried to continue the following items, as noted:

#### Continue the following items until February 16, 2004:

5. No. 02PL116 - A request by Dream Design International, Inc. for a **Final Plat** on Lot 1, Block 1; Lots 1 thru 5, Block 2; Lots 1 and 2, Block 3; Lots 1 and 2, Block 4; Lots 1 thru 4, Block 5; Lot 1, Block 6 and dedicated Street, Big Sky Business Park, located in the SW1/4 SW1/4 and the S1/2 NW1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 SW1/4 NW1/4 including private drive, less Lot H2 and less right-of-way; the

unplatted portion of the E1/2 SW1/4 NW1/4; and the unplatted portion of the S1/2 GL3; S1/2 GL4 less Lot 1 and less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and less right-of-way; all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Homestead Street and ElkVale Road.

6. No. 03CA044 - A request by WellSpring, Inc. for an **Amendment to the Comprehensive Plan to change the future land use designation on a 1.240 acre parcel of land from Light Industrial to Office Commercial with a Planned Commercial Development** on Lots 1 thru 5, Block 11, Bradsky Subdivision, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1205 E. St. James Street.
7. No. 03PL035 - A request by Renner & Sperlich Engineering Company for Dean Kelly for a **Layout, Preliminary and Final Plat** on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.
8. No. 03PL042 - A request by Renner and Sperlich Engineering Co. for Gordon Howie for a **Layout, Preliminary and Final Plat** on Lots 1 thru 5 of Block 18, Lots 1 thru 6 of Block 19, Lot 1 of Block 20, and Lots 1 thru 12 of Block 21, and Drainage Lot A, Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the balance of Tract T of Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located west of the intersection of Pluto Drive and Reservoir Road.
9. No. 03PL045 - A request by Michael Hanson for Kent Hagg Esq. for Burnell A. Lutz for a **Preliminary and Final Plat** on Lots A and B of Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1903 North Maple Avenue.
10. No. 03PL050 - A request by Mark Polenz for Daniel Schoenfelder for a **Preliminary Plat** on Lot A and Lot B of Schoenfelder Subdivision all located in the NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, legally described as Lot 1 of Lot C of Schamber Section 9 NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, located at 3505 Western Avenue.
11. No. 03PL051 - A request by Doug Sperlich for Jeff Stone for a **Final Plat** on Lots 1, 2 and 3 of Block 1 of Sunset Heights Subdivision, located in the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current terminus of Broadmoor Drive.
12. No. 03PL052 - A request by Dream Design International, Inc. for a **Final Plat** on Lots 1-4, Block 1 and Outlot D; Lots 1-7, Block 2; Lots 1-3, Block 3, of Stoney Creek South Subdivision and Dedicated Bendt Drive and Major Drainage Easements located in the NW1/4 SW1/4 and the SW1/4 SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the S1/2 NW1/4 SW1/4 less Lots H1 and H2, Section 22, T1N, R7E; a portion of the unplatted balance of the N1/2 NW1/4 SW1/4 located south of Catron

Boulevard, Section 22, T1N, R7E; a portion of the unplatted balance of the E1/2 SW1/4 less Stoney Creek Subdivision and less Lot H2, Section 22, T1N, R7E; and, a portion of the unplatted balance of the SW1/4 SW1/4 less Lot H1 and Lot P1, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of Sheridan Lake Road and Catron Boulevard.

13. No. 03PL063 - A request by Fisk Land Surveying and Consulting Engineers for Dakota Land Development for a **Final Plat** on Lots 1 thru 3, Vista Lake Subdivision #2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 and a portion Lot F-1 of the Fish Hatchery Subdivision, located in the NE1/4 SW1/4 and the N1/2 SE1/4 of Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Jackson Boulevard north of the Fish Hatchery.
14. No. 03PL088 - A request by Dream Design International, Inc. for Sally Broucek for a **Final Plat** on Lots 1 thru 10 of Block 1 and Lots 1 thru 19 of Block 2 of Stoneridge Subdivision located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the W1/2 of the S1/2 of Government Lot 4 located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the end of Parkview Drive.
15. No. 03PL097 - A request by Renner & Sperlich Engineering Company for Doeck, LLC for a **Preliminary and Final Plat** on Lots 12-21 Block 1, Lots 12-40 Block 2, Lots 1-12 and 21-24 Block 3, and Lots 1, 13, 14, 30 and 31 Block 5 of Auburn Hills Subdivision, located in the NW1/4 of SW1/4 and the SW1/4 of NW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SW1/4 and the SW1/4 of the NW1/4 located in the NW1/4 of SW1/4 and the SW1/4 of NW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Haines Avenue and north and south of Amber Drive.
16. No. 03PL099 - A request by FMG, Inc. for Bill Freytag for a **Final Plat** on Lots 6 through 9 of Block 4 and Lot 21R of Block 1 and Lot 22R of Block 1, Tyler Knue Subdivision, located in NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 21 and a portion of Lot 22 of Block 1 and a portion of Lot 22 of Block 1 and a portion of the unplatted balance of the NW1/4 NW1/4 all of Tyler Knue Subdivision and dedicated public right of way shown as Nicole Street, located in NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Nicole Street.
17. No. 03PL104 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lot 13 and Tract A, Block 4; Lots 6 thru 12, Block 16; Lots 1A thru 12A, Lots 1B thru 12B, and Tract B, Block 18; Tract C and Dedicated Streets; Big Sky Subdivision, located in the N1/2 NW1/4 SE1/4 and the SW1/4 NE1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the SW1/4 NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, the unplatted portion of the NW1/4 SE1/4 less Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Patricia Street, Aurora Drive and Carl Avenue.
18. No. 03PL117 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 1 and 2, Block 12; Lots 1 thru 7, Block 15; Lots 1 thru 10, Block 17; Lots 1 thru 17, Block 18; Outlots G-1, G-2, G-3 and X and dedicated streets, Red Rock Estates, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the NW1/4 of Section 29, T1N, R7E,

BHM, Rapid City, Pennington County, South Dakota, located along the extension of Prestwick Road and Bethpage Drive.

19. No. 03RZ052 – Second Reading, **Ordinance 4009**, a request by WellSpring, Inc. for a **Rezoning from Flood Hazard District to Office Commercial District** on Lots 1 thru 3, Block 11, Bradsky Subdivision, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1205 E. St. James Street.
20. No. 03RZ053 - Second Reading, **Ordinance 4010**, a request by WellSpring, Inc. for a **Rezoning from Medium Density Residential District to Office Commercial District** on Lots 4 and 5, Block 11, Bradsky Subdivision, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1205 E. St. James Street.
21. No. 03SV028 - A request by Dream Design International for Doyle Estes (DTH LLC) for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, sewer, watermain and street light conduit as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 3-7, Block 13; and dedicated Streets, Big Sky Subdivision, located in the SE1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as S1/2 GL3 less Big Sky Subdivision; S1/2 GL4 less Lot H1 and Less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and Less Right-of-Way, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Buddy Court off of Degeest Drive.
22. No. 03SV035 - A request by Renner and Sperlich Engineering Company for 16 Plus LLP for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement on the section line highway and to waive the requirement to install curb, gutter, sidewalk and street light conduit on U.S. Highway 16 as per Chapter 16.16 of the Rapid City Municipal Code** on a portion of Tract 2 of Pioneer Subdivision, located in the NE1/4 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at a point on the section line highway between Sections 27 and 34, common to northeasterly corner of said Tract 2 of Pioneer Subdivision, and the Point of Beginning; thence, first course: S00°00'00"E, along the easterly boundary of said Tract 2 of Pioneer Subdivision, common with the westerly edge of the statutory section line right-of-way, and common with the westerly edge of U.S. Highway 16 right-of-way, a distance of 109.69 feet, to an angle point; thence, second course: S07°20'00"W, along the easterly boundary of said Tract 2, common with the westerly edge of the right-of-way of U.S. Highway 16, a distance of 303.97 feet, to the northeasterly corner of Lot 3 of Moon Ridge Subdivision; thence, third course: S89°53'10"W, along the northerly boundary of said Lot 3 of Moon Ridge Subdivision, a distance of 1247.37 feet, to a point on the westerly boundary of said Tract 2, common with the northwesterly corner of said Lot 3 of Moon Ridge Subdivision; thence, fourth course: N00°11'53"E, along the westerly boundary of said Tract 2, a distance of 411.10 feet, to a point on the section line common to Section 27 and 34, common to a point the southerly boundary of Lot 5 of Godfrey Addition, and common to the northwesterly corner of said Tract 2; thence fifth course: N89°52'53"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 4 and 5 of said Godfrey Addition, a distance of 796.18 feet, to an angle point; thence, sixth course: N89°50'57"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 3 and 4 of said Godfrey Addition, a distance of 466.12 feet, to an angle point; thence, seventh course: S89°10'40"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, a distance of 22.45 feet, to the northeasterly corner of said Tract 2, and the Point of Beginning; said parcel

contains 12.00 acres more or less, located northwest of the U.S. Highway 16 and Moon Meadows Road.

23. No. 03SV039 - A request by Gordon Howie for Galen Steen for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sewer, water, street light conduit, sidewalk and pavement as per Chapter 16.16 of the Rapid City Municipal Code** in the SW1/4 NE1/4; the west 66 feet of the NW1/4 NE1/4, Section 25, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, a portion of the E1/2 of Section 25, located in the E1/2 Section 25, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at the center 1/4 corner of Section 25, and the Point of Beginning, thence, first course: N90°00'00"E, along the 1/4 line of Section 25, a distance of 396 feet; thence, second course: S00°00'00"W, a distance of 624.43 feet; thence, third course: N90°00'00"W, a distance of 396.00 feet, to a point on the 1/4 line of Section 25; thence, fourth course: N00°00'00"E, along the 1/4 line of Section 25, a distance of 624.43 feet, to the center 1/4 corner of Section 25, and the point of beginning; said parcel contains 5.677 acres more or less, located southeast of the intersection of Anderson Road and South Side Drive.
24. No. 03SV048 - A request by D.C. Scott Co. for Jerry Burrow for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and pavement and to waive the requirement to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 16 of Twilight Hills Subdivision, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, located at 5252 Ross Court.
25. No. 03SV050 - A request by Fisk Land Surveying & Consulting Engineers Inc. for Rapid City Congregation of Jehovah's Witnesses for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 Revised of Block 7 of Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 4, Block 7; and, Lots 5 and 6, Block 8; all located in Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of West Boulevard North along Oriole Drive and Thrush Drive.
26. No. 03SV051 - A request by Olsen Development Co., Inc. for a **Variance to the Subdivision Regulations to waive the requirement to reduce the easement width from 49 feet to 32 feet, to reduce the easement width from 52 feet to 32 feet, to reduce the pavement width from 27 feet to 24 feet, to waive the requirement to provide sidewalks on both sides of the street, and to allow a lot twice as long as it is wide as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 28, Block 5, Windmere Subdivision, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Block 5, Windmere Subdivision, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located in the southwest corner of Twilight Drive and Meadow Lane.
27. No. 03VR015 - A request by Sperlich Consulting, Inc. for Dean Kelly for a **Vacation of Section Line Highway** on the section line highway located along the north lot line of Lot 6, Miracle Pine Subdivision, all located in the SE1/4 of SW1/4 of Section 16 and in the NE1/4 of NW1/4 of Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.
28. No. 04OA002 – Second Reading, **Ordinance 4014** entitled An Ordinance Amending Section 17.50.250(C) of the Rapid City Municipal Code Pertaining to Provisions for Wheelchair Ramps.

Continue the following items until March 1, 2004:

29. No. 03CA041 - A request by Franklin Simpson for an **Amendment to the Comprehensive Plan to change the future land use designation on a 1.792 acre parcel of land from Park Forest to Medium Density Residential with a Planned Residential Development** on a parcel of land described by metes and bounds as beginning at the southwesterly corner of Tract H of the Wesleyan Christian Center, Thence first course: N76°34'25"E a distance of 263.55 feet to the SE corner of said Tract H; Thence second course: N69°06'06"E a distance of 98.75 feet to the westerly right-of-way line of Sunny Springs Road; Thence third course: S17°49'19"E a distance of 195.45 feet to an angle point of Sunny Springs Road right-of-way; Thence fourth course: S27°11'30"W a distance of 14.14 feet to the north right-of-way line of Harmony Heights Lane; Thence fifth course: S72°12'18"W a distance of 256.21 feet to a point of curvature on the north line of Harmony Heights Lane; Thence sixth course: along an arc to the right, which radius is 170.00 feet an arc distance of 110.36 feet to a point of tangency on the north line of Harmony Heights Lane; Thence seventh course: N70°21'42"W a distance of 53.48 feet to the east right-of-way line of Plaza Boulevard; Thence eighth course: along the east right-of-way line of Plaza Boulevard, on an arc to the left, which radius is 333.35 feet an arc distance of 162.41 feet, and the chord bearing of N00°31'03"E a distance of 160.81 feet, to the point of beginning, said parcel of land containing 1.792 acres more or less, all lying in the NE1/4 SE1/4 of Section 27 and in the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Harmony Heights Lane.
30. No. 03PL091 - A request by Renner and Sperlich for Doeck, LLC for a **Layout, Preliminary and Final Plat** on Tracts A and B, Auburn Hills Subdivision, located in the NW1/4 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SW1/4 located in the NW1/4 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of Chalkstone Drive and Auburn Drive.
31. No. 03PL094 - A request by Renner and Sperlich Engineering Company for 16 Plus LLP for a **Preliminary and Final Plat** on Lot 2, Moon Ridge Subdivision, located in the NE1/4 of the SE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 2 of Pioneer Subdivision located in the NE1/4 of the SE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the U.S. Highway 16 and Moon Meadows Road.
32. No. 03PL112 - A request by Franklin Simpson for a **Preliminary and Final Plat** on Tract M1 and M2, Fountain Springs Business Park, located in the NE1/4 SE1/4 of Section 27, and the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 SE1/4 of Section 27 and a portion of the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Harmony Heights Lane.
33. No. 03RZ049 - Second Reading, **Ordinance 4005**, a request by Franklin Simpson for a **Rezoning from General Agriculture District to Medium Density Residential District** on a parcel of land described by metes and bounds as beginning at the southwesterly corner of Tract H of the Wesleyan Christian Center, Thence first course: N76°34'25"E a distance of 263.55 feet to the SE corner of said Tract H; Thence second course: N69°06'06"E a distance of 98.75 feet to the westerly right-of-way line of Sunny Springs Road; Thence third course: S17°49'19"E a distance of 195.45 feet to an angle point of Sunny Springs Road right-of-way; Thence fourth course: S27°11'30"W a distance of 14.14 feet to the north right-of-way line of Harmony Heights Lane; Thence fifth course: S72°12'18"W a distance of 256.21 feet to a point of



curvature on the north line of Harmony Heights Lane; Thence sixth course: along an arc to the right, which radius is 170.00 feet an arc distance of 110.36 feet to a point of tangency on the north line of Harmony Heights Lane; Thence seventh course: N70°21'42"W a distance of 53.48 feet to the east right-of-way line of Plaza Boulevard; Thence eighth course: along the east right-of-way line of Plaza Boulevard, on an arc to the left, which radius is 333.35 feet an arc distance of 162.41 feet, and the chord bearing of N00°31'03"E a distance of 160.81 feet, to the point of beginning, said parcel of land containing 1.792 acres more or less, all lying in the NE1/4 SE1/4 of Section 27 and in the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Harmony Heights Lane.

Continue the following item until April 5, 2004:

34. No. 03VR012 - A request by Alvin Ficek for Heartland GMAC Real Estate for Barbara Van Ekeren and Peggy Kelly for a **Vacation of Right-of-Way** on a portion of undeveloped Oriole Drive right-of-way adjoining Lots 2 and 3 in Block 7 and Lots 5 and 6 in Block 8 of Lot A of Morningside Subdivision, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Oriole Drive west of West Boulevard North.

End of Continued Items Consent Calendar

***Alcoholic Beverage License Applications***

This was the time set for hearing on the application of the Rapid City Arts Council for a Special Malt Beverage and Special Wine License to be used at the **Dahl Art Museum**, 713 Seventh Street, on February 6, 2004. Upon motion made by Hanks, seconded by Murphy and carried, the Council approved the application.

Upon motion made by Hanks, seconded by French and carried, the Finance Officer was directed to publish notice of hearing on the following applications, said hearings to be held on Monday, February 16, 2004:

36. Pennington County Democratic Party, for a Special Wine License to be used on February 20, 2004 at Prairie Edge, 606 Main Street  
 37. Rushmore Soccer Club, for a Special Malt Beverage License to be used on March 20, 2004 at the Knights of Columbus Hall, 910 Fifth Street

***Consent Calendar Items – 38-95***

The following items were removed from the Consent Calendar:

40. No. PW012704-03 – Authorize staff to advertise for bids for Fifth Street Extension Project No. ST03-914 (ST01-1095).  
 41. No. PW012704-04 – Authorize staff to advertise for bids for Rapid City Library Remodel and Chiller Replacement Project No. IDP03-1337.  
 47. No. PW012704-11 – Authorize Mayor and Finance Officer to sign a Professional Service Agreement with CETEC Engineering to design Catron Blvd. Sanitary Sewer Extension, Hwy 79 to 5<sup>th</sup> Street, Project No. SS01-1052 for an amount not to exceed \$38,713.75.  
 82. No. LF012804-17 – Confirm appointment of Joel Landeen as Assistant City Attorney II. (Action taken earlier in the meeting.)

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

**Public Works Committee Consent Items**

38. No. PW012704-24 – Request staff to contact Kenneth Hargens, 1202 5<sup>th</sup> Street about options to repair a water shut-off valve; including the option to freeze the pipe below the shut-off valve.
39. No. PW012704-02 – Approve Change Order No. 02 and Final for Dyess Avenue Water System Construction Project No. W99-845 to Heavy Constructors, Inc. dba Excavating Specialists for a decrease of \$4,929.31.
42. No. PW012704-05 – Authorize staff to advertise for bids for Meadowbrook Golf Course Cart Storage Building No. 2 Project No. GC04-1366.
43. No. PW012704-06 – Authorize staff to advertise for bids for One (1) New Current Model Year Utility Vehicle with Weed Sprayer for Cemetery.
44. No. PW012704-07 – Authorize staff to advertise for bids for One (1) New Current Model Year 2 ½ Ton Dump Truck for Parks Division.
45. No. PW012704-08 – Authorize staff to advertise for bids for One (1) New Current Model Year 60” Mower for Parks Division.
46. No. PW012704-09 – Authorize staff to advertise for bids for One (1) New Current Model Year Self-Propelled Turf Sweeper for Parks Division.
48. No. PW012704-12 – Authorize Mayor and Finance Officer to sign Amendment No. 02 to a Professional Service Agreement with Ferber Engineering to design Fifth Street Extension Project No. ST00-914 (ST01-1095) for an amount not to exceed \$44,588.
49. No. PW012704-13 – Authorize Mayor and Finance Officer to sign a South Dakota Department of Transportation Agreement to Exchange Federal for State Funds for Construction of Project P 1669(00) PCEMS 3595, Haines Avenue from Northridge Drive to Viking Drive.
50. No. PW012704-14 – Authorize Mayor and Finance Officer to sign a South Dakota Department of Transportation Letting Authorization for Project P 1669(00) PCEMS 3595, Haines Avenue from Northridge Drive to Viking Drive.
51. No. PW012704-15 – Authorize Mayor and Finance Officer to sign a South Dakota Department of Transportation Right-Of-Way Certification for Project P 1669(00) PCEMS 3595, Haines Avenue from Northridge Drive to Viking Drive.
52. No. PW012704-16 – Authorize Mayor and Finance Officer to sign a South Dakota Department of Transportation Amended Right-Of-Way Agreement for Project P 1669(26) PCEMS 3595, Haines Avenue from Northridge Drive to Viking Drive.
53. No. PW012704-17 – Authorize Mayor and Finance Officer to sign a South Dakota Department of Transportation Financial and Maintenance Agreement for Project NH 2016(15)66 PCEMS 6393, US16B and 5<sup>th</sup> Street Extension.
54. No. PW012704-18 – Approve an Initial Resolution for Centre Street Sanitary Sewer Extension Project No. SS00-940.

INITIAL RESOLUTION FOR  
CENTRE STREET SANITARY SEWER EXTENSION  
PROJECT NO. SS00-940

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

1. This Council deems it necessary to improve by constructing sanitary sewer main near Centre Street and along Creek Drive, as described in the proposed Resolution of Necessity for Centre Street Sanitary Sewer Extension Project SS00-940, which is on file with the Finance Officer. The costs for such improvements will be assessed to the affected property owners on an “Acreage” and “Frontage” basis.

2. This Council will meet at the City/School Administration Center in the City of Rapid City, South Dakota, on Monday the 1<sup>st</sup> day of March, 2004 at 7:00 P.M. for the purpose of considering any objections to such proposed Resolution of Necessity. The

Finance Officer is directed to give notice of such meeting by publishing the time and place of such meeting once each week for two successive weeks in the official newspaper of the City.

Dated this 2<sup>nd</sup> day of February, 2004.

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

THE CITY COUNCIL  
s/ Jim Shaw, Mayor

55. No. PW012704-19 – Approve the installation of a stop sign in median of West Boulevard for east/west traffic at Kansas City, Quincy, and Franklin streets (pursuant to ordinance 10.12.120).
56. No. PW012704-22 – Approve Policy Statement No. 3-03, Reimbursement to customers for pressure reducing valve installation.
57. No. PW011304-16 – Request staff to proceed with platting the unplatted portion of City-owned property along Hwy 16 as two lots to be zoned as General Commercial on the front and Office Commercial on the back.

***Legal & Finance Committee Consent Items***

58. No. LF012804-01 - Approve Travel Request for Mayor Jim Shaw and Ron Kroeger to attend NLC Congressional City Conference on March 6-9, 2004, in Washington, D.C. in an approximate amount of \$3,338.
59. No. LF012804-02 – Confirm reappointment of Dave Davis to the Rushmore Plaza Civic Center Board of Directors.
60. No. LF012804-03 – Confirm appointment of Adam Altman to the Historic Preservation Commission.
61. No. LF012804-04 – Confirm appointment of Lynda Clark and Monte Loos to the Rapid City Library Board.
62. No. LF012804-05 – Confirm appointment of Wayne Loof and Gary Babl to the Residential Contractor Board.
63. Continue discussion on videotaping of Public Works & Legal and Finance Committee meetings and funding for installation of DVD recording and/or telestrator to the February 11, 2004, Legal and Finance Committee.
64. No. LF012804-06 – Acknowledge the following CIP Committee Report a) Approve proposed changes to the Streets & Drainage Base Document, as outlined on the attached spreadsheet presented by Engineering Division Manager Dan Coon; b) Authorize staff to carry forward 2003 Streets & Drainage CIP funds to 2004; c) Allocate up to \$10,000 from the 2004 CIP Contingency Fund for the Minneluzahan Senior Center Parking Lot Project; with the understanding that staff will investigate alternative funding sources; d) Approve the reallocation of 2003 Parks & Recreation Contingency Carry Over Funds in the amount of \$2,650 to be utilized as match funding for expansion of the Jackson Park Disc Golf Course to an 18-hole course.
65. Request Mayor to appoint a Design Review Committee of landowners, Council members and City staff to coordinate the design process for East Anamosa Street construction from LaCrosse Street to East North Street.
66. No. LF012804-07 – Authorize Mayor and Finance Officer to sign Agreement for Independent Contractor Services with Dr. Robert Looyenga.
67. No. LF012804-08 – Authorize Mayor and Finance Officer to sign Intergovernmental Agreement for Hazardous Material Emergency Assistance with Hughes County, Harding County, Meade County, Custer County, Lawrence County, Fall River County, and Butte County.
68. No. LF012804-09 – Authorize Mayor and Finance Officer to sign Wellmark of South Dakota, Inc. Entity Agreement.

- 69. Approve recommendation from EMSOC to increase ambulance event standby rates.
- 70. Approve recommendation from EMSOC regarding factoring in medical Consumer Price Index increase to the approved rate structure.
- 71. No. LF012804-10 – Approve Travel Request for Fire Chief Gary Shepherd and EMS Chief Michael Thompson to attend “Fire-Rescue Med 2004” Conference in Las Vegas, NV, April 24-28, 2004, in the approximate amount of \$2,990.
- 72. No. LF012804-11 – Approve Travel Request for Eric Martens, Alan Johnson, and Kurt Klunder (paramedics) to attend Critical Care Transport Program Classes at Fort Meade, South Dakota, March 15-22, 2004, in the approximate amount of \$2,700 (ambulance budget).
- 73. No. LF012804-12 – Approve Travel Request for Randy Rearick and Craig Chilson to attend Aircraft Rescue & Firefighting Leadership Seminar in Orlando, FL, from February 24-28, 2004, in an approximate amount of \$2,320.68.
- 74. No. LF012804-13 – Approve the policies and procedures for the Community Development Neighborhood Restoration Program and request that staff work together to finalize the necessary forms.
- 75. No. 04TP001 – Approve Professional Services Agreement for the Airport Neighborhood Area Future Land Use Plan between the City of Rapid City and Ferber Engineering Co., Inc. in the amount of \$61,300.44.
- 76. No. 04TP002 – Approve Professional Services Agreement for the Southeast Connector Neighborhood Area Future Land Use Plan between the City of Rapid City and Ferber Engineering Co., Inc. in the amount of \$67,109.50.
- 77. No. LF012804-14 – Authorize Mayor and Finance Officer to sign Agreement with Manning Janitorial Service (Dahl).
- 78. No. LF012804-15 – Authorize City to enter into Contract with SIGMA Actuarial Consulting Group, Inc. to provide an actuarial analysis of the Worker Compensation Fund at a cost of \$6,000.
- 79. No. LF012804-16 – 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:

Parks Department

1991 IHC 4600 Dump Truck VIN# 1HTSAZRP5MH367710, IC# 0607-0620-001484. Mileage Approximately 90,000. Odometer reading 8817. Condition; Fair. (trade-in)

BE IT FURTHER RESOLVED that the Mayor and Finance Officer may do all acts necessary to dispose of this property according to state law.

Dated this 2<sup>nd</sup> day of February, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 80. Acknowledge Fifth Street Extension briefing on funding.

- 81. No. LF012804-25 – Approve Travel Request for Patricia Pummel and Connie Ewing to Attend National Weed & Seed Meeting-Continuation Grant Conference in Dallas, Texas, from February 23-27, 2004, in the approximate amount of \$1,640.
- 83. No. LF012804-19 – Authorize Mayor and Finance Officer to sign Agreement with Dakotah Bank and Gandolf Development, LLC.
- 84. Authorize preparation of H Lot Plat for Fifth Street Extension.
- 85. No. LF012804-22 – Approve Resolution Regarding Supplemental Tap Fees.

RESOLUTION

WHEREAS, Rapid City Municipal Code Section 13.08.365 allows the Common Council to impose supplemental tap fees for connection to the water and wastewater utilities in certain areas; and

WHEREAS, the City of Rapid City has previously adopted supplemental tap fees for both water and wastewater utilities in the area shown on Exhibit A, attached hereto and incorporated herein by reference (showing the NE ¼, SE1/4, and the SW ¼ of Section 16, T1N, R8E, Rapid City, Pennington County, South Dakota); and

WHEREAS, the City of Rapid City has collected the full amount of its costs for extension of the water utility into the area shown on Exhibit A; and

WHEREAS, the City of Rapid City finds that additional development, greater than initially anticipated, will be served by the wastewater infrastructure previously constructed in the area shown on Exhibit A, and therefore a reduction in the supplemental tap fee amount is warranted.

NOW, THEREFORE, BE IT RESOLVED that the previously adopted water supplemental tap fee is hereby abolished in the area shown on Exhibit A.

BE IT FURTHER RESOLVED that a supplemental tap fee in the amount of \$750 for all new utility connections to the City’s wastewater utility in the area shown on Exhibit A is hereby adopted as of the effective date of this resolution.

BE IT FURTHER RESOLVED that such wastewater supplemental tap fee shall remain in effect until such time as the remaining balance of \$278,115.93 in costs for the utility extension project in this area is collected, at which time this Resolution and the wastewater supplemental tap fee shall automatically expire.

Dated this 2<sup>nd</sup> day of February, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 86. No. LF012804-24 – Authorize Mayor and Finance Officer to sign Cost Sharing Agreement with Eldene Henderson.
- 87. No. LF012804-23 – Approve the following abatements: Edward P. Heisler/Greene, 2003, \$919.42; Eugene U. Pluth/Curtis, 2003, \$263.22; Dennis Zandstra, 2003, \$28.04.
- 88. No. CC020204-05 – Approve the following licenses: Central Station Service: Vector Security, Inc., James W. Simons; Master Electrician: Kevin R. Buehner, Jeffrey Neil Miller; Electrical Journeyman: Shawn Barrows; Gas Fitter: Ernie Kouba; Gas

Contractor: McCarthy Services, Dave J. McCarthy; House Mover: Huntley Construction, Ron Huntley; Mobile Home Court: Ash Avenue Mobile Home Park, Nancy Robrahn; Brookdale Mobile Home Estates, Brenda Draper; Wheel Estates Mobile Court, Kirk Simet; Plumbing Apprentice: Adam Dalke, Todd W. Gillett; Plumber: Bernard L. Curl, Keith R. Harrison, Tim Podoll; Plumbing Contractor: Always Plumbing, Chad Erlenbusch; American Plumbing Service, Todd D. Chase, Diamond C. Mechanical, Kevin B. Curl; Gutzmer Mechanical, Wayne Gutzmer; Holmes Plumbing, Inc., Rod Holmes; Jim's Plumbing & Heating, Inc., Jim Schnittgrund; Metro Plumbing, Inc., Kim A. Kerns; Nelson Ditching & Excavating, Inc., Larry Nelson; Olson's Plumbing & Heating, Larry L. Olson; Pine Tree Plumbing, Brad Bilka; Pleinis Plumbing, Gary Pleinis; Plumbing Design & Installation, Steve Darling; Precision Plumbing, Inc., Barry W. Akley; Scholl Plumbing & Heating, Inc., Wesley Scholl; Western Mechanical Service, Paul L. Iseminger; Leddy Vanderpool; Waterworks Plumbing, Inc., Donovan Williamson; Residential Contractor: All Phrases, William Lipp; Bertalot Construction, Dennis Bertalot (Inactive), Tom Bodensteiner Construction, Tom Bodensteiner; Champion Home Service & Supply, Cody & Peggy Champion; Custom Homes By Eich, Dwight Eich; Chad Egan; Huntley Construction, Ronald J. Huntley; Vergil Kjerstad Const., Vergil K. Kjerstad; Stanley E. Koch Construction, Stanley E. Koch; Kroeger Company, Jean Robert Kroeger, II; ZCC, Inc., Ronald Zimmerman, Tina Anderson; Second Hand: Main Furniture Shoppe, Sheryl Ann Uthe; Software, Etc. #1257, Troy L. Kruse; Trebleshooter Guitars & Jazz, Mitchell Kimball; Security Business: Peace Keeper Security, Inc., Ryan R. Schuler; Sewer & Water Contractor: Michael Dimond, JMD Excavating (new license); Sewer & Water Contractor (contingent upon submittal of South Dakota Excise Tax Number): Steve Achten, SA Construction Services, Inc. (new license); Sewer & Water Contractor: (Renewals) A-1 Ditching, Steven Moore; Beka Ditching, Charles P. Beka; Dan's Ditching, Inc., Daniel H. Wiczorek; Duffield Construction, Inc., John Duffield; Earthorizons, Inc., Robert Burns; Howie Construction, R. Chris Howie; Jim's Plumbing & Heating, Jim Schnittgrund; M & E Excavating, Edward D. Thurman; Marv's Excavating, Inc., Marvin Erickson; Metro Plumbing, Inc., Kim A. Kerns; Midwestern Ditching, Charles E. Davis; Nelson Ditching, Larry Nelson; R P & H, Inc., Gale Raymond; Shovelhead Excavating, Dennis R. Turman; Site Work Specialists, Inc., Michael Ryan; Summit, Inc., Owen H. Emme; Sewer & Water Journeyman: (Renewals) Michael J. Atchley, Richard C. Barber, Scott Bolton, Kevin Bowman, Jeff K. Bradley, Merritt Duffield, Paul Granum, Michael Leiby, Pat Mechaley, Ronnie I. Moross, Duane L. Olesen, Randy Schumacher, Mike Van Colin; Sewer & Water Apprentice: (Renewal) Shelby Moore; Trenching Contractor: Advanced Electrical, Inc., Thomas J. Gagliano; All Around Construction, Jamie Gerlach; Brink Electric Construction, Douglas F. Brink; Crawford Cable Construction, Raymond Butch Crawford; Evergreen Landscaping, Floyd C. Simunek; Honey Creek Landscape, Dale P. Christiansen; Kaski Homes, Keith Sarkinen; Mann Construction Co., Guy Mann; Olson Dirt Work, David W. Olson; Trenching Journeyman: Pat Givens, Justin Haider, Brant S. Mann, Marc Myers, Paul H. Petersen, Robert A. Stanfiel, Richard C. Walter, Rick Wiczorek; Travel Park: Lake Park Campground & Cottage, Sherry & Scott Nelson.

### ***Planning Department Consent Items***

89. No. 03PL084 – Approve the request by Renner & Sperlich Engineering Co. for Eldene Henderson for a **Preliminary and Final Plat** located along North Haines Avenue.

### RESOLUTION APPROVING PLAT

WHEREAS a Plat of Lot 7R and 8R, Madison's Subdivision (formerly Lot 7 and Lot 8 of Madison's Subdivision) located in E1/2 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, was filed with the Finance Officer for the purpose of examination and approval by the governing body, and

WHEREAS it appears that the system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and special assessments upon the property have been fully paid, and that such plat and the survey thereof have been executed according to law.

NOW, THEREFORE, BE IT RESOLVED that the Plat of Lot 7R and 8R, Madison's Subdivision (formerly Lot 7 and Lot 8 of Madison's Subdivision) located in E1/2 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, be, and the same is hereby approved and the Finance Officer of Rapid City is hereby authorized to endorse on such plat a copy of this Resolution and certify to its correctness.

Dated at Rapid City, South Dakota, this 2<sup>nd</sup> day of February, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 90. No. 03PL125 - A request by Fisk Land Surveying & Consulting Engineers Inc. for Rapid City Congregation of Jehovah's Witnesses for a **Layout Plat** on Lot 1 Revised of Block 7 of Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 4, Block 7; and, Lots 5 and 6, Block 8; all located in Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of West Boulevard North along Oriole Drive and Thrush Drive. (APPROVE THE LAYOUT PLAT WITH THE FOLLOWING STIPULATIONS: 1) Upon submittal of a Preliminary Plat, a drainage plan shall be submitted for review and approval. In addition, the plat document shall be revised to provide drainage easements as needed; 2) Upon submittal of the Preliminary Plat, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval; 3) Upon submittal of a Preliminary Plat, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval; 4) Upon submittal of a Preliminary Plat, road construction plans for Thrush Drive shall be submitted for review and approval. In particular, Thrush Drive shall be constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 5) Upon submittal of a Preliminary Plat, road construction plans for West Boulevard North shall be submitted for review and approval. In particular, West Boulevard North shall be constructed with a 27 foot wide paved surface, curb, gutter sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 6) Upon submittal of a Preliminary Plat, road construction plans for Oriole Drive shall be submitted for review and approval. In particular, Oriole Drive shall be constructed with a 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 7) Prior to the vacation of the southern 135 feet of Oriole Drive, the applicant shall submit a site plan identifying the location of all existing utilities. In addition, the plat document shall be revised to show that portion of Oriole Drive proposed to be vacated as a utility easement. The applicant shall also enter into an agreement assuming responsibility for any replacement of surface improvement(s) for the same portion of Oriole Drive to be vacated. In addition, right-of-way shall be provided at the southern terminus of the street for the construction of a cul-de-sac bulb with a minimum 96 foot diameter right-of-way and a 76 foot diameter paved surface; 8) Upon submittal of a Preliminary Plat, the plat document shall be

revised to show a non-access easement along West Boulevard North; 9) Prior to Preliminary Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; 10) Upon submittal of the Preliminary Plat, a fire hydrant design plan showing the location of fire hydrants and water lines, including the size of the proposed water lines, shall be submitted for review and approval; and, 11) Prior to Final Plat approval, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

91. No. 03PL126 - A request by Gary Renner for First Western Bank for a **Layout Plat** on Tract A of Block 4, Riverside Addition, located in SE1/4 of SE1/4, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 16, Lots 21 thru 28, Lots A thru F, and vacated alley, all located in Block 4 of Riverside Addition, and a portion of Eleventh St. Right-of-Way, located in SE1/4 of SE1/4, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southwest corner of the intersection of Omaha Street and West Boulevard. (APPROVE THE LAYOUT PLAT WITH THE FOLLOWING STIPULATIONS: 1). Upon submittal of a Preliminary Plat application, site grading and drainage plans shall be submitted for review and approval. In particular, the drainage plan shall demonstrate that storm water is being collected on site and routed to the existing public storm sewer system located in the Eleventh Street right-of-way; 2) Upon submittal of a Preliminary Plat application, sewer construction plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval. In addition, the sewer plans shall show the abandonment of that portion of an existing sewer main located under the proposed structure; 3) Upon submittal of a Preliminary Plat application, water main construction plans prepared by a Registered Professional Engineer showing the extension of water mains and service lines shall be submitted for review and approval; 4) Upon submittal of a Preliminary Plat application, complete engineering plans as specified in Section 16.20.040 of the Rapid City Municipal Code shall be submitted for review and approval. In particular, complete street design plans shall be submitted showing the location of water, sewer, storm drainage, curb, gutter, regulatory or traffic signage, pavement markings and sidewalk improvements for all adjacent roadways or a Variance to the Subdivision Regulations shall be obtained; 5) Upon submittal of a Preliminary Plat application or a Vacation of Right-of-way application to vacate the eastern ten feet of the Eleventh Street right-of-way, the vacation request, including any exhibits or plat documents, shall be revised to show no vacation of right-of-way along the northern 55 feet of the Eleventh Street frontage. In addition, the adjacent property owner shall sign a vacation of right-of-way petition prior to the right-of-way being vacated. The applicant shall also submit documentation that all of the affected utilities concur with the vacation request; 6) A Special Exception is hereby granted to allow three approaches to a commercial property in lieu of two approaches as per the Street Design Criteria Manual; 7) A Special Exception is hereby granted to reduce the separation requirement from 230 feet to 205 feet between the proposed approach located along Omaha Street and the West Boulevard/Omaha Street intersection as per the Street Design Criteria Manual; 8) Prior to Preliminary Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; 9) Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; 10) Upon submittal of a Preliminary Plat application, a fire hydrant design plan showing the location of fire hydrants and water lines, including the size of the proposed water lines, shall be submitted for review and approval; and, 11) Prior to submittal of a Final Plat application, an approach permit shall be obtained from the South Dakota Department of Transportation for the proposed approach along Omaha Street. In addition, the applicant shall provide



signage identifying that the approach functions as a right-in/right-out approach or surety shall be posted for the improvement upon submittal of a Final Plat application.)

### **Raffles**

92. No. CC020204-01 – Acknowledge notification from the American Heart Association of their intent to conduct a raffle on February 7, 2004 during the Rapid City Heart Ball event to be held at the Ramkota Hotel and Conference Center
93. No. CC020204-02 – Acknowledge notification from Unity of the Black Hills of their intent to conduct a raffle in 2004 (2004 Harley Davidson Motorcycle)
94. No. CC020204-03 – Acknowledge notification from the Children's Miracle Network of their intent to conduct the Great Black Hills Duck Race on Sunday, August 1, 2004 along Rapid Creek; and to conduct the Kids Carnival in Memorial Park on the same date.
95. No. CC020204-04 – Acknowledge notification from the Rapid City Library Foundation of their intent to conduct a raffle in February, 2004 (Jerry Seinfeld tickets)

### **END OF CONSENT CALENDAR**

Motion was made by Kroeger and seconded by Rodriguez to authorize staff to advertise for bids for **Fifth Street Extension Project** No. ST03-914 (ST01-1095) (No. PW012704-03). French stated that the city has \$6.2 million available for this project. If the bids come in over that amount, the project will have to be scaled back; she will not be in favor of finding additional funding for the project. Kooiker agreed noting that the city needs to ensure that this project will not go over budget. He asked if the agreements with the affected property owners take this into account. City Attorney Green explained that the IDPF Agreement between the City and the landowners is written such that they will share in the cost of the 5<sup>th</sup> Street project based on a formula relative to how much land they have in relation to the entire project. The trigger in the agreement is the award of the final contract. The contract will not be awarded until the landowners have signed the promissory note and provided the letter of credit. Kooiker stated that he would like the individuals listed in the minutes who were on the negotiating team for this project. Hanks noted that the following Council members attended some or all of the meetings: Kroeger, Waugh, Hanks, Partridge, Kooiker and Mayor Shaw. (Secretary's Note: After the meeting, information was submitted that showed the following individuals were present at the meeting: Pat Hall, Sally Broucek, Hani Shafai, Orvil Davis, Ski, Mayor Shaw, Bill Waugh, Jim Preston, Ron Kroeger, Klare Schroeder, Marcia Elkins, Dan Coon, Ted Vore and Jeff Partridge.) Upon vote being taken, the motion carried unanimously.

Motion was made by Rodriguez and seconded by French to authorize staff to advertise for bids for Rapid City **Library Remodel** and Chiller Replacement Project No. IDP03-1337 (No. PW012704-04). Vore noted that the dollar amount for this project is listed as \$108,750. Funding is available as follows: \$89,250 from the CIP Committee and \$27,000 from the Library Building Expansion Funds. Upon vote being taken, the motion carried unanimously.

Motion was made by Hanks and seconded by Murphy to authorize Mayor and Finance Officer to sign a Professional Service Agreement with CETEC Engineering to design **Catron Blvd. Sanitary Sewer Extension**, Hwy 79 to 5<sup>th</sup> Street, Project No. SS01-1052 for an amount not to exceed \$38,713.75 (PW012704-11). Vore explained that this is the first contract the Council has been asked to approved under the new consultant selection process. There have been questions regarding a contract awarded by the City for work on the Stoney Creek Booster Station. The contract was for \$101,125 and was awarded by the City Council to a consultant who subsequently sub-contracted out most of the work. The issues include the City's former consultant selection process was not followed; the contract was awarded above

the objections of staff; a method unknown to me (Vore) was used for price negotiations since the consultant section process was not follows. Subsequently, a \$10,000 amendment to the contract failed to pass a vote of the Council on September 15, 2003. At a council meeting on November 3, 2003, the amendment was attached to an existing contract and it was passed by the Council as a no-cost amendment. This contract was negotiated and drawn up under the administration of the former Public Works Director and I can assure you that I (Vore) would not have proceeded in this way. And although the contract is legal, I (Vore) can see where there might be questions raised since the City's consultant selection process was not followed. Vore assured the Council that the Public Works Department will always follow the newly implemented process and will endeavor to keep the Council informed. Hanks asked why this explanation was given. Shaw explained that he allowed the explanation to clarify any questions that might remain from the previous consultant selection process. Upon vote being taken, the motion carried unanimously.

**Planning Department Items**

The Mayor presented No. 03CA045, a request by Thurston Design Group, LLP for the Children's Home Society of South Dakota for an **Amendment to the Comprehensive Plan**, located at 1330 Jolly Lane. The following Resolution was introduced, read and Kooiker moved its adoption:

RESOLUTION AMENDING THE COMPREHENSIVE PLAN  
OF THE CITY OF RAPID CITY

WHEREAS the Rapid City Council held a public hearing on the 2<sup>nd</sup> day of February, 2004 to consider an amendment to the Comprehensive Plan by revising the Elk Vale Neighborhood Area Future Land Use Plan to change the future land use designation on a 2.79 acre parcel from a Low Density Residential to Office Commercial with a Planned Commercial Development, on Tract B, Neff's Subdivision #4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, and good cause appearing therefor

BE IT RESOLVED by the Rapid City Council, pursuant to the recommendation of the Rapid City Planning Commission, that the Rapid City Comprehensive Plan be amended as attached to the original hereof and filed in the Finance Office.

Dated this 2<sup>nd</sup> February, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 03PL123, a request by Centerline, Inc. for 3 T's Land Development LLC for a **Layout Plat** in the NW1/4 SW1/4 less Tract R in the NW1/4 SW1/4 and less NE1/4 NE1/4 NW1/4 SW1/4; N1/2 N1/2 N1/2 N1/2 SW1/4 SW1/4, all in Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Minnesota Street west of 5th Street. Motion was made by Kooiker, seconded by Rodriguez and carried to approve the Layout Plat, with the following stipulations: 1) Upon submittal of a Preliminary Plat application and/or upon submittal of a grading permit, whichever occurs first, a geotechnical analysis demonstrating slope stability(s) of the proposed lots shall be submitted

for review and approval in order to identify that building envelopes are being provided. In addition, the plat document shall be revised to reconfigure and/or eliminate lots as needed in order to insure that a building envelope exists on each lot; 2) Upon submittal of a Preliminary Plat application, a grading and drainage plan shall be submitted for review and approval. The drainage plan shall demonstrate that the development complies with the adopted drainage basin design plan and shall adjust the on-site detention cell if necessary. In addition, the plat document shall be revised to provide drainage easement(s) as necessary. The plat document shall also be revised to reconfigure and/or eliminate lots as needed to accommodate the drainage easement(s); 3) Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval. In addition, the water plans shall show parallel lines for the Terracita High Water Zone and the Robbinsdale Water Zone along Minnesota Street and Middle Valley Drive. The water plans shall also demonstrate that the water mains are located within the proposed rights-of-way or a Special Exception to the Street Design Criteria Manual shall be obtained. The City shall participate in any oversize costs for the parallel water main construction; 4) Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval; 5) Upon submittal of a Preliminary Plat application, road construction plans for Minnesota Street shall be submitted for review and approval. Minnesota Street shall be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer improvements or a Variance to the Subdivision Regulations shall be obtained; 6) Upon submittal of a Preliminary Plat application, the plat document shall be revised relocating Minnesota Street from the City's water storage tank lot or the applicant shall obtain approval from the City to locate a portion of the street on the City's property. If approved by the city Council, the plat document shall be revised to include the City on the Certificate of Ownership title; 7) Upon submittal of a Preliminary Plat application, road construction plans shall be submitted for review and approval providing an all weather surface turnaround at the end of Minnesota Street or a Special Exception to the Street Design Criteria Manual shall be obtained; 8) Upon submittal of a Preliminary Plat application, road construction plans for Middle Valley Drive shall be submitted for review and approval. Middle Valley Drive shall be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 paved surface, curb, gutter, sidewalk, street light conduit, water and sewer improvements or a Variance to the Subdivision Regulations shall be obtained; 9) Upon submittal of a Preliminary Plat application, the road construction plans for Middle Valley Drive shall identify that the north-south portion of the street shall not exceed a 10% grade or a Special Exception to the Street Design Criteria Manual shall be obtained; 10) Upon submittal of a Preliminary Plat application, road construction plans for the un-named cul-de-sac shall be submitted for review and approval. The cul-de-sac shall be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer improvements or a Variance to the Subdivision Regulations shall be obtained; 11) Upon submittal of a Preliminary Plat application, road construction plans for the un-named cul-de-sac bulb shall be submitted for review and approval. In particular, the bulb shall be constructed with a minimum 110 foot diameter right-of-way and a 90 foot wide paved surface or a Special Exception to the Street Design Criteria Manual shall be obtained; 12) Upon Preliminary Plat submittal application, construction plans shall be submitted for review and approval to show grading the full width of the rights-of-way or a Special Exception to the Street Design Criteria Manual must be obtained; 13) Upon submittal of a Preliminary Plat application, a road connection shall be provided to the south lot line or a Master Plan of the adjacent property(s) shall be submitted for review and approval demonstrating that the road connection is not needed. At a minimum, parallel water mains shall be extended to the south lot line for the Terracita High and the Robbinsdale Water Zones; 14) A Special Exception is hereby granted to allow curbside sidewalk in lieu to property line sidewalks as per the Street Design Criteria Manual; 15) Upon submittal of a Preliminary Plat application, a phasing plan shall be submitted for review and approval; 16) Upon submittal of a Preliminary Plat application, the plat document shall be revised to show a

non-access easement along Lots 1, 7, 8, 9, 12 and 35 as they abut Minnesota Street or a Special Exception to the Street Design Criteria Manual shall be obtained to allow access from a street other than the lesser order street ; 17) Prior to Preliminary Plat approval by the City Council, the section line highway located along the west lot line shall be improved to City Street Design standards with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, sidewalk, water and sewer improvements or a Variance to the Subdivision Regulations shall be obtained to waive the street improvements or the section line highway shall be vacated; 18) Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; 19) Upon submittal of a Preliminary Plat application, a fire hydrant design plan showing the location of fire hydrants and water lines, including the size of the proposed water lines, shall be submitted for review and approval; 20) Upon submittal of a Preliminary Plat application, the plat document shall be revised eliminating "Phase 4" from the title; 21) Upon submittal of a Preliminary Plat application, the plat document shall be revised re-naming proposed Outlots 1 and 2 to consecutive Lot and Block numbers; 22) Prior to Final Plat approval by the City Council, a Variance to the Subdivision Regulations shall be obtained to allow a lot length greater than twice the lot width or the plat shall be revised to comply with the length to width requirement; 23) Prior to Preliminary Plat approval by the City Council, all of the affected utility companies shall submit documentation concurring with the proposed vacation of an existing 66 foot wide access and utility easement; 24) Prior to Final Plat application, a Comprehensive Plan Amendment to the South Robbinsdale Neighborhood Future Land Use Plan shall be approved to allow a Planned Residential Development with a maximum 1.2 dwelling units per acre in lieu of a Planned Residential Development with a maximum of 1 dwelling unit per acre; and, 25) Upon submittal of the 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.

Motion was made by Kooiker, seconded by Rodriguez and carried to authorization for Mayor and Finance Officer to sign **waiver of right to protest** a future assessment for street improvements on Lot 6 of Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive. (03SV013).

The Mayor presented No. 03SV013, a request by Renner & Sperlich Engineering Company for Dean Kelly for a **Variance to the Subdivision Regulations** to waive the requirement to install curb, gutter, sidewalk, street light conduit, dry sewer, paving and additional right-of-way width on Corral Drive as per Chapter 16.16 of the Subdivision Regulations on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive. Motion was made by Kooiker, seconded by Rodriguez and carried to deny the request to waive the requirement to dedicate an additional 17 feet of right of way along Corral Drive; and approve the request to waive the requirement to install curb, gutter, sidewalk, street lights and dry sewer as per Chapter 16.16 of the Subdivision Regulations, with the following stipulation: 1) Prior to Final Plat approval by the City Council, the applicant shall submit a signed Waiver of Right to Protest an assessment district for the required subdivision improvements.

The Mayor presented No. 03SV049, a request by Centerline for Magheramore, LLC for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, sewer, water, pavement and to provide a planting screen as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 10, Block 1, Darlington Estates, Section 34, T1N, R8E, BHM, Pennington County, South Dakota, legally described as that portion of the NE1/4 lying west of railroad right-of-way; N1/2 NW1/4; SE1/4 NW1/4; NE1/4 SW1/4, Section 34, T1N, R8E, BHM, Pennington County, South Dakota; that portion of the NE1/4 NE1/4 lying east of Old Folsom Road, Section 33, T1N, R8E, BHM, Pennington

County, South Dakota, located southeast of the intersection of Lamb Road and Old Folsom Road. Growth Management Director Elkins explained that the applicant has removed Lot A from the plan and as a result, staff has submitted a list of revised stipulations. She reminded the Council that the applicant would prefer to have a variance granted for the pavement, but that is not the recommendation from staff because it is not consistent with the Council's previous policy. Motion was made by Hanks and seconded by Murphy to approve the following recommendations from the Staff: Deny the Variance to the Subdivision Regulations to waive the requirement to install a 24 foot wide paved surface, curb, gutter, street light conduit, water and sewer along the section line highway; and that the variance to the Subdivision Regulations to waive the requirement to pave Old Folsom Road be approved for that portion lying adjacent to the southwest corner of proposed Lot 3 with the stipulation that a waiver of right to protest a future assessment for all improvements be provided upon Preliminary Plat application submittal; Deny the variance to the subdivision regulations to waive the requirement to pave the private access easement and the 52" foot wide right-of-way cul-de-sac; approve the variance to the subdivision regulations to provide a planting screen easement; and approve the variance to the subdivision regulations to waive the requirement to install curb, gutter, street light conduit, sewer and water along Lamb Road, the private access easement and the 52' wide right-of-way cul-de-sac, with the following stipulations: 1) Upon submittal of a Preliminary Plat, road construction plans showing the "52 foot wide right-of-way" cul-de-sac being constructed with a minimum 20 foot wide paved surface shall be submitted for review and approval. In addition, the bulb of the cul-de-sac shall be located within a minimum 110 diameter right-of-way and constructed with a minimum 92 foot wide paved surface; 2) Upon submittal of a Preliminary Plat, road construction plans showing the private access easement being constructed with a minimum 20 foot wide paved surface shall be submitted for review and approval; and 3) Upon submittal of a Preliminary Plat, the applicant shall sign a waiver of right to protest a future assessment for the curb, gutter, street light conduit, sewer and water improvements along Lamb Road, the private access easement and the "52 foot wide right-of-way" cul-de-sac. Brian Bradley expressed concern about the additional dust that would be created as a result of this development. Also, there is concern in the area about the recovery rate for wells in the Dakota/Newcastle aquifer. Elkins noted that water issues would be dealt with when a preliminary plat is submitted for this development. Upon vote being taken, the motion carried unanimously.

The Mayor presented No. 03VR013, a request by Alliance of Architects and Engineers for Pennington County Housing & Redevelopment Commission for a **Vacation of Right-of-Way** located at 305, 307, 311 and 313 East Adams Street. The following Resolution was introduced, read and Kooiker moved its adoption:

#### RESOLUTION OF VACATION OF RIGHT-OF-WAY

WHEREAS it appears that a portion of the alley of Block 13, Wise's Addition adjacent to Lots 4 thru 10 and Lots 11 thru 17 of said Block 13, located in the S1/2 of the NW1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 305, 307, 311 and 313 East Adams Street, is not needed for public purposes; and

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

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

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

Dated this 2<sup>nd</sup> day of February, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

### ***Ordinances & Resolutions***

**Ordinance 4013** entitled An Ordinance Amending Section 17.04.240 of the Rapid City Municipal Code Pertaining to the Definition of "Dwelling Unit" (No. 04OA001), having passed the first reading on January 19, 2004, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 4013 was declared duly passed upon its second reading.

**Ordinance 4015**, Supplemental Appropriation No. 1 for 2004 (No. CC011904-03), having passed the first reading on January 19, 2004, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 4015 was declared duly passed upon its second reading.

The Mayor announced the meeting was open for hearing on **Ordinance 4016** (No. 03RZ056) a request by Gary Renner for First Western Bank for a Rezoning from Light Industrial District to General Commercial District on Lots 1 thru 16, Lots 21 thru 28, Lots A thru F, all located in Block 4 of Riverside Addition, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southwest corner of the intersection of Omaha Street and West Boulevard. Notice of Hearing was published in the Rapid City Journal on January 24 and January 31, 2004. Staff noted that the legal description has been revised to include Lots 21 thru 28 and Lots A thru F, Block 4, Riverside Addition. Ordinance 4016, having had the first reading on January 19, 2004, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 4016 the second time.

The Mayor announced the meeting was open for hearing on **Ordinance 4017** (No. 03RZ057) a request by Thurston Design Group, LLP for the Children's Home Society of South Dakota for a Rezoning from Low Density Residential District to Office Commercial District on Tract B, Neff's Subdivision #4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1330 Jolly Lane. Notice of Hearing was published in the Rapid City Journal on January 24 and January 31, 2004. Ordinance 4017, having had the first reading on January 19, 2004, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 4017 the second time.

**Ordinance 4019** (No. LF012804-18) entitled An Ordinance Amending the Regulation of Adult Oriented Businesses by Amending Section 5.70.120 of the Rapid City Municipal Code, was

introduced. Upon motion made by Hanks, seconded by French and carried, Ordinance 4019 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, February 16, 2004.

**Ordinance 4020** (No. 04AQ001 entitled An Ordinance Amending the Rapid City Air Quality Regulations by Amending Section 8.34.020 of the Rapid City Municipal Code to Remove the Rapid City Regional Airport Area from the Air Quality Control Zone, was introduced. Upon motion made by Hanks, seconded by Rodriguez and carried, Ordinance 4020 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, February 16, 2004.

The next item considered by the Council was No. CC020204-06 – First Reading, **Ordinance 4022**, entitled An Ordinance Adopting the 2000 International Building Code, International Residential Code, and International Fire Code; and request information on the impact of the adoption of these codes. Growth Management Director Elkins explained that concerns have been expressed about the impact of immediate adoption of the 2000 Code. As a result, staff is recommending that this item be tabled and that the City move forward with the adoption of the 2003 Code. It is the intent that this Code would be in place by July 1, 2004 which is the anticipated date for state authorization. Concerns have been expressed by contractors in the community because of lack of knowledge of the new codes and the fact that it would be implemented very quickly. Elkins stated that staff feels it would be most appropriate to begin working on the 2003 Code, working with various segments of the community on this project. Motion was made by Waugh, seconded by Hanks and carried to table this item.

Motion was made by Hanks, seconded by French and carried to table first reading of **Ordinance 4023**, adoption of the 2000 Fire Code.

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

The next item discussed was a request from Doyle Estes to change payment agreement for **Simmons Boulevard** to pay the proceeds directly to the City within 30 days after the plat is approved rather than prior to the final plat being approved. Motion was made by Hanks, seconded by Kroeger and carried to table this time.

Motion was made by Hanks and seconded by Waugh to approve the recommendation from EMSOC to Add "**Stretcher Charge**" to the approved Rate Structure. Fire Chief Shepherd explained that this will allow the Ambulance Service to collect a fee for transporting patients who do not require medical care, only transportation (for hospice). These charges are not eligible for payment from Medicare or Medicaid. Upon vote being taken, the motion carried unanimously.

Motion was made by Hanks and seconded by Rodriguez to authorize Mayor and Finance Officer to sign **IDPF Agreement** with Lazy P-6, LLC and Stoneridge, LLC (Fifth Street) (No. LF012804-21). City Attorney Green explained that the landowners who are partners in this agreement have agreed to pay their proportionate share of the cost, based on the bid that is accepted for this project. As a result, there is not an exact dollar amount available at this time. The Agreement contemplates that after the bids come in, and prior to the contract being awarded, the landowners will have signed the promissory note and the letter of credit will be submitted. Upon vote being taken, the motion carried with Kriebel voting no.

### ***Public Works Committee Items***

Motion was made by Hanks and seconded by Waugh to authorize Mayor and Finance Officer to sign a Professional Service Agreement with Thurston Design Group to design **Dahl Fine Arts Center Expansion Project** No. IDP04-1367 for an amount not to exceed \$633,516, plus reimbursable expenses (No. PW012704-10). Rodriguez asked about the funding source

for this contract. Finance Officer Preston explained that \$400,000 has been allocated for this project from the 2012 Fund. He recommended that when the bills for this contract come in, half would be paid by the 2012 Funds and the other half would be paid with funds from the Allied Arts group. He added that he conferred with Linda Anderson from the Dahl Center on this issue as well. He added that if the total \$400,000 is not paid out in 2004, the balance will be carried forward to 2005. The entire \$400,000 will be available for the Dahl expansion project. Upon vote being taken, the motion carried unanimously.

### ***CIP Committee Items***

The next item on the agenda was a public hearing on proposed changes to the CIP Plan. It was noted that the hearing process is no longer required as a result of the changes to the CIP Operating Procedures. Motion was made by Kroeger and seconded by Rodriguez to table the public hearing. Roll call vote was taken: AYE: Hanks, Murphy, Waugh, Kroeger and Partridge; NO: Kooiker, Hadley and Kriebel. Motion to table carried, 5-3.

Motion was made by Kroeger and seconded by French to approve proposed changes to the Streets & Drainage Base Document, as outlined on the spreadsheet presented by Engineering Division Manager Dan Coon entitled Rev. No. 1 to 7/18/03 Base Documents. Engineering Division Manager Dan Coon noted that he distributed a copy of the changes to the Council earlier today. Substitute motion was made by Kooiker and seconded by Hanks to continue this item for two weeks. Upon vote being taken, the motion carried with Murphy voting no.

Motion was made by Hanks, seconded by Kriebel and carried to authorize staff to carry forward 2003 Streets & Drainage CIP funds to 2004, in the amount of \$900,832.

Motion was made by French, seconded by Waugh and carried to allocate up to \$10,000 from the 2004 CIP Contingency Fund for the Minneluzahan Senior Center Parking Lot Project, with the understanding that staff will investigate alternative funding sources.

Motion was made by Waugh, seconded by Murphy and carried to approve the reallocation of 2003 Parks & Recreation Contingency Carry Over Funds in the amount of \$2,650 to be utilized as match funding for expansion of the Jackson Park Disc Golf Course to an 18-hole course.

### ***Addendum***

The next item discussed by the Council was **Signs in the Right-of-Way**. Kooiker noted that there was discussion at a public forum last weekend on this issue and the fact that political signs of all sizes are allowed in the right-of-way, but other types of signs are not allowed. Kooiker stated that either the City should allow no signs in the right-of-way, or implement a policy that allows signs in the right-of way as long as they don't exceed a certain size. Motion was made by Kooiker and seconded by Hadley to continue this item to the next Public Works Committee meeting to allow information to be brought forth on how far we got with ordinance last time and get an opinion from the City Attorney. Partridge asked if this issue should go to the Public Works or Legal & Finance Committee, or perhaps the Ordinance Review Committee. City Attorney Green stated that he feels the discussion would be appropriate at any of the listed committees; however, if an ordinance amendment is contemplated, it must go through the Legal & Finance Committee. Kooiker amended his motion to include the direction that this item should be presented to both Public Works and Legal & Finance Committees. Hadley concurred. Waugh called the question and there were no objections. Upon vote being taken, the motion carried unanimously.

The next item on the agenda was No. PW112503-05 – Approval of Fifth Street Funding. Motion was made by Rodriguez and seconded by Waugh to approve. Kooiker stated that he



feels this action is unnecessary because previous items that have already been approved. Motion was made by Hadley, seconded by Waugh and carried to table this item.

### ***Approval of Bills***

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

Payroll Paid Ending 01-31-04, Paid 01-30-04	987,393.31
Payroll Paid Ending 1/24/04, Paid 1/30/04	592,130.17
Payroll Paid Ending 01-24-04, Paid 01-30-04	1,580.80
Pioneer Bank, Taxes Paid 01-30-04	242,026.37
Pioneer Bank, Taxes Paid 01-30-04	148,291.32
Pioneer Bank, Taxes Paid 01-30-04	119.78
Pennington County Auditor, PSB renovation project	148,842.17
First Administrators, claims paid 1/20/04	69,065.99
First Administrators, claims paid 1/27/04	56,526.39
1 <sup>st</sup> National Bank Sioux Falls, SRF loan payments	22,883.52
Wells Fargo Corporate Card, credit card charges	2,039.06
SD Municipal League, registrations	140.00
US Postmaster, billing postage	2,200.00
Computer Bill List	<u>2,670,469.84</u>
Total	\$4,943,708.72

Payroll Paid Ending 01-24-04, Paid 01-30-04	2,740.80
Pioneer Bank, Taxes Paid 1-30-04	209.67
City of Rapid City, postage	4.68
City of Rapid City, petty cash	3.18
Marlin Leasing, copier lease	6.36
SD Executive Management Finance, telephone	<u>7.55</u>
Total	\$4,946,680.96

### ***Reconsideration***

Hadley explained that he voted incorrectly on an earlier agenda item. He requested that the council reconsider Agenda Item No. 107. Motion was made by Waugh, seconded by Rodriguez and carried to reconsider Item No. 107. Upon motion made by Waugh, seconded by Rodriguez and carried, first reading of **Ordinance 4020**, entitled An Ordinance Amending the Rapid City Air Quality Regulations by Amending Section 8.34.020 of the Rapid City Municipal Code to Remove the Rapid City Regional Airport Area from the Air Quality Control Zone, was approved, and second reading set for Monday, February 16, 2004.

### ***City Attorney's Report***

Motion was made by Rodriguez, seconded by Waugh and carried to go into executive session to discuss pending litigation. The Council reconvened at 10:10 P.M. with all members present.

Motion was made by Partridge, seconded by French and carried to authorize the Mayor and Finance Officer to sign an Agreement with the SD Department of Environment and Natural Resources and authorize payment to them in the amount of \$12,352 from the Wastewater Enterprise Fund.

The following Resolution was introduced, read and Hanks moved its adoption:

RESOLUTION OF NECESSITY FOR THE ACQUISITION OF PUBLIC RIGHT OF WAY  
EASEMENT THROUGH THE EXERCISE OF EMINENT DOMAIN

WHEREAS, the City of Rapid City has determined that it is necessary to extend 5<sup>th</sup> Street past its current southern terminus at Minnesota Street to Catron Boulevard in order to facilitate public travel and development; and

WHEREAS, the City of Rapid City has determined that the acquisition of a right-of way easement for public use is necessary before the extension of 5<sup>th</sup> Street can occur; and

WHEREAS, the City of Rapid City has attempted to negotiate acquisition of the right of way and has been unable to secure said real property under agreeable arrangements; and

WHEREAS, the City of Rapid City is authorized to appropriate or damage private property for public purposes upon the payment of just compensation as set forth in various provisions of state law including but not limited to SDCL §§ 9-12-1(2), 9-27-1, 31-19-23;

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the City finds it necessary to take for public purposes the following described real property:

All of Lot H1 of the SE1/4 of the NW1/4 of the SE1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; and

A permanent major drainage easement over, under and across the unplatted balance of the SE1/4 of the NW 1/4 of the SE1/4 Less ROW of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, as shown on Exhibit A, attached hereto and incorporated herein; and

A permanent major drainage easement over, under and across the unplatted balance of the SW1/4 of the NW1/4 of the SE1/4 Less ROW of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, as shown on Exhibit A-1, attached hereto and incorporated herein; and

A temporary construction easement over, under and across that portion of the S1/2 of the NW1/4 of the SE1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, shown in red on Exhibit B attached hereto and incorporated herein, encompassing more or less 0.92 acres or 39,915 square feet. Said temporary construction easement shall included the right to use the property in the manner reasonably and customarily necessary for temporary construction easements and shall be effective for a period of one year from the date the City acquires the legal title to the property, or until sooner released by the City; and

A temporary construction easement over, under and across that portion of the SE1/4 of the NW1/4 of the SE1/4 of Section 13, T1N, R7E, BHM, Rapid City Pennington County, South Dakota, that lies between the eastern boundary of lot H1 and extending to the east fifty feet (50') and running from the southern boundary of the Minnesota Street right of way on the north to the 1/16th section line on the south, encompassing more or less .27 acres or approximated 11,784 square feet. Said temporary construction easement shall included the right to use the property in the manner reasonably and customarily necessary for temporary construction easements and shall be effective for a period of one year from the date the City acquires the legal title to the property, or until sooner released by the City; and

A temporary construction easement over, under and across that portion of the SE1/4 of the NW1/4 of the SE 1/4 of Section 13, T1N, R7E, BHM, Rapid City Pennington

County, South Dakota, that lies between the eastern boundary of lot H1 and extending to the east fifty feet (50') and running from the southern boundary of the Minnesota Street right of way on the north to the 1/16th section line on the south, encompassing more or less .27 acres or approximated 11,784 square feet. Said temporary construction easement shall included the right to use the property in the manner reasonably and customarily necessary for temporary construction easements and shall be effective for a period of one year from the date the City acquires the legal title to the property, or until sooner released by the City; and

BE IT FURTHER RESOLVED that said real property be and hereby is condemned and taken for public purposes.

BE IT FURTHER RESOLVED that the City of Rapid City hereby authorizes and directs the City Attorney to undertake legal proceedings to implement this Resolution of Necessity and to determine just compensation to be paid.

Dated this 2<sup>nd</sup> day of February, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by French. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

Motion was made by Partridge, seconded by Rodriguez and carried to authorize the Finance Officer to issue a treasurers check to the Clerk of Courts for Pennington County in an amount not to exceed \$56,000, the actual amount to be the amount listed in the appraisal, with the funding source to be the SAB28 Fund.

As there was no further business to come before the Council at this time, the meeting adjourned at 10:15 P.M.

CITY OF RAPID CITY

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Finance Officer

(SEAL)