

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota
March 17, 2003

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, March 17, 2003 at 7:00 P.M.

Mayor Jerry Munson, Finance Officer Jim Preston, and the following Alderpersons were present: Tom Johnson, Alan Hanks, Sam Kooiker, Tom Murphy, Bill Waugh, Martha Rodriguez, Ray Hadley, Ron Kroeger and Mel Dreyer; the following arrived during the course of the meeting: Rick Kriebel; and the following were absent: None.

Motion was made by Hanks, seconded by Rodriguez and carried to correct the minutes of March 3, 2003 to show the following correct stipulation for approval of Layout Plat No. 03PL012: 1) Prior to final plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fee shall be paid; and **approve the minutes** of March 3 and March 12, 2003.

Bid Openings

The following companies submitted bids for No. CC031703-01, **Knollwood Detention Pond Element 310 Project DR00-902**, which were opened on March 13, 2003: 1) Excel Construction; 2) Black Hills Excavating; 3) Shovelhead Excavating; 4) RCS Construction; 5) Quinn Construction; and 6) Rapid Construction. Motion was made by Johnson, seconded by Hanks and carried to refer these bids to the Public Works Committee for review and recommendation.

The following companies submitted bids for No. CC031703-01, **Canyon Lake Drive Reconstruction Project SSW98-817** which were opened on March 13, 2003: 1) Hills Materials Company; 2) Stanley Johnsen Concrete; 3) Site Work Specialists; and 4) Heavy Constructors. Staff has reviewed the bids and recommends award to Stanley Johnsen Concrete. Motion was made by Kroeger and seconded by Waugh to award the bid for SSW98-817 to Stanley Johnsen Concrete, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$2,439,019.04; subject to concurrence of the SD Department of Transportation. Kooiker expressed concern about a change in the detailed specifications for Public Works Construction projects which could increase costs for city projects. He noted that the change in specifications was not approved by the City Council. Bjerke stated that historically, the Council has not approved the detailed specifications for projects. Kooiker stated that he feels the new specs will increase the costs to the taxpayers and therefore should be approved by the Council. Substitute motion was made by Kooiker and seconded by Hadley to continue this item to the Public Works Committee for discussion. Bjerke stated that they would like to get this project going as soon as possible because of the potential delays and inconveniences in this area of Sioux Park. Roll call vote was taken on the substitute motion. AYE: Hadley, Kooiker, Kriebel, Waugh and Hanks; NO: Johnson, Kroeger, Dreyer, Murphy and Rodriguez. Mayor Munson voted NO to break the tie and the substitute motion failed. Roll call vote was taken on the original motion to award the bid: AYE: Rodriguez, Murphy, Dreyer, Kroeger, Waugh, Johnson and Kriebel; NO: Hanks, Kooiker and Hadley. Motion carried, 7-3.

The following companies submitted bids for No. CC031703-01, **Complete Undercarriage Rebuild for 1980 Komatsu D155** for Solid Waste Operations Division, which were opened on March 13, 2003: 1) Butler Machinery; 2) JD Evans, Inc. and 3) Diesel Machinery, Inc. Staff has reviewed the bids and recommends award to Butler Machinery. Motion was made by Rodriguez, seconded by Murphy and carried to award the bid for the Undercarriage Rebuild

to Butler Machinery Company, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$23,029.31.

The next item discussed by the Council was award of the bid for **Canyon Lake Park Improvements** (Asphalt Overlay, Bicycle Path, Street and Parking Lighting) Project PR03-1273 which were opened on February 27, 2003. Staff has reviewed the bids and recommends award to Simon Contractors of South Dakota. Preston noted that the Parks & Rec Committee has reallocated dollars to fund this entire project. The bid award was also reviewed and recommended for approval by the Capital Improvement Committee. Motion was made by Rodriguez and seconded by Murphy to award the bid for PR03-1273 to Simon Contractors of South Dakota, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$270,568.80. Bjerke described the four alternates included with this bid. It was noted that this item does not appear on the Council's agenda. Bjerke encouraged the Council to take action on this project tonight because of the deadline with the bids which were opened on February 27th. Substitute motion was made by Hadley and seconded by Waugh to refer this item to a special council meeting to be held prior to the next Public Works Committee meeting. It was noted that the bids must be awarded within 30 days of being opened. Second Substitute motion was made by Rodriguez and seconded by Murphy and carried to refer this item to a Special Council Meeting to be held on Wednesday, March 26th at 1:15 P.M.

Mayor's Items

Mayor Munson presented the **Veteran of the Month Award** to Walter Best and commended him for outstanding service to the country.

Munson also presented a **Certificate of Appreciation** to Kevin Miller of the Police Department and commended him for 20 years of service to the community.

Aldersperson Items

Public Works Committee Chairperson Martha Rodriguez stated that additional discussion is needed on the impact fees. She stated that a **Special Public Works Committee** meeting will be held on Wednesday, March 26th at 1:15 P.M. in the Council Room to adequately discuss impact fees. Kooiker suggested that this meeting be taped because of the amount of confusion and mis-information in the community on this issue. Motion was made by Kooiker and seconded by Kriebel to request that this committee meeting be taped and aired. Johnson objected noting that this meeting is no more important than other committee meetings held throughout the year. Roll call vote was taken: AYE: Hanks, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Dreyer; NO: Johnson. Motion carried, 9-1.

Motion was made by Kroeger and seconded by Waugh that all future waivers, negotiations, reductions of **impact fees** shall be approved by the City Council. City Attorney Altman noted that the only waiver provided for in the initiative is for affordable housing and the initiative has set forth that the Council is the final decision making body for those waivers. The Public Works Director has the first determination and if someone does not agree with his determination, they can appeal to the City Council. Public Works Director Bjerke stated that according to the ordinance, the Public Works Director "or his designee" is the person to look at waiving these fees. Bjerke stated that he would like to designate the City Council as the body to look at waiving these fees. Munson suggested that this issue be discussed further at the Special Public Works Committee meeting on March 26th. Substitute motion was made by Kriebel and seconded by Johnson that all future waivers, negotiations, reductions of impact fees shall be brought before the City Council for review (including calculation of fees) prior to approval by the Public Works Director. Johnson suggested that the Council notify the Public Works Director that the City Council will appeal each waiver request. This will ensure that the Council has the final decision on each request. There was additional discussion on the

process for review of waiver requests. Bjerke stated that he would like the City Council to make the decision on calculation of these fees, not just review of the waiver requests. Rodriguez called the question and Kooiker and Hanks objected. Discussion continued. Kriebel withdrew his motion. Substitute motion was made by Hanks, seconded by Johnson and carried to refer this issue to the special Public Works Committee meeting on March 26, 2003.

The next item on the agenda was a request from Kroeger, Waugh, Kooiker and Rodriguez for the exact criteria that was used in all past waivers, negotiations and reductions in impact fees. Motion was made by Hanks, seconded by Rodriguez and carried to refer this item to the special Public Works Committee meeting on March 26th and direct staff to bring back the criteria and have it available at the meeting.

Hadley requested that staff review the needed **striping on Haines Avenue**. Bjerke stated that he has referred this request to the appropriate staff. It will be done as soon as weather permits.

Dreyer brought forward a "point of unfairness" among City Council members. Half of the Council can run for Mayor without risk of losing their Council seat, but the other half cannot. This is something that should be discussed and rectified in the near future.

Special Items and Items from Visitors

Dan Michael encouraged the Council to review all fees charged to citizens when developing property in the City.

Finance Officer Jim Preston informed the Council that petitions were submitted to the Finance Office on Friday, March 14th to rescind the Rapid City Economic Development and Civic Improvements Fund sales tax (**2012 Program**). Approximately 2,790 signatures were submitted. Motion was made by Hanks and seconded by Kooiker to put the question of the Rapid City Economic Development and Civic Improvements Fund, as referred, on the April 8th Ballot. City Attorney Altman explained that the petition seeks to refer the 2012 Program and the ½ cent sales tax which supports that program. The proper action for the council to take is to enact the ordinance, immediately suspend it, and refer it to the ballot. If it is the Council's wish to do that, an ordinance has been prepared for consideration. However, after researching the issue, it became apparent that the 2012 sales tax proceeds were pledged to a fund to repay the bonds. The bonds are guaranteed to be repaid by the good faith and credit of Rapid City. The initiated measure presented to the City seeks to cut off the funding source which has been pledged to repay these bonds. During the bond process, the City certified that they would not cut off the revenue source while the bonds are outstanding. Also, the bonds are not callable until 2006 and cannot be pre-paid. The Supreme Court has found that when a municipal corporation enters into a contract, the power given cannot be withdrawn until the contract is satisfied. Altman stated that in his opinion, the city may not, as a matter of constitutional and state law, accept this petition and put the issue on the ballot. It would adversely affect the bond holders and void the contract that was created with the bond holders that previous City Council's agreed to for the bond issue. The City would also be violating the state law that says the right to initiate an ordinance will not be applicable to ordinances proposed to nullify the purpose for which bonds have been sold. Johnson stated that previous Finance Officers and City Attorneys have indicated that if the tax were eliminated by a vote of the citizens, the tax would continue to be collected until the existing obligations of the bonds were satisfied. He feels this is a votable issue for the citizens and it should be put on the April 8th ballot. Altman read **Ordinance 3924** which implements the verbiage of the initiated measure. Hanks restated his motion to approve Ordinance 3924 as read into the record by the City Attorney. Kooiker concurred. Upon vote being taken, the motion carried unanimously.

Motion was made by Hanks, seconded Rodriguez and carried to defer implementation of the ordinance pending the outcome of the April 8th election, and order the matter submitted to the voters.

Motion was made by Kroeger, seconded by Rodriguez and carried to move Agenda Item No. 94 relative to the Red Cross forward on the agenda and discuss it at this time. Dawn Laskowski from the Black Hills Area Chapter of the **American Red Cross** explained that a presentation is being planned for Rapid City residents regarding disaster preparedness steps. The program is called "Together We Prepare" and provides information on five steps individuals can follow to be prepared for different types of disasters. The five steps are 1) Make a Plan, 2) Build a Kit, 3) Get Trained, 4) Volunteer, and 5) Give blood. Hanks suggested that this information be presented to city officials and staff prior to the town meeting so that questions can be answered from citizens. Motion was made by Hanks, seconded by Waugh and carried to set this for the next Public Works Committee meeting and allow the Mayor to establish a date to have city staff come to a meeting.

Alcoholic Beverage License Applications

Motion was made by Hadley, seconded by Waugh and carried to continue the hearing on the application of Northcott Company dba **Perkins Restaurant and Bakery**, 1715 LaCrosse Street, for an On-Sale Malt Beverage License (New License – No Video Lottery), until April 7, 2003.

Motion was made by Hadley, seconded by Waugh and carried to move Agenda Item No. 78 forward for discussion at this time.

The Mayor presented No. 03UR002, **An Appeal of the Planning Commission's approval of a Conditional Use Permit to allow an On-Sale Liquor Establishment** on Lots 10 thru 18 of Tract C in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2305 Mt Rushmore Road. Motion was made by Dreyer and seconded by Hanks to accept the Planning Commission's recommendation to approve the appeal, with the following Stipulations: 1) A screening fence shall be installed in a manner that does not obstruct or divert drainage from the west; 2) The structure shall be maintained in compliance with all applicable Fire Codes at all times; 3) The fire sprinkler shall be in compliance with all applicable code requirements at all times; 4) All systems shall be maintained in compliance at all times; 5) The applicant shall submit a revised site plan showing a screening fence abutting all residential zoning districts for review and approval prior to Planning Commission; and 6) The On-Sale Liquor Establishment shall be operated in conjunction with a full service restaurant. Camelyn Hurd spoke against the conditional use permit because of the inadequate buffer between the restaurant and residential uses, and undue concentration of alcohol licenses in this area of Mt. Rushmore Road. She also spoke on behalf of all the property owners adjacent on the north and west of Perkins Restaurant. Stacy Wollman also spoke against the conditional use permit at this location. She presented information and statistics on the health problems created by smoking as well as the issues concerning alcohol and tobacco and how they affect youth in our community. Wollman also stated that she feels the application for a malt beverage license submitted by Perkins is not so much so they can serve alcohol, but to allow smoking in their establishment. Lisa Sissenstein stated that this is not about an on-sale malt beverage license, but about allowing smoking at Perkins Restaurant. The State Legislature passed a law stating that smoking is banned in public places unless the establishment has an alcohol license. The application submitted by Perkins is a way for them to get around this law. Dr. Allan Nord also spoke about the effects of smoking and second-hand smoke on people in the community. Nord stated that as a community, Rapid City is moving away from smoking, however, the application by Perkins is moving in a different direction. Northcott Company seems to be out of step with where the majority of the community is going. Stacy Hovland, employee at Perkins Restaurant, explained that as of July 1, 2002, smoking was no longer allowed in Perkins. Hovland stated

that smoking is an individual choice and it should be up to a restaurant whether they want to have a smoking area or not. Hovland stated that since the smoking ban went into effect, business at the restaurant has decreased 15%-20% and employee wages have also decreased 15%-20%. She encouraged the Council to approve the application for Perkins Restaurant because this issue effects more than just the people who own the restaurant. Abe Usera, Glenda Nixon and Grace Nixon spoke against the application and urged the Council to make the difficult decision to deny this license for the benefit of citizens in the community. Attorney Michael DeMersseman, representing Northcott Company, urged the Council to accept the recommendation of the Planning Commission and approve the license. The State of South Dakota has the responsibility for regulation of tobacco. The issue before the Council at this time is issuance of a malt beverage license. Clark Cummings from Northcott Company explained that they applied for this license because having the license would allow them to give their patrons the choice to smoke or not. He added that they would prefer that the state law be changed so that smoking would be banned in all restaurants, however, that is not the way the law was approved. DeMersseman stated that Northcott Company is willing to accept restrictions on the use of this malt beverage license. Also, the Company will install a \$5,000 Smoke Eater filtration system in each location where there is a malt beverage license. Asst. City Attorney Green read the criteria of the City Code under which the Council should consider a conditional use permit. Murphy stated that the issue before the Council at this time is a business trying to increase their revenue according to the law, not whether or not to allow smoking in a restaurant. If citizens of the community choose not to go into this restaurant because they allow smoking, that is their choice. Hanks stated that if the residents in this area are opposed to this conditional use permit, he is opposed to it. Johnson stated that this issue goes well beyond Perkins and their request for a malt beverage license. It will pertain to every business that sells food or provides motel services. If this community starts shutting off the ability to sell alcohol because we don't want people to smoke, we will shut off economic development in the community. For this Council to decide which business is going to sell alcohol and thereby allow people to smoke in the establishment, is wrong. This Council should not be telling Perkins they can't have a malt beverage license because that will allow people to smoke. Johnson stated that Perkins has a facility that is located properly, and there is no reason why the application should not be approved. Substitute motion was made by Rodriguez and seconded by Kroeger to approve the conditional use permit application for Perkins Restaurant, with the following stipulations: 1) A screening fence shall be installed in a manner that does not obstruct or divert drainage from the west; 2) The structure shall be maintained in compliance with all applicable Fire Codes at all times; 3) The fire sprinkler shall be in compliance with all applicable code requirements at all times; 4) All systems shall be maintained in compliance at all times; 5) The applicant shall submit a revised site plan showing a screening fence abutting all residential zoning districts for review and approval prior to Planning Commission; 6) The On-Sale Liquor Establishment shall be operated in conjunction with a full service restaurant; and 7) Require the applicant to install the "Smoke Eater" filtration system as described, for the location on Mt. Rushmore Road. Camelyn Hurd reiterated that noise is a big problem in this neighborhood and she does not feel a five foot fence will change this problem. Nord added that the ventilation system proposed will not control occupational exposure to environmental tobacco smoke. Wollman stated that there is an undue concentration of licenses in this area. She presented a map showing all the alcohol locations in a seven block radius of Perkins. She also noted that there are 14 establishments in a mile and half section of Mt. Rushmore Road. This represents ten percent of the total alcohol establishments in Rapid City. Mr. Cummings stated that Northcott Company considered applying for this license prior to the law going into effect. The Company was told by several non-smoking activists, that there was a lot of information that showed this change would not impact the business negatively. As a result, we decided to wait and see what happened. We have found that it has negatively impacted our business and that is why we are applying for the license at this time. Kooiker called the previous question and there were no objections. Upon vote being taken, the motion to call the question carried unanimously. Roll call vote was taken: AYE: Johnson, Waugh, Kroeger, Dryer, Murphy and Rodriguez; NO: Hadley, Kooiker, Kriebel and Hanks. Motion to approve the request carried, 6-4.

This was the time set for hearing on the application of Northcott Company dba **Perkins Restaurant and Bakery**, 2305 Mt. Rushmore Road, for an On-Sale Malt Beverage License (New License – No Video Lottery). Motion was made by Rodriguez and seconded by Murphy to approve the application. Roll call vote was taken: AYE: Johnson, Waugh, Kroeger, Dryer, Murphy and Rodriguez; NO: Hadley, Kooiker, Kriebel and Hanks. Motion to approve the request carried, 6-4.

Upon motion made by Hadley, seconded by Kroeger and carried, the Finance Officer was directed to publish notice of hearing on On-Sale Liquor License No. 5871, Sherri Ashley dba **Uptown Grill**, 615 Main Street, said hearing to be April 21, 2003.

Upon motion made by Hadley, seconded by Kroeger and carried, the Finance Officer was directed to publish notice of hearing on the application of Keith M. Watson dba **Red's Savoy Pizza**, 510 St. Joseph Street, for an On-Off Sale Malt Beverage License Transfer (from James Wilcox), said hearing to be held on Monday, April 7, 2003.

Consent Calendar Items

The following items were removed from the Consent Calendar:

8. No. CC030303-01 – Approve the bid award of One (1) New Current Model Year Cargo Van for the Engineering Division to the lowest responsible bidder meeting specifications, Wegner Auto Co., Inc. of Pierre for the low unit price bid for a total contract amount of \$20,151.
9. No. CC030303-01 - Approve the bid award of One (1) New Current Model Year Suburban 4x4 for the Engineering Division to the lowest responsible bidder meeting specifications, Wegner Auto Co., Inc. of Pierre for the low unit price bid for a total contract amount of \$30,599.
39. Direct Assistant City Attorney Michael Booher to work with Sam Kooiker to get the information regarding legal counsel and officers of the city ready and submitted to the Attorney General's office and to have the information ready to present at the information meeting on April 23rd.

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

Public Works Committee Items

10. No. PW031203-01 – Approve Change Order No. 02F for FD02-870, Rapid City Fire Department Fire Station #6 to Kurtz Construction Company for an increase of \$6,967.
11. No. PW031203-02 - Approve Change Order No. 02F for SSW01-1105, In-Place Pipeline Reconstruction Project to Insituform Technologies USA, Inc. for an increase of \$467.
12. Authorize Staff to Advertise for Bids for Hot Mixed Asphaltic Concrete and Asphalt Maintenance Mixtures.
13. No. PW031203-03 – Authorize Staff to Advertise for Bids for Cold Weather Pavement Marking Tape.
14. No. PW031203-04 - Authorize Staff to Advertise for Bids for PM03-1304, 2003 Roadway Marking Contract.
15. No. PW031203-06 – Approve Montana Dakota Utilities Company request to place structure in the public right-of-way along Omaha Street at Cross Street and West Rapid Street.
16. No. 03RD002 – Approve with stipulations a Road Name Proposal for a private drive for petitioner Joseph and Winona Lytle (Life Estate) for Lytle Lane, located east of Twilight Drive and south of E. Highway 44.

RESOLUTION NAMING
A PRIVATE DRIVE TO LYTLE LANE

BE IT RESOLVED by the City of Rapid City that the private drive on the balance of Tract A of the E1/2 SW1/4 and of the W1/2 SE1/4 less Lot H1 and the S1/2 SW1/4 NE1/4 less Lot H2 and less right-of-way; S1/2 SE1/4 NW1/4 less Lot H1; balance of NE1/4 SW1/4 less Lot H1; and the balance of the W1/2 SE1/4, all located in Section 9, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located east of Twilight Drive and south of E. Highway 44, and is hereby named Lytle Lane.

Date this 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

17. Approve a Request by Scott & Valerie Brandsted to waive sidewalk requirements at 15 Quincy Street.
18. Authorize Mayor and Finance Officer to Sign Black Hills Power, Inc. Right-Of-Way Permit -- OH/UG Corporation for Greenway Tract 8, Section 3 and 4, T1N, R7E, Rapid City, Pennington County, South Dakota (Canyon Lake Drive ROW).
19. No. PW031203-07 – Approve South Dakota School of Mines & Technology request for digital information from Rapid City GIS Division in a format to be approved by the City Attorney's Office.

Legal & Finance Committee

20. No. LF031203-01 – Authorize Mayor and Finance Officer to sign Contract with Pennington County Housing for Drug Elimination and Crime Prevention Program.
21. Approve Seatbelt and Illegal Use of Alcohol/Drugs Grant Application & Award from Department of Commerce and Regulation for the sum of \$5,000 (Require no Matching Funds).
22. No. LF031203-02 – Approve Travel Request for Mark Enright and Christopher Jolley to attend HazMat Technician 80 hour classes at the Emergency Response Training Center in Pueblo, CO, from March 31-April 11, 2003.
23. Authorize staff to enter into Contractual Agreement with State of South Dakota for a Grant to cover the above expenses (estimated expense is \$6,396.48).
24. No. LF031203-03 – Approve Travel Request for Tory Richardson to attend the AAAE Spring Legislative Conference in Washington, D.C. from March 24-25, 2003, in the amount of \$1,579.
25. No. LF031203-04 – Approve Travel Request for Tory Richardson to attend the AAAE Rental Car Industry Workshop in Jackson Hole, WY, from March 30, 2003, through April 1, 2003, in the amount of \$1,002.
26. No. LF031203-05 – Approve Travel Request for Ken Simmons to attend Airport Security Coordinator Training in St. Louis, MO, from May 8-11, 2003, in the amount of \$1,050.
27. No. LF031203-06 – Approve Travel Request for Ken Simmons, Jerry Brown, Jerry Mitchell, and Bert Corwin to attend the 75th Annual AAAE Conference & Expo in Los Angeles, CA, from April 26-30, 2003, in the amount of \$8,509.
28. No. 03TP001 – Authorize Mayor and Finance Officer to sign Amendment #3 to the Agreement for Professional Services between the City of Rapid City and Alliance of Architects and Engineers for the completion of the US Highway 16 Corridor Study for a Time Extension only to December 31, 2003.

- 29. No. LF022603-03 – Approve Resolution Declaring Property Surplus (Garbage Trucks).

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:

Police Department

Posse System Software (Inv. No. 9615, Inv. No. 11240)

Golf Course

Foley Sharpener, Model #3096, Serial #204

Foley Bedknife Grinder, Model #3084 A, Serial #415

Garbage Collection

1993 Freightliner with Heil 20 CY body, SN 1FVXJLBB8RL776758

1998 CCC with Heil 20 CY body, SN 1CYCCK481WT043414

1992 IHC 4900 with Heil 20 CY body, SN 1HTSHPBR5NH399103

1992 IHC 4900 with Heil 20 CY body, SN 1HTSHPBR3NH399102

1995 CCC with Heil 20 CY body, SN 1CYCN489TT042086

1992 Chevy Kodiak with Heil 20 CY body, SN 1GBT7H4J9NJ106088

1995 CCC with 25 CY Heil split-body, SN 1CYCCN48XST041611

1998 CCC with Heil 20 CY body, SN 1CYCCK48XWT043413

1993 Freightliner with Heil 20 CY body, SN 1FVXJLBB6RL776757

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 3rd day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

- 30. No. LF031203-07 – Approve Resolution Fixing Time and Place for Hearing on Assessment Roll for Property Cleanup.

RESOLUTION FIXING TIME AND PLACE FOR HEARING ON ASSESSMENT ROLL FOR PROPERTY CLEANUP

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

- 1. The assessment roll for Property Cleanup was filed in the Finance Office on the 17th day of March, 2003. The City Council shall meet at the City/School Administration Center in Rapid City, South Dakota, on Monday, April 21, 2003 at 7:00 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.

- 2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time and place of hearing thereon, that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.
- 3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

- 31. No. LF031203-08 – 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
Roosevelt Park Underground Utilities, Inv. No. 0202
Irrigation Design System, Inv. No. 19648

Building Inspection
1989 Chevy S10 Blazer, SN 8227853

Finance Department
HP 7980 Tape Drive, Iv. No. 11963

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 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

- 32. No. LF031203-09 – Authorize Mayor and Finance Officer to Sign Contract for Cleaning Milo Barber Transportation Center to Ruthann Jazek in the amount of \$800.64 per month plus tax.

- 33. No. LF031203-10 – Approve Resolution to Establish the Position of Computer Operations Supervisor.

**RESOLUTION TO ESTABLISH THE POSITION
OF COMPUTER OPERATIONS SUPERVISOR**

WHEREAS, a technology audit has been completed and confirms the addition of a full-time position in the Department of Fire and Emergency Services and such a position shall be titled Computer Operations Supervisor; and

WHEREAS, the position of Library Computer Operations Supervisor is currently within the City of Rapid City pay scale, and the essential functions performed by the position are universal in nature and may be performed by other non-specific departments;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the Non-Union Pay Plan by changing the job classification title from a department specific position title of Library Computer Operations Supervisor to Computer Operations Supervisor as recommended in Grade 17.

Passed this 17TH day of March, 2003

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

THE CITY COUNCIL
s/ Jerry Munson, Mayor

- 34. No. LF031203-19 – Authorize Mayor and Finance Officer to Sign Business Associate Agreements pursuant to HIPAA Requirements.
- 35. No. LF031203-20 – Authorize Mayor and Finance Officer to Sign Engagement Letters with Grant Thornton to Perform Arbitrate Rebate Calculations on the Following Bond Issues: 1) Airport Improvement Corporation 1987A (final) at a Cost of \$2,500; 2) Parking Revenue Bonds (5 year) at a Cost of \$5,000; and 3) Sales Tax 1992 (10 year) at a Cost of \$6,000.
- 36. Authorize staff to fill the vacated driver position at Rapid Transit due to the permanent disability of an existing employee.
- 37. Approve Resolution to Establish the Position of Medical Services Section Chief.

**RESOLUTION TO ESTABLISH THE POSITION
OF MEDICAL SERVICES SECTION CHIEF**

WHEREAS, a job evaluation has been conducted utilizing the Factor Evaluation System methodology to establish the city’s compensation plan; and,

WHEREAS, the evaluation established that the duties and responsibilities of the described position of Medical Services Section Chief justify placing this classification in Grade 23 of the Non-Union pay scale; and

WHEREAS, the position title of Emergency Medical Services Clinical Coordinator in Grade 21 shall be deleted from the pay scale and no longer be utilized; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the Non-Union Pay Plan by adding this position classification description at the Grade 23 as recommended in the job evaluation.

Passed this 17th day of March, 2003

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

THE CITY COUNCIL
s/ Jerry Munson, Mayor

38. No. LF031203-12 – Approve Resolution Establishing Ice Rates.

RESOLUTION ESTABLISHING ICE RATES

BE IT RESOLVED by the City of Rapid City that the following ice rates are established, effective March 17, 2003, and all previous resolutions pertaining to ice rates are hereby rescinded:

<u>Season Passes</u>	<u>Single Payment</u>
<u>Resident:</u>	
Individual	\$94 (year pass)
Family (4 people)	\$230 (year pass)
Each Additional after 4	\$31 (year pass)
<u>Non-City Resident:</u>	
Individual	\$124 (year pass)
Family (4 people)	\$262 (year pass)
Each Additional after 4	\$42 (year pass)
Skate Rental Pass	\$94
<u>Monthly Passes</u>	\$15
<u>Monthly Skate Rental Pass</u>	\$15
<u>Punch Pass (10 Punch)</u> (Skating or Skate Rental)	
Youth	\$22.50
Adult	\$30.50
<u>Daily Passes</u>	
1 to 17 Years of Age	\$2.75
18 Years of Age & Over	\$3.75
Group Rates (30 or more)	\$2.25
<u>Ice Rental Fees</u>	
Prime Time	\$102/hour
Non-Prime Time*	\$60/hour
*Weekdays before 3 p.m. and after 10 p.m.	
*Saturday and Sunday before 6 a.m. and after 10 p.m.	
<u>Skate Rental</u>	\$2.75
<u>Skate Sharpening</u>	\$2.75

Dated this 17th day of March, 2003.

CITY OF RAPID CITY

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

s/ Jerry Munson, Mayor

40. No. LF031203-13 – Authorize Mayor and Finance Officer to enter into an Agreement with American Legal Publishing Corporation for recodifying the Rapid City Municipal Code with updates on a monthly basis.
41. Approve the following Licenses: Residential Contractor: Silver Mountain Co., Timothy R. Lane.
42. No. LF031203-15 – Authorize the Mayor and Finance Officer to Sign the 2003-2004 CLG Grant Application and Assurances.
43. No. LF031203-16 – Authorize Mayor and Finance Officer to execute Bid Proposal with Black Hills Country Builders, Inc. in the amount of \$4,985.25 for **Phase One** of the Restoration Project of a window and door from the First Baptist Church of Rapid City project (Feigel House Preservation Foundation to pay \$2,500 of this amount by way of matching funds).
44. No. LF031203-17 – Approve Appointment of Jim Bickett for a Two-Year Term to the Residential Contractor Board.
45. No. LF031203-18 – Approve Reappointment of Tim Henderson, Sheri Zimmer, and Van Lindquist for Three-Year Terms on the Parks & Recreation Subcommittee.
46. No. LF031203-21 – Approve Appointment of Craig Uhre to the Rapid City Regional Airport Board to Complete the Unexpired Term of Pat Meyers. (This item was inadvertently omitted from the minutes of the February 12, 2003, Legal and Finance Committee meeting.)

Raffle

- 46A. No. CC031703-05 - Easter Seals South Dakota – Notification of Raffle to be conducted February thru August, 2003

End of Consent Calendar

Motion was made by Johnson and seconded by Rodriguez to approve the bid award of One (1) New Current Model Year **Cargo Van for the Engineering Division** to the lowest responsible bidder meeting specifications, Wegner Auto Co., Inc. of Pierre for the low unit price bid for a total contract amount of \$20,151 (No. CC030303-01). Kooiker stated that because of the tight budget in the engineering department and their request for an additional FTE, he feels there should be more discussion on this item. Substitute motion was made by Kooiker and seconded by Hadley to continue this item to the next Public Works Committee meeting. Roll call vote was taken: AYE: Kooiker and Hadley; NO: Rodriguez, Murphy, Hanks, Dreyer, Kroeger, Waugh, Johnson and Kriebel. Motion failed, 2-8. Upon vote being taken, the original motion to approve the bid award carried with Kooiker and Hadley voting no.

Motion was made by Johnson and seconded by Rodriguez to approve the bid award of One (1) New Current Model Year **Suburban 4x4 for the Engineering Division** to the lowest responsible bidder meeting specifications, Wegner Auto Co., Inc. of Pierre for the low unit price bid for a total contract amount of \$30,599 (No. CC030303-01). Upon vote being taken, the motion carried with Kooiker and Hadley voting no.

Motion was made by Kooiker and seconded by Hadley to direct Assistant City Attorney Michael Booher to work with Sam Kooiker to get the **information regarding legal counsel and officers** of the city ready and submitted to the Attorney General's office and to have the information ready to present at the information meeting on April 23rd. Murphy stated that he feels this action will put the Asst. City Attorney into a difficult position. This person works for the City Attorney, not this Council. Substitute motion was made by Murphy and seconded by Johnson to direct the City Attorney's Office to work with Kooiker to get the information

regarding legal counsel and officers of the city ready and submitted to the Attorney General's office and to have the information ready to present at the information meeting on April 23rd. Altman stated that he would prefer to be the one working with Mr. Kooiker on this issue. He has been working on this issue for months and is most familiar with it. Substitute motion was made by Kroeger and seconded by Rodriguez to direct the City Attorney's Office to work with Alderman Kooiker to get the information regarding legal counsel and officers of the city ready and submitted to the Attorney General's office, and that the information be submitted at the next Legal & Finance Committee. Upon vote being taken, the substitute motion carried unanimously.

Public Hearing

The next item discussed by the Council was No. LF031203-14, an appeal of the Decision of the **Sign Code Board of Appeals**, submitted by Vernon Osterloo. Motion was made by Hadley, seconded by Johnson and carried to approve the appeal.

The Mayor announced that the meeting was open for consideration of No. CC031703-04, the **Resolution of Necessity** for E. Catron Boulevard Sanitary Sewer Extension Highway 79 to 5th Street Project No. SS01-1052. Notice of hearing was published in the Rapid City Journal on March 1 and March 8, 2003 and mailed to property owners on February 18, 2003. No oral or written objections were submitted. The following Resolution was introduced, read and Rodriguez moved its adoption:

RESOLUTION OF NECESSITY FOR
E. CATRON BOULEVARD SANITARY SEWER EXTENSION
HIGHWAY 79 TO 5TH STREET
PROEJCT NO. SS01-1052

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

The City Council hereby declares the necessity of extending a sanitary sewer main along the south side of the E. Catron Boulevard ROW from Highway 79 to the future 5th Street extension. The project will consist of approximately 5400 l.f. of 18" PVC Sanitary sewer Main and 15 Manholes.

The above-referenced project shall be hereafter referred to as E. Catron Boulevard Sanitary Sewer Extension, Project No. SS01-1052, which shall be deemed a description of the above referenced improvements.

The general nature of the project is set forth above. Detailed plans and specifications will be prepared by the City Engineering Division and will be placed on file with the City Finance Officer.

The estimated total cost of the project is \$350,000 of which approximately \$280,476 will be assessed to the benefiting properties. The estimated assessed costs include consultant services for design, deduction for oversize costs, 6% engineering fees, and 5% fiscal fees. Interim construction fees are to be determined by the Finance Officer and shall be included in the final assessment.

It is understood that as the City identifies the additional service area that benefits from this extension Lazy P-6 will be reimbursed a portion of the fee paid by other owners through a connection fee. A cost reimbursement agreement will be negotiated prior to final adoption of this Resolution of Necessity.

The method of assessment is on an acreage basis.

The recorded ownership and estimated costs for each property is listed on the attached ownership list.

Dated this 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

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

Planning Department Consent Items

Motion was made by Rodriguez, seconded by Hanks and carried to approve the following items in accordance with the recommendation contained in the Council packet:

- 48. No. 03AN002 – Approve the request by Dakota, Minnesota and Eastern Railroad Corporation for a **Petition for Annexation**, located south of Interstate 90 and Exit 61.

A RESOLUTION ANNEXING THE WITHIN DESCRIBED TERRITORY

WHEREAS a petition signed by not less than three-fourths of the registered voters and by the owners of not less than three-fourths in value of the within described territory, contiguous to the City of Rapid City, has been filed with the City of Rapid City; and,

WHEREAS the City Council of the City of Rapid City deems it for the best interest of the City that the within described territory be included within the corporate limits of the City and annexed thereto;

NOW, THEREFORE BE IT RESOLVED by the City of Rapid City that the following territory, containing 8.97 acres, more or less, is hereby included within the corporate limits of the City and annexed thereto:

Lot H7 in the SW1/4 of Section 27, T2N, R8E, BHM, Pennington County, South Dakota; and, Lot H1 in Tract B in the NE1/4SW1/4 of Section 27, T2N, R8E, BHM, Pennington County, South Dakota, containing 8.97 acres, more or less.

Dated this 17th day of March 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

- 49. No. 02PL051 - A request by CSU Properties, LLC for a **Preliminary and Final Plat** on Lot 1 of Professional Plaza Subdivision, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot RU-9A, Lots 1 thru 4 of Block 6, Lot 16 and the west 9.77 feet of Lot 15 in Block 7, and adjacent vacated 4th Street ROW and 1/2 vacated adjacent alley in Original Town of Rapid City, Section 36,

T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located in the southeast corner of the intersection of 5th Street and North Street. (CONTINUE TO APRIL 7, 2003)

50. No. 02PL095 - A request by Doug Sperlich for 16 Plus, LLC for a **Preliminary and Final Plat** on Lot 3, Moon Ridge Subdivision, located in the E1/2 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 1 and Tract 2 of Pioneer Subdivision, located in the E1/2 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of U.S. Highway 16 and Moon Meadows Road. (CONTINUE TO APRIL 7, 2003)
51. No. 02PL102 - 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. (DENY WITHOUT PREJUDICE)
52. No. 02PL107 - A request by Williams and Associates for Black Hills Surgery Center, LLP for a **Layout, Preliminary and Final Plat** on Lot 6R, Lot 32R, and Lot 33R of Block 18 of Robbinsdale Addition No. 10 located in the S1/2 of the NW1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6, Lot 32 and Lot 33 of Block 18 of Robbinsdale Addition No. 10 located in the S1/2 of the NW1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of 5th Street along Anamaria Drive. (CONTINUE TO APRIL 7, 2003)
53. No. 02PL113 - A request by Dream Design International, Inc. for a **Layout Plat** on Lots 1 thru 4 of Block 1; Lots 1 thru 6 of Block 2; Lots 1 thru 3 of Block 3; Lots 1 thru 7 of Block 4; Lots 1 thru 3 of Block 5, Lots 1 thru 5 of Block 6 and Outlot A; Stoney Creek South Subdivision, located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the S1/2 NW1/4 SW1/4 less Lots H1 and H2; and the unplatted balance the N1/2 NW1/4 SW1/4 located south of Catron Boulevard, all located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of Catron Boulevard and Sheridan Lake Road. (APPROVE WITH THE FOLLOWING STIPULATIONS: 1) Upon submittal of a Preliminary Plat, a complete grading plan shall be submitted for review and approval; 2) Upon submittal of a Preliminary Plat, a drainage plan shall be submitted for review and approval. In addition, the plat shall be revised to show drainage easements as needed; 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. In addition, the sewer line to be located along the rear of the proposed commercial lots shall be a private utility and shall be maintained by the applicant; 4) Upon submittal of a Preliminary Plat, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval; 5) Upon submittal of the Preliminary Plat, 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 utilities, storm drainage, curb and gutter and sidewalk improvements for all adjacent and interior roadways; 6) Upon submittal of the Preliminary Plat, the plat document shall be revised to show a non-access easement along the first 100 feet of Bendt Drive; 7) Upon submittal of the Preliminary Plat, construction plans for Sheridan Lake Road and Catron Boulevard shall be submitted for review and approval. In particular, the construction plans shall show a deceleration

lane along Sheridan Lake Road. In addition, a non-access easement shall be shown along Sheridan Lake Road and Catron Boulevard except for approved approach location(s); 8) Upon submittal of the Preliminary Plat, construction plans for Bendt Drive shall be submitted for review and approval. In particular, Bendt Drive shall be constructed with a 59 foot wide right-of-way. The first 100 feet of Bendt Drive shall be constructed with 3-12 foot wide paved lanes transitioning into a 27 foot wide paved surface;). Upon submittal of the Preliminary Plat, the plat document shall be revised to eliminate the shared approach to proposed Lots 1 and 7 located along Catron Boulevard; 10) Upon submittal of the Preliminary Plat, the construction plans shall be revised to provide a bike path extending west from Bendt Drive to Sheridan Lake Road; 11) Upon Preliminary Plat submittal, the construction plans shall be revised to provide an intermediate turnaround every 600 feet along Bendt Drive or a Special Exception to the Street Design Criteria Manual shall be obtained; 12) 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; 13) All Uniform Fire Code shall be continually met; 14) Prior to Final Plat approval, the plat title shall be revised changing the name of the proposed subdivision from "Stoney Creek Southside Subdivision" to Stoney Creek South Subdivision; 15) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; and, 16) Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

54. No. 02PL114 - A request by Dream Design International Inc. for a **Preliminary and Final Plat** on Lots 7 thru 10, Block 14 and Outlot LS and dedicated streets of Red Rock Estates, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted W1/2 NW1/4 NE1/4 less Red Ridge Ranch, less Red Rock Estates and less right-of-way located in Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the extension of Birkdale Road off Muirfield Drive. (CONTINUE TO MAY 19, 2003)
55. No. 02PL115 - A request by Ferber Engineering Company for a **Preliminary and Final Plat** on Lots 7R and 8R of the Flannery Subdivision No. 2 located in the NW1/4 of the NE1/4 of Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 7, 8 and 9 of the Flannery Subdivision No. 2 located in the NW1/4 of the NE1/4 of Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northeast of the intersection of Ireland Place and Dublin Court. (CONTINUE TO APRIL 7, 2003)
56. No. 02PL116 - A request by Dream Design International, Inc. for a **Preliminary and 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 Elk Vale Road. (CONTINUE TO APRIL 7, 2003)
57. No. 02PL119 - A request by Kevin Conway for Norman or Rod McKie for a **Preliminary and Final Plat** on Lots 1 and 2 of Five Star Subdivision and the dedicated public right-of-way shown as Disk Drive located in the NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 8 of Lot M1 of the S1/2 NW1/4, Lots A and B of Lot 1 of Lot M1 of the S1/2

- NW1/4, Tract 4-B of Parcel 4 of SE1/4 NW1/4, and a portion of vacated Howard Street right-of-way located in NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Haines Avenue and north of Interstate 90. (CONTINUE TO APRIL 7, 2003)
58. No. 02PL126 - A request by Renner & Sperlich for Dean Kelly for a **Layout Plat** on Lots B thru E of Lot 6 of Miracle Pines Subdivision located in the NW1/4 Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Lot 6 of Miracle Pines Subdivision located in the NW1/4 Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive. (CONTINUE TO APRIL 7, 2003)
59. No. 02PL129 - A request by Dream Design International, Inc. for a **Layout Plat** on Lots 1 thru 23, MJK Subdivision, located in the NW1/4 of the SE1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the balance of Parcel B MJK Subdivision less the Meadows Subdivision and less right-of-way, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Preakness Street between Field View Drive and the Truck Bypass. (CONTINUE TO APRIL 21, 2003)
60. No. 03PL001 - A request by Dream Design International for a **Preliminary and Final Plat** on Lots A, B, C and Wel Lot, Miracle Place Subdivision, located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3, Block 15, of Canyon Lake Heights Subdivision located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Cliff Drive and Miracle Place. (CONTINUE TO APRIL 7, 2003)
61. No. 03PL002 - A request by Centerline, Inc. for Larry Lewis and Kenneth Kirkeby for a **Preliminary and Final Plat** on Parcel A of Tract SB of Springbrook Acres Addition, Tract SB Revised of Springbrook Acres Addition, and Lot 19R3 of Fairway Hill PRD located in the SW1/4 NE1/4, NW1/4 SE1/4, and SE1/4 NW1/4 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 19R2 of Fairway Hills Planned Residential Development and all of Tract SB of Springbrook Acres located in the SW1/4 NE1/4, NW1/4 SE1/4 and SE1/4 NW1/4 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of Fairway Hills and Sandstone Ridge Subdivision. (CONTINUE TO APRIL 7, 2003)
62. No. 03PL004 - A request by FMG, Inc. for Williston Basin Interstate Pipeline Co. for a **Preliminary and Final Plat** on the dedicated public right-of-way shown as Disk Drive formerly a portion of Parcel No. 5 located in the NE1/4 of NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Parcel No. 5 located in the NE1/4 of the NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Haines Avenue and north of Interstate 90. (CONTINUE TO APRIL 7, 2003)
63. No. 03PL011 - A request by Renner & Sperlich Engineering for Pat Wyss for a **Layout, Preliminary and Final Plat** on Lot 12R-2 and Lot 13R-2 of Block 3, Skyline Pines Subdivision, located in the SW1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 12R and Lot 13R of Block 3, Skyline Pines Subdivision, located in the SW1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1434 and 1444 Pevans Parkway. (CONTINUE TO APRIL 7, 2003)

- 64. No. 03PL016 - A request by Fisk Land Surveying & Consulting Engineering for Allen Nelson for a **Preliminary and Final Plat** on Lots 3R, 25R, and 27 of Forest Park Estates all in Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3 and Lot 25 of Forest Park Estates Subdivision and the north 200 feet of the south 940 feet of the west 450 feet of Tract A, all in Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4231 Starlite Drive. (CONTINUE TO APRIL 7, 2003)
- 65. No. 03PL017 – Approve the request by CETEC Engineering Services, Inc. for Park Hill Development, Inc. for a **Final Plat** located along Merlot Drive, Allie Court, Naples Court and Smith Avenue.

RESOLUTION APPROVING PLAT

WHEREAS a Plat of Lots 2A, 2B, 3A, 3B, 4, 5A, 5B, 6A, 6B, 7A, 13A, 13B, and 14 thru 20 of Block 1, Lots 8, 9, 10A, 10B, 11A, 11B of Block 2, Lots 1 thru 9, 10A and 10B of Block 5, of Park Meadows Subdivision, located in the NE1/4 SE1/4, SW1/4 NE1/4 and SE1/4 NE1/4, Section 7, T1N, R8E, 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 Lots 2A, 2B, 3A, 3B, 4, 5A, 5B, 6A, 6B, 7A, 13A, 13B, and 14 thru 20 of Block 1, Lots 8, 9, 10A, 10B, 11A, 11B of Block 2, Lots 1 thru 9, 10A and 10B of Block 5, of Park Meadows Subdivision, located in the NE1/4 SE1/4, SW1/4 NE1/4 and SE1/4 NE1/4, Section 7, T1N, R8E, 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 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

- 66. No. 03PL018 – Approve the request by FMG, Inc. for Hart Ranch Development Company for a **Preliminary and Final Plat** located along Arena Road.

RESOLUTION APPROVING PLAT

WHEREAS a Plat of Tracts A, B and C of Spring Creek Arena Parcel of Hart Ranch Development, formerly Spring Creek Arena Parcel, located in SE1/4 of Section 13, T1S, R7E BHM, and in SW1/4 of Section 18, T1S, R8E, BHM, 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 Tracts A, B and C of Spring Creek Arena Parcel of Hart Ranch Development, formerly Spring Creek Arena Parcel, located in SE1/4 of Section 13, T1S, R7E BHM, and in SW1/4 of Section 18, T1S, R8E, BHM, 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 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

- 67. No. 03PL019 - A request by Dale and Brenda Athow for a **Layout Plat** on Lot D1 of Schamber, Section 9 of the NW1/4 SE1/4, all located in Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 and 2 of Lot E less Lot A, Morningview Heights; and, the west 60 feet of the north 165 feet of Lot D less the north eight feet of Schamber, Section 9 of the NW1/4 SE1/4, all located in Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3519 and 3529 Western Avenue. (Approve with the following stipulations: 1) Upon Preliminary Plat submittal, the applicant shall identify an additional five and one half feet as Western Avenue right of way; 2) Upon Preliminary Plat submittal, the applicant shall identify the Leedy irrigation ditch as an easement on the plat; 3) Upon Preliminary Plat submittal, the applicant shall submit a topographic and structural survey; 4) Upon Preliminary Plat submittal, the applicant shall submit documentation demonstrating that the Leedy Irrigation Ditch Association is in agreement with the proposed structural development at the subject property. 5) Prior to Final Plat approval by the City Council, the applicant shall install No Parking sign(s) along Western Avenue, or post surety for the required sign(s); 6) Upon Preliminary Plat submittal, the applicant shall identify the proposed driveway alignment with Northbrook Drive; 7) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; 8) Prior to Final Plat approval by the City Council, improvements to Meadowbrook Drive shall be completed, or a Variance to the Subdivision Regulations shall be obtained to waive the requirements; and, 9) Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fee shall be paid.)

END OF PLANNING CONSENT CALENDAR

The Mayor presented No. 02PL070, a request by Dream Design International, Inc. for a **Final Plat** on Lot 2 Block 7, Lots 8 through 16 Block 8, and Lots 1 through 7 Block 9, Lot 1 Block 10, Meadows Subdivision, located in the SE1/4 of the SW1/4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County South Dakota, legally described as Tract 1 of Parcel C of MJK Subdivision located in the E1/4 of The SW1/4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along the future extension of Field View Drive west of the Dakota Ridge Subdivision. Motion was made by Rodriguez, seconded by Hanks and carried to continue this item until April 7, 2003.

Planning Department – Hearings

The Mayor presented No. 03CA002, a request by Deb-N-Hads Investments, LLC for Hadcock Construction, Inc. for an **Amendment to the Comprehensive Plan to change the future land use designation on a 0.140 acre parcel of land from High Density Residential to Office Commercial** located at 429 Quincy Street. The following Resolution was introduced, read and Rodriguez 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 17th day of March, 2003 to consider an amendment to the Comprehensive Plan to change the future land use designation on a 0.140 acre parcel of land from High Density Residential to Office Commercial on Lot N less the south three feet of Block 116, Original Town Rapid City, Section 1, T1N, R7E, BHM, Rapid City, 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 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

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

The Mayor presented No. 03PD004, **An Appeal of the Planning Commission's approval of a Planned Development Designation** on Lot B of "Lots A & B, Section 14, T1N, R7E, less Lot H1-E²SW⁴14-1-7 and less Lot H1-Lot B SW⁴14-1-7, all located in the SW1/4 of Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4301 Tower Road. Motion was made by Rodriguez and seconded by Murphy to approve the request, with the following stipulations: 1) That no sign permits or billboards shall be allowed unless approved as part of a Final Development Plan. Substitute motion was made by Kooiker and seconded by Hanks to continue this item until after Agenda Item No. 81. Johnson stated that he feels the PDD should be acted upon prior to the rezone request. The PDD is the safety net for the surrounding properties. Upon vote being taken, the motion carried with Johnson voting no.

The Mayor presented No. 02SV042, a request by Dream Design International Inc. for a **Variance to the Subdivision Regulations to waive the requirements to install sidewalks and curb and gutter as per Section 16.16 of the Subdivision Regulations** on the following property: A parcel of land located in the W1/2 NW1/4 NE1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, being more particularly described by metes and bounds as: Beginning at the northwest corner of Lot 6, Block 14 of Red Rock Estates as recorded in the Pennington County Register off Deeds Office in Book 30, Page 155; thence N03°44'30"W 140.25 feet; thence N08°38'28"E 143.92 Feet; thence N11°40'26"E 155.33 Feet; thence N21°22'17"E 120.00 Feet; thence S68°37'43"E 160.00 feet; thence N21°22'17"E 632.95 feet; thence N68°45'17"W 12.50 feet; thence N21°22'17"E 24.00 feet; thence S68°45'17"E 8.37 feet; thence N21°22'31"E 32.50 feet; thence S68°45'17"E 20.00 feet; thence S21°22'31"W 32.50 feet; thence S68°45'17"E 45.63 feet; thence S21°22'17"W

24.00 feet; thence N68°45'17"W 12.50 feet; thence S21°22'17"W 124.33 feet; thence N90°00'00"E 96.61 feet; Thence S00°00'00"E 116.52 feet; thence S90°00'00"W 142.20 feet; thence S21°22'17"W 129.24 feet; thence S23°37'43"E 14.14 feet; thence S68°37'43"E 30.17 feet; thence S21°22'17"W 40.00 feet; thence N68°37'43"W 30.17 feet; thence S66°22'17"W 14.14 feet; thence S21°22'17"W 314.36 feet to a point of curvature; thence southerly along the arc of said curve to the left whose radius 125.50 feet and whose delta is 12°43'49", an arc length of 27.88 feet to a point tangency; thence S08°38'28"W 175.86 feet to a point of curvature; thence southerly along the arc of said curve to the left whose radius 125.50 feet and whose delta is 34°44'55", an arc length of 76.11 feet to a point of reversed curvature; thence southerly along the arc of said reversed curve to the right whose radius 174.50 feet and whose delta is 31°36'04", an arc length of 96.24 feet to a point of tangency; thence S05°29'36"W 86.04 feet; thence S41°39'58"E 13.64 feet to a point lying on a curve concave to the south and whose chord bears N84°30'24"W, 69.00 feet; thence westerly along the arc of said curve to the left whose radius 438.00 feet and whose delta is 09°02'07", an arc length of 69.07 feet to a point on said curve; thence N48°34'56"E 14.64 feet; thence N05°29'36"E 84.62 feet to a point of curvature; thence northerly along the arc of said curve to the left whose radius 125.50 feet and whose delta is 11°47'37", an arc length of 25.83 feet to a point on said curve; thence S83°41'59"W 185.45 feet to the Point of Beginning, legally described as the unplatted W1/2 NW1/4 NE1/4 less Red Ridge Ranch, less Red Rock Estates and less right-of-way located in Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the extension of Birkdale Road off Muirfield Drive. Motion was made by Rodriguez, seconded by Kroeger and carried to continue this item until May 19, 2003.

Motion was made by Kroeger and seconded by Kooiker to move No. 81 forward on the agenda. Upon vote being taken, the motion carried with Johnson voting no.

The Mayor announced the meeting was open for hearing on No. 03RZ002, second reading of **Ordinance 3904**, a request by Pine Lawn Memorial Park, Inc. for a **Rezoning from General Agriculture District to General Commercial District** on Lot B of "Lots A & B, Section 14, T1N, R7E", less Lot H1-E²SW⁴14-1-7 and less Lot H1-Lot B SW⁴14-1-7, all located in the SW1/4 of Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4301 Tower Road. Notice of hearing was published in the Rapid City Journal on January 25 and February 1, 2003. Motion was made by Hadley and seconded by Dreyer to deny second reading of this ordinance. Elkins informed the Council that the Planning Commission's recommendation on this item is for approval, with the Planned Development Designation. Ed Selgeskog, Marnie Gould, Joe Hilt, Marv Truhe, and JJ Sabow spoke against the rezoning of this property. They were concerned about safety issues with the roads in this area, increased traffic, and the impact rezoning this property to commercial would have on the surrounding residential properties. Gould presented slides showing the roads adjacent to the subject property. Carl Caster, representing Pine Lawn Memorial, stated that they felt this would be a good location for a funeral home since it is adjacent to the cemetery. Noise would be minimal and there would be few impacts on surrounding properties. Dreyer stated that he feels commercial development of this property would negatively impact the value of the residential properties located in this area. Murphy spoke against rezoning this property to commercial because the topography is not suitable for commercial development. Hanks noted that all property owners in this area are opposed to this rezone request. Kooiker called the question and there were no objections. Upon vote being taken, the motion to deny carried unanimously.

The next item considered by the Council was No. 03PD004, **An Appeal of the Planning Commission's approval of a Planned Development Designation** on Lot B of "Lots A & B, Section 14, T1N, R7E", less Lot H1-E²SW⁴14-1-7 and less Lot H1-Lot B SW⁴14-1-7, all located in the SW1/4 of Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4301 Tower Road. Motion was made by Hadley, seconded by Kooiker and carried to deny this request.

The Mayor presented No. 02SV044, a request by Doug Sperlich for 16 Plus, LLP for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer and water and paving and to dedicate right of way for the collector road as shown on the Major Street Plan, to waive the requirement to install curb, gutter, sidewalks and street light conduit on U.S. Highway 16 and to waive the requirement to install sidewalk and street light conduit on Moon Meadows Drive as per Section 16.16 of the Rapid City Municipal Code** on Lots 2 thru 4, Moon Ridge Subdivision, located in the E1/2 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 1 and Tract 2 of Pioneer Subdivision, located in the E1/2 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of U.S. Highway 16 and Moon Meadows Road. Motion was made by Rodriguez, seconded by Hanks and carried to continue this item until April 7, 2003.

The Mayor presented No. 02SV049, a request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalks and water on Elk Vale Road** on a portion of the SW1/4 NW1/4 and the S1/2 of Government Lot 4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Homestead Street and Elk Vale Road. Motion was made by Rodriguez, seconded by Hanks and carried to continue this item until April 7, 2003.

The Mayor presented No. 03SV001, a request by Dream Design International for a **Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalks and water along Cliff Drive and Miracle Place as per Chapter 16.16 of the Subdivision Regulations** on Lots A, B, C and Well Lot, Miracle Place Subdivision, located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3, Block 15, of Canyon Lake Heights Subdivision located in the SE1/4 SE1/4 Section 8 and the SW1/4 of Section 9; all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Cliff Drive and Miracle Place. Motion was made by Rodriguez, seconded by Johnson and carried to continue this item until April 7, 2003.

The Mayor presented No. 03SV005, a request by Centerline for Larry Lewis and Kenneth Kirkeby for a **Variance to the Subdivision Regulations to waive all street improvements as per Chapter 16.16 of the Subdivision Regulations** on Parcel A of Tract SB of Springbrook Acres Addition, Tract SB Revised of Springbrook Acres Addition, and Lot 19R3 of Fairway Hill PRD located in the SW1/4 NE1/4, NW1/4 SE1/4, and SE1/4 NW1/4 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of Tract SB of Springbrook Acres Addition and all of Lot 19R2 of Fairway Hills PRD located in the SW1/4 NE1/4, NW1/4 SE1/4 and SE1/4 NW1/4 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of Fairway Hills and Sandstone Ridge Subdivision. Motion was made by Rodriguez, seconded by Hadley and carried to continue this item until April 7, 2003.

The Mayor presented No. 03SV007, a request by Fisk Land Surveying & Consulting Engineering for Allen Nelson for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement along Starlite Drive and an access easement and to allow sidewalk on one side of Forest Park Circle as per Chapter 16.12 of the Subdivision Regulations** on Lots 3R, 25R, and 27 of Forest Park Estates all in Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3 and Lot 25 of Forest Park Estates Subdivision and the north 200 feet of the south 940 feet of the west 450 feet of Tract A, all in Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4231 Starlite Drive. Motion was made by Rodriguez, seconded by Hanks and carried to continue this item until April 7, 2003.

The Mayor presented No. 03SV009, a request by FMG, Inc. for Hart Ranch Development Company for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, water, sewer and street light conduit along that portion of Arena Road lying within the three mile platting jurisdiction of Rapid City** on Tracts A, B and C of Spring Creek Arena Parcel of Hart Ranch Development, located in SE1/4 of Section 13, T1S, R7E, BHM, and in SW1/4 of Section 18, T1S, R8E, BHM, Pennington County, South Dakota, legally described as Spring Creek Arena Parcel located in SE1/4 of Section 13, T1S, R7E, BHM, and in SW1/4 of Section 18, T1S, R8E, BHM, Pennington County, South Dakota, located along Arena Road. Motion was made by Rodriguez, seconded by Hanks and carried to approve the requested Variance.

The Mayor presented No. 02VR005, a request by Doug Sperlich for Jeff Stone for a **Vacation of Right-of-Way** 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. Motion was made by Rodriguez, seconded by Hanks and carried to deny this item without prejudice.

Ordinances & Resolutions

The next item considered by the Council was No. 02RZ065, second reading of **Ordinance 3884**, a request by Dream Design International Inc. for a **Rezoning from General Agriculture District to Low Density Residential District** on the following property: A parcel of land located in the W1/2 NW1/4 NE1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; being more particularly described by metes and bounds as follows: Beginning at the northwest corner of Lot 6, Block 14 of Red Rock Estates as recorded in the Pennington County Register of Deeds Office in Book 30, Page 155; Thence N03°44'30"W 140.25 feet; thence N08°38'28"E 143.92 feet; thence N11°40'26"E 155.33 feet; thence N21°22'17"E 120.00 feet; thence S68°37'43"E 160.00 feet; thence S21°22'17"W 120.00 feet to a point of curvature; thence southerly along the arc of said curve to the left whose radius is 174.50 feet and whose delta is 12°43'49", an arc length of 38.77 feet to a point of tangency; thence S08°38'28"W 175.86 feet to a point of curvature; thence southerly along the arc of said curve to the left whose radius is 174.50 feet and whose delta is 34°44'55", and arc length of 105.83 feet to a point of reversed curvature; thence southerly along the arc of said curve to the right whose radius is 125.50 feet and whose delta is 19°48'27", an arc length of 43.39 feet to a point on said curve; thence S83°41'59"W 185.45 feet to the Point Of Beginning; in the SE1/4 of the NW1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the extension of Birkdale Road off Muirfield Drive. Motion was made by Hadley, seconded by Johnson and carried to continue this hearing until May 19, 2003.

The Mayor announced the meeting was open for hearing on No. 03RZ004, second reading of **Ordinance 3914**, a request by Deb-N-Hads Investments, LLC for Hadcock Construction, Inc. for a **Rezoning from High Density Residential District to Office Commercial District** on Lot N less the south three feet of Block 116, Original Town Rapid City, Section 1, T1N, R7E, BHM, Rapid City, South Dakota, located at 429 Quincy Street. Notice of hearing was published in the Rapid City Journal on February 22 and March 1, 2003. Ordinance 3914, having had the first reading on February 17, 2003, it was moved by Hadley and seconded by Johnson that the title be read the second time. Upon vote being taken, the following voted AYE: Hanks, Johnson, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Dreyer; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3914 the second time.

Ordinance 3916 entitled An Ordinance Amending Section 9.28.050 of Chapter 9.28 of the Rapid City Municipal Code to Allow Limited Model Rocketry Inside the City Limits, having

passed the first reading on March 3, 2003, it was moved by Hadley and seconded by Johnson that the title be read the second time. The following voted AYE: Hanks, Johnson, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Dreyer; NO: None, whereupon the Mayor declared the motion passed and Ordinance 3916 was declared duly passed upon its second reading.

Ordinance 3917 entitled An Ordinance Amending Section 10.44.050 of Chapter 10.44 of the Rapid City Municipal Code Relating to Parking at the Airport (No. LF022603-07), having passed the first reading on March 3, 2003, it was moved by Hadley and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, Johnson, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Dreyer; NO: None, whereupon the Mayor declared the motion passed and Ordinance 3917 was declared duly passed upon its second reading.

Ordinance 3918 entitled An Ordinance Modifying Section 17.50.270(G)(6) and Adding Section 17.50.270(H)(9) of Chapter 17 of the Rapid City Municipal Code to Require the Provision of Handicapped Accessible Parking Stalls in Existing Lots When the Lots are Re-Striped (No. 03OA001), having passed the first reading on March 3, 2003, it was moved by Hadley and seconded by Kriebel that the title be read the second time. The following voted AYE: Hanks, Johnson, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Dreyer; NO: None, whereupon the Mayor declared the motion passed and Ordinance 3918 was declared duly passed upon its second reading.

The Mayor announced the meeting was open for hearing on **Ordinance 3919**, a request by the City of Rapid City for a **Rezoning from No Use District to General Agriculture District** on that portion of the NW1/4 SW1/4 lying south of highway right-of-way less Lot H1, and the SW1/4 SW1/4 less right-of-way, all located in Section 24, T1N, R7E, BHM, Pennington County, South Dakota, located south of Catron Boulevard, east of US Highway 16 and west of SD Highway 79 (No. 03RZ006). Notice of hearing was published in the Rapid City Journal March 8 and March 15, 2003. Ordinance 3919, having had the first reading on March 3, 2003, it was moved by Hadley and seconded by Johnson that the title be read the second time. The following voted AYE: Hanks, Johnson, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Dreyer; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3919 the second time.

Ordinance 3920, entitled An Ordinance to Establish a Procedure for the Municipal Planning Commission to Make Recommendations for the Amendment of the Comprehensive Plan for Development in the City of Rapid City by Amending Section 2.60.160 of the Rapid City Municipal Code (No. 02OA018), was introduced. Motion was made by Hadley and seconded by Waugh to approve first reading and set second reading for April 7, 2003. Upon vote being taken, the motion carried with Johnson voting no.

Ordinance 3922 (No. 03RZ007) a request by the City of Rapid City for a **Rezoning from No Use District to General Commercial District** on the south 33 foot of the E. St. Andrew Street right-of-way lying north of Lot O Revised and Lots P, Q, R and T and Lots 1 and 2 of Lot S, all of Tract A of Schlottman Addition, all located in the SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north of E. St. Patrick Street and south of SD Highway 44, was introduced. Upon motion made by Hadley, seconded by Johnson and carried, Ordinance 3922 was placed upon its first reading and the title was fully and distinctly read. The Finance Officer was authorized and directed to publish notice of hearing thereon, said hearing to be Monday, April 7, 2003 at 7:00 P.M.

Ordinance 3923 (No. 03RZ008) a request by the City of Rapid City for a **Rezoning from No Use District to Light Industrial District** on the north 33 foot of the E. St. Andrew Street right-of-way lying south of Lots I, J, K, L, M and N, all of Tract A of Schlottman Addition, located in the SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County,

South Dakota; the 50 foot E. St. Charles Street right-of-way lying north of Lots A, C and D of Tract A of the SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, the 50 foot E. St. Charles Street right-of-way lying north of Lots E, F, G and H, all of Tract A in Schlottman Addition of SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north of E. St. Patrick Street and south of SD Highway 44, was introduced. Upon motion made by Hadley, seconded by Waugh and carried, Ordinance 3923 was placed upon its first reading and the title was fully and distinctly read. The Finance Officer was authorized and directed to publish notice of hearing thereon, said hearing to be Monday, April 7, 2003 at 7:00 P.M.

Ordinance 3921 (No. 03RZ009) a request by Dream Design International, Inc. for Delores Catron for a **Rezoning from Medium Density Residential District to General Commercial District** on Parcel A, Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2700 Jackson Boulevard, was introduced. Motion was made by Hadley, seconded by Waugh and carried to deny the first reading of Ordinance 3921 without prejudice.

Legal & Finance Committee Items

Motion was made by Hanks and seconded by Waugh to approve the Resolution to Establish the Position of **Recreation Department Director**. Johnson asked if this will create another FTE for the City. Preston explained that this action would create one additional FTE. There would be the Recreation Director with four divisions under him: Swimming Pools, Community Recreation, Ice Rink and Golf Courses. Hanks stated that he was under the impression that no additional FTEs would be created. The Recreation Director would take on the responsibilities that would be assigned to one of the division managers. Preston explained that as the indoor swimming pool and community centers come on board, we will be making adjustments in the staffing of the recreation departments. Substitute motion was made by Kooiker, seconded by Johnson and carried to continue this item to the Legal & Finance Committee for further discussion.

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

RESOLUTION ESTABLISHING POOL RATES

BE IT RESOLVED by the City of Rapid City that the following pool rates are established, effective March 17, 2003, and all previous resolutions pertaining to pool rates are hereby rescinded:

<u>Season Passes</u>	<u>Single Payment</u>
Adult (18 years and over)	\$50
Youth (ages 1 to 17)	\$38
Senior (60 and over)	\$34.50
Family passes (4 people)	\$94
Additional Family	\$15
Monthly Pass	\$18
Non City Resident Passes	
Adult	\$61.50
Youth	\$50
Senior (60 and over)	\$42.50
Non City Resident Family Passes (4 people)	\$106
Additional Family	\$15
Monthly Pass	\$18
400 or more passes	\$20
Replacement/Lost	\$15

Daily Passes

Adult:

Water Parks	\$4.25
Horace Mann	\$3.25

Youth:

Water Parks	\$3.25
Horace Mann	\$2.25

Senior:

Water Parks	\$2.25
Horace Mann	\$1.75

Group rates (30 or more)	\$2.50
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Pool Rental Rate	\$80
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Dated this 17th day of March, 2003.

ATTEST:

s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

The motion for adoption of the foregoing Resolution was seconded by Johnson. Roll call vote was taken: AYE: Johnson, Waugh, Kroeger, Dreyer, Hanks, Murphy and Rodriguez; NO: Hadley, Kooiker, Kriebel. Motion carried, 7-3.

Motion was made by Rodriguez and seconded by Waugh to refer Jim Didier (Alex Johnson Hotel) to the Ordinance Review Committee regarding options regarding parking in the Loading Zone in front of the Alex Johnson Hotel. Upon vote being taken, the motion carried with Hadley voting no.

Public Works Committee Items

Motion was made by Dreyer and seconded by Murphy to approve **One FTE Engineering Technician** to be in the field inspecting and observing the work and verifying quantities, measuring, etc. relative to Omaha Street Utilities – 12th Street to East Boulevard Project SSW0-2-1106. Kooiker stated that he doesn't feel it is a good idea to add an additional employee in the Engineering Division at this time. There was lengthy discussion about the duties for this position, the costs involved and how they compare with the CETEC contract, and how the person would fit into the division. Roll call vote was taken: AYE: Rodriguez, Murphy; Dreyer, Kroeger, Waugh, Johnson and Kriebel; NO: Hanks, Hadley and Kooiker. Motion carried, 7-3.

Motion was made by Dreyer and seconded by Murphy to approve the bid award of P 0016(57) 69, P 0044(125) 44 and BRF 190-2(1) 0; and SSW02-1106 and PR02-1215 **Omaha Street Reconstruction Project** to Stanley Johnsen Concrete, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$4,152,246.54. Kooiker stated that given the financial over runs on this project, the fact that design standards have changed, and no information has been submitted, this item should be continued for further discussion. Motion was made by Kooiker and seconded by Hadley to continue this item to the next Public Works Committee meeting. Dreyer stated that the City needs to get this project moving. Engineering Division Manager Randy Nelson submitted a Memorandum outlining funding from the Utility funds for this project. According to the Memo,

in order to fund the Omaha Street Project, a transfer from the cash reserves of \$1,170,700 is necessary. This would provide total funding for 2003 construction projects in the amount of \$4,297,200. Kooiker withdrew his motion noting that staff should inform the Council when changes are made to the city's design and construction standards. Upon vote being taken, the motion to approve the bid award carried unanimously.

Motion was made by Rodriguez and seconded by Kroeger to release information provided Council, with the exception that information regarding pending litigation be reviewed by the City Attorney's Office and that any information deemed harmful to the City for ongoing litigation be pulled and the Council will be advised of the pulled information (regarding **impact fees**); and that the information be provided prior to the March 26th meeting. Altman urged the council not to release this information noting that the City should not do the work for individuals who are taking legal action against the city. Rodriguez withdrew her motion. Motion was made by Kooiker and seconded by Hadley to approve the motion as listed on the agenda. Roll call vote was taken: AYE: Hadley, Kooiker, Kriebel, Waugh, Kroeger, Hanks and Rodriguez; NO: Johnson, Dreyer and Murphy. Motion carried 7-3.

Finance Officer

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

RESOLUTION ESTABLISHING CHANGE FUND

WHEREAS it has been determined that the Meadowbrook Golf Course requires a second Change Fund to operate efficiently

NOW, THEREFORE, BE IT RESOLVED that a second Change Fund in the amount of Six Hundred Dollars (\$600) be established for the Meadowbrook Golf Course, and that the City Finance Officer is authorized to issue a treasurers check to establish such fund:

Dated this 17th day of March, 2003.

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

CITY OF RAPID CITY
s/ Jerry Munson, Mayor

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

City Attorney

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

RESOLUTION EXTENDING MUNICIPAL SALES TAX REFUND ACCOUNT

WHEREAS the annexation of the Rapid City Airport and surrounding lands was effected by the City of Rapid City pursuant to a Resolution adopted by the Rapid City Council July 21, 1997; and

WHEREAS that annexation became effective on August 19, 1997; and

WHEREAS on June 14, 2000, the Supreme Court of the State of South Dakota determined that the annexation of that land was improper; and

WHEREAS during the period of annexation the City of Rapid City, believing the annexation to be proper, imposed a Municipal Occupational Sales and Service tax on the merchants operating at the Rapid City Airport and had that tax collected on its behalf by the State of South Dakota; and

WHEREAS given that the annexation of the Rapid City Airport and surrounding land was ultimately found to be improper, the collection of Municipal Occupational Sales and Service tax during the period from August 19, 1997 through June 14, 2000 on the improperly annexed land may also have been improper; and

WHEREAS the City of Rapid City desires to make whole consumers who may have been overcharged for goods and/or services by merchants who believed that they were required to remit Municipal Occupational Sales and Services tax to the State of South Dakota for the benefit of the City of Rapid City; and

WHEREAS no statutory remedy exists for the refunding of such amounts to the consumer; and

WHEREAS the Common Council passed a Resolution which was executed by the Mayor on February 5th, 2001, authorizing an administrative procedure for refunding any amounts paid by consumers to merchants over and above the ordinary cost of goods and/or services purchased and which is commonly but incorrectly known as "city sales tax;" and

WHEREAS that Resolution expired by its own terms on February 5th, 2003; and

WHEREAS it is the desire of the Common Council to continue the administrative procedure for an additional two years.

NOW, THEREFORE, BE IT RESOLVED that the fund known as the "City of Rapid City Municipal Sales Tax Refund Account" shall continue in existence for a period of two years from February 5th, 2003; and

BE IT FURTHER RESOLVED that the administrative procedure developed for refunding any amounts paid by consumers to merchants over and above the ordinary cost of goods and/or services purchased and which is commonly but incorrectly known as "city sales tax" shall be continued for a period of two years from February 5th, 2003; and

BE IT FURTHER RESOLVED that any funds remaining in the "City of Rapid City Municipal Sales Tax Refund Account" on February 5th, 2005 shall revert to the General Fund of the City of Rapid City, and any program then in operation designed and developed to reimburse consumers for the amounts paid by consumers to merchants over and above the ordinary cost of goods and/or service shall terminate; and

BE IT FURTHER RESOLVED that nothing herein shall be construed as an admission by the City that the contemplated refund is required by law or is anything other than a voluntary act by the City of Rapid City.

Dated this 17th day of March, 2003.

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

City of Rapid City
s/ Jerry Munson, Mayor

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

Bills

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

Payroll Paid Ending 03-08-03, Paid 03-14-03	624,330.83
Payroll Paid Ending 03-08-03, Paid 03-14-03	948.48
Pioneer Bank, Taxes Paid 03-14-03	156,420.35
Pioneer Bank, Taxes Paid 03-14-03	66.44
Berkley Risk Administrators, Paid 3-4-03	12,880.50
Berkley Risk Administrators, Paid 3-14-03	5,000.00
First Administrators, Claims Paid 03-05-03	80,034.84
First Administrators, Claims Paid 03-10-03	86,596.33
US Postmaster, billing postage	3,300.00
Computer Bill List	3,943,249.42
Total	<u>\$4,912,827.19</u>

Payroll Paid Ending 03-08-03, Paid 03-14-03	2,608.80
Pioneer Bank, Taxes Paid 03-14-03	191.65
City of Rapid City, postage	13.71
RSVP Petty Cash, postage	37.00
City of Rapid City, health insurance	304.28
Dakota Business Center, copier usage	6.76
First Administrators, 125 fees	3.25
Simpson's Printing, newsletter	79.50
SD Retirement System, pension	248.66
SD School of Mines, telephone	50.80
Standard Life, insurance	7.92
Total	<u>\$4,916,379.52</u>

Public Works Director

Bjerke explained that on March 3, 2003, the City Council approved the bid award for an Arial Lift & Utility Body for the Traffic Division. The bid was awarded to Northern Truck, however, Northern Truck did not meet the specifications for this piece of equipment. He requested that the Council rescind that action and award the bid to ABM Equipment. Motion was made by Waugh, seconded by Rodriguez and carried to rescind the March 3, 2003 bid award for the Arial Lift & Utility Body. Motion was made by Waugh, seconded by Rodriguez and carried to award the bid for the **Arial Lift & Utility Body** to ABM Equipment & Supply, Inc., the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$27,319.

Executive Session

Motion was made by Rodriguez and seconded by Waugh and carried to go into Executive Session to discuss contractual matters and pending litigation. Roll call vote was taken: AYE: Rodriguez, Murphy, Hanks, Dreyer, Kroeger, Waugh, Johnson, Kriebel and Kooiker; NO: Hadley. Motion to go into executive session carried, 9-1.

The Council came out of executive session and no report was made.

As there was no further business to come before the Council at this time, the meeting adjourned at 1:00 A.M.

CITY OF RAPID CITY

ATTEST:

Mayor

Finance Officer

(SEAL)