

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota
February 16, 2004

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, February 16, 2004 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Alan Hanks, Sam Kooiker, Tom Murphy, Bill Waugh, Ron Kroeger, Ray Hadley, Jeff Partridge and Rick Kriebel. The following Alderpersons arrived during the course of the meeting: Jean French; and the following were absent: Martha Rodriguez.

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

Approval of Minutes

Motion was made by Hanks, seconded by Waugh and carried to **approve the minutes** of February 2 and February 10, 2004.

Adoption of the Agenda

The following items were added to the agenda:

- Announcement of new Parks & Recreation Director – Mayor Shaw
- Executive Session to discuss pending litigation and contractual matters – City Attorney

Motion was made by Hanks, seconded by Waugh and carried to **approve the agenda**, as amended.

Awards and Recognitions

Col. James Kowalski Commander of the 28th Bomb Wing at Ellsworth Air Force Base presented the City with a flag and plaque from his command. He thanked the community and local leaders for their support of the military personnel at Ellsworth noting the Spouse's Day, July Victory Party, and Appreciation Day during the Central States Fair as examples of that support. It is one thing for the military to free people in countries like Iraq and give them the opportunity to experience democracy. However, they will not learn about democracy from a bomber pilot or soldier. The Iraqi people will only learn about democracy from places like this where local people are participating in local government. Kowalski explained that the flag presented to the City was flown on March 23, 2003 by the 405th Air Expedition on a B1 Bomber from Ellsworth Air Force Base for Operation Iraqi Freedom. The mission was the first daylight bomber raid over Baghdad, Iraq. Coins from the 28th Bomb Wing were also included in the plaque.

Mayor Shaw presented the **Citizen of the Month Award** to Joe & Diane Norman and commended them for outstanding volunteer service to the community.

Shaw also presented the **Veteran of the Month Award** to Randy Bagby and commended him for outstanding service to the country.

Certificates of Recognition were presented to **city employees** Ron Back from the Water Reclamation Division and Rich Fox from the Police Department for 25 years of service to the City.

General Public Comment

Mike Derby, voluntary campaign chairman for **Black Hills Vision**, presented the City Council with information on this program. Governor Mike Rounds recently unveiled his 2010 Initiative which plans to make South Dakota's quality of life the best in the United States by the year 2010. Governor Rounds described the people of South Dakota as mountain carvers; a special breed of Americans who set long range goals and work on them until the project is successful. They begin huge projects that take years to complete and require patience, hard work and determination. In the tradition of the mountain carvers, the people of the Black Hills today are working to leave a legacy for their children and grandchildren. The legacy to be left to future generations is economic prosperity. It will mean that young people growing up in South Dakota with a strong work ethic and pride in their community will be able to find good jobs, provided by good employers who pay good wages. The builders for the new economy in the Black Hills have a plan called Black Hills Vision. This is the first regional effort at creating a planned and coordinated approach to economic development for the region. Key leaders are the Black Hills Economic Development Corporation, Rapid City Area Chamber of Commerce and the Rapid City Economic Development Partnership. These organizations have pooled their resources and combined several major capital fund raising projects under one capital campaign. That campaign is a \$9.5 million campaign for economic development and job creation in the Black Hills. There is currently \$6.5 million in place from federal, state and local dollars, and the organization is in the campaign process for raising \$3 million in private sector funds. These monies will be used to meet the following goals and objectives:

- Work to secure 7,500 new jobs or new payroll of at least \$173 million annually for the region by 2008
- Realize \$750 million in new capital investment within the region by 2008
- Assist in incubating at least 15 new technology-based businesses by 2008
- Retain at least 6,183 jobs by November of 2005 and attract at least one new mission associated with Ellsworth AFB by 2008
- Provide home-owner opportunities for 400 low income families throughout the region by 2008
- Bring about a 20% increase in air passenger traffic by 2008

Derby noted that he will keep the City Council informed on the progress of Black Hills Vision. He stated that they are nearing the half way goals and a key component is Ellsworth AFB and Underground Science Lab being proposed in Deadwood.

Dan Michael presented information on the **West Nile Virus** and information on mosquito control. He urged the City Council to be pro-active on this issue and not wait until the summer or fall to discuss control measures. Mayor Shaw noted that the City is moving forward on this issue and has already had meetings with the Pennington County Commissioners relative to a combined effort for mosquito control. A meeting will also be held shortly with appropriate state leaders. Michael stated that he would gladly volunteer to serve on any committees relative to this or related issues. Kooiker suggested that the Community Development department look at possible grants that would be available to deal with the West Nile Virus.

Items from the Mayor

Mayor Shaw announced the appointment of Jerry Cole as the City's new **Parks & Recreation Director**. He will begin his duties the first week of March, 2004.

Council Member Items

Hanks noted that former City Council member Clarence "Buzz" Knapp passed away last week. He stated that Knapp was a strong civic leader and a man of highest integrity who will be missed.

Motion was made by Kooiker, seconded by Hanks and carried that staff report on the status of the West Chicago/44th Street Intersection at the next Public Works Committee meeting.

Continued Items Consent Calendar – Items 7-22

The following item was removed from the Continued Items Consent Calendar:

19. No. 03VR015 - A request by Sperlich Consulting, Inc. for Dean Kelly for a **Vacation of Section Line Highway** on the section line highway located along the north lot line of Lot 6, Miracle Pine Subdivision, all located in the SE1/4 of SW1/4 of Section 16 and in the NE1/4 of NW1/4 of Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.

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

Continue the following items until March 1, 2004:

7. No. 02PL116 - A request by Dream Design International, Inc. for a **Final Plat** on Lot 1, Block 1; Lots 1 thru 5, Block 2; Lots 1 and 2, Block 3; Lots 1 and 2, Block 4; Lots 1 thru 4, Block 5; Lot 1, Block 6 and dedicated Street, Big Sky Business Park, located in the SW1/4 SW1/4 and the S1/2 NW1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 SW1/4 NW1/4 including private drive, less Lot H2 and less right-of-way; the unplatted portion of the E1/2 SW1/4 NW1/4; and the unplatted portion of the S1/2 GL3; S1/2 GL4 less Lot 1 and less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and less right-of-way; all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Homestead Street and Elk Road.
8. No. 03PL045 - A request by Michael Hanson for Kent Hagg Esq. for Burnell A. Lutz for a **Preliminary and Final Plat** on Lots A and B of Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1903 North Maple Avenue.
9. No. 03PL050 - A request by Mark Polenz for Daniel Schoenfelder for a **Preliminary Plat** on Lot A and Lot B of Schoenfelder Subdivision all located in the NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, legally described as Lot 1 of Lot C of Schamber Section 9 NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, located at 3505 Western Avenue.
10. No. 03PL051 - A request by Doug Sperlich for Jeff Stone for a **Final Plat** on Lots 1, 2 and 3 of Block 1 of Sunset Heights Subdivision, located in the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current terminus of Broadmoor Drive.
11. No. 03PL052 - A request by Dream Design International, Inc. for a **Final Plat** on Lots 1-4, Block 1 and Outlot D; Lots 1-7, Block 2; Lots 1-3, Block 3, of Stoney Creek South Subdivision and Dedicated Bendt Drive and Major Drainage Easements located in the NW1/4 SW1/4 and the SW1/4 SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the S1/2 NW1/4 SW1/4 less Lots H1 and H2, Section 22, T1N, R7E; a portion of the unplatted balance of the N1/2 NW1/4 SW1/4 located south of Catron

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

12. No. 03PL063 - A request by Fisk Land Surveying and Consulting Engineers for Dakota Land Development for a **Final Plat** on Lots 1 thru 3, Vista Lake Subdivision #2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 and a portion Lot F-1 of the Fish Hatchery Subdivision, located in the NE1/4 SW1/4 and the N1/2 SE1/4 of Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Jackson Boulevard north of the Fish Hatchery.
13. No. 03PL088 - A request by Dream Design International, Inc. for Sally Broucek for a **Final Plat** on Lots 1 thru 10 of Block 1 and Lots 1 thru 19 of Block 2 of Stoneridge Subdivision located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the W1/2 of the S1/2 of Government Lot 4 located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the end of Parkview Drive.
14. No. 03PL099 - A request by FMG, Inc. for Bill Freytag for a **Final Plat** on Lots 6 through 9 of Block 4 and Lot 21R of Block 1 and Lot 22R of Block 1, Tyler Knue Subdivision, located in NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 21 and a portion of Lot 22 of Block 1 and a portion of Lot 22 of Block 1 and a portion of the unplatted balance of the NW1/4 NW1/4 all of Tyler Knue Subdivision and dedicated public right of way shown as Nicole Street, located in NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Nicole Street.
15. No. 03PL117 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 1 and 2, Block 12; Lots 1 thru 7, Block 15; Lots 1 thru 10, Block 17; Lots 1 thru 17, Block 18; Outlots G-1, G-2, G-3 and X and dedicated streets, Red Rock Estates, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the NW1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the extension of Prestwick Road and Bethpage Drive.
16. No. 03SV035 - A request by Renner and Sperlich Engineering Company for 16 Plus LLP for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement on the section line highway and to waive the requirement to install curb, gutter, sidewalk and street light conduit on U.S. Highway 16 as per Chapter 16.16 of the Rapid City Municipal Code** on a portion of Tract 2 of Pioneer Subdivision, located in the NE1/4 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at a point on the section line highway between Sections 27 and 34, common to northeasterly corner of said Tract 2 of Pioneer Subdivision, and the Point of Beginning; thence, first course: S00°00'00"E, along the easterly boundary of said Tract 2 of Pioneer Subdivision, common with the westerly edge of the statutory section line right-of-way, and common with the westerly edge of U.S. Highway 16 right-of-way, a distance of 109.69 feet, to an angle point; thence, second course: S07°20'00"W, along the easterly boundary of said Tract 2, common with the westerly edge of the right-of-way of U.S. Highway 16, a distance of 303.97 feet, to the northeasterly corner of Lot 3 of Moon Ridge Subdivision; thence, third course: S89°53'10"W, along the northerly boundary of said

Lot 3 of Moon Ridge Subdivision, a distance of 1247.37 feet, to a point on the westerly boundary of said Tract 2, common with the northwesterly corner of said Lot 3 of Moon Ridge Subdivision; thence, fourth course: N00°11'53"E, along the westerly boundary of said Tract 2, a distance of 411.10 feet, to a point on the section line common to Section 27 and 34, common to a point the southerly boundary of Lot 5 of Godfrey Addition, and common to the northwesterly corner of said Tract 2; thence fifth course: N89°52'53"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 4 and 5 of said Godfrey Addition, a distance of 796.18 feet, to an angle point; thence, sixth course: N89°50'57"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 3 and 4 of said Godfrey Addition, a distance of 466.12 feet, to an angle point; thence, seventh course: S89°10'40"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, a distance of 22.45 feet, to the northeasterly corner of said Tract 2, and the Point of Beginning; said parcel contains 12.00 acres more or less, located northwest of the U.S. Highway 16 and Moon Meadows Road.

17. No. 03SV039 - A request by Gordon Howie for Galen Steen for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sewer, water, street light conduit, sidewalk and pavement as per Chapter 16.16 of the Rapid City Municipal Code** in the SW1/4 NE1/4; the west 66 feet of the NW1/4 NE1/4, Section 25, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, a portion of the E1/2 of Section 25, located in the E1/2 Section 25, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at the center 1/4 corner of Section 25, and the Point of Beginning, thence, first course: N90°00'00"E, along the 1/4 line of Section 25, a distance of 396 feet; thence, second course: S00°00'00"W, a distance of 624.43 feet; thence, third course: N90°00'00"W, a distance of 396.00 feet, to a point on the 1/4 line of Section 25; thence, fourth course: N00°00'00"E, along the 1/4 line of Section 25, a distance of 624.43 feet, to the center 1/4 corner of Section 25, and the point of beginning; said parcel contains 5.677 acres more or less, located southeast of the intersection of Anderson Road and South Side Drive.
18. No. 03SV050 - A request by Fisk Land Surveying & Consulting Engineers Inc. for Rapid City Congregation of Jehovah's Witnesses for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 Revised of Block 7 of Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 4, Block 7; and, Lots 5 and 6, Block 8; all located in Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of West Boulevard North along Oriole Drive and Thrush Drive.

Continue the following items until March 15, 2004:

20. No. 02PL093 - A request by Davis Engineering for a **Layout, Preliminary and Final Plat** on Lot 1 Block 1, Lots 1 thru 6, Block 2, Lots 1 thru 8, Block 3, Lots 1 thru 7, and Lots 10 thru 15, Block 4, Lots 1 thru 3 and Lots 11 thru 16, Block 5 of Murphy Ranch Estates, all located in NE1/4 NW1/4 of Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract F of the NW1/4 less Murphy's Subdivision and Right of Way, Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on Longview Drive to the east of East 53rd Street and Reservoir Road.
21. No. 03CA040 - A request by Centerline for Ken Kirkeby and Larry Lewis for an **Amendment to the Comprehensive Plan to change the future land use**

designation on a 14.92 acre parcel of land from Park Forest to Low Density Residential II on Parcel A of Tract SB of Springbrook Acres, Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located south of Sandstone Ridge Apartments and east of Holiday Estates.

- 22. No. 03RZ047 – First Reading, **Ordinance 4004**, a request by Centerline for Ken Kirkeby and Larry Lewis for a **Rezoning from Park Forest District to Low Density Residential II District** on Parcel A of Tract SB of Springbrook Acres, Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located south of Sandstone Ridge Apartments and east of Holiday Estates.

End of Continued Items Consent Calendar

The Mayor presented No. 03VR015, a request by Sperlich Consulting, Inc. for Dean Kelly for a **Vacation of Section Line Highway** located at 3960 Corral Drive. The following Resolution was introduced, read and Kroeger moved its adoption:

RESOLUTION OF VACATION
OF SECTION LINE HIGHWAY

WHEREAS it appears that a portion of the section line highway located along the north lot line of Lot 6, Miracle Pine Subdivision, all located in the SE1/4 of SW1/4 of Section 16 and in the NE1/4 of NW1/4 of Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3960 Corral Drive is not needed for public purposes; and

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

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

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

Dated this 16th day of February, 2004.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

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

Alcoholic Beverage License Applications

This was the time set for hearing on the application of the **Pennington County Democratic Party** for a Special Wine License to be used on February 20, 2004 at Prairie Edge, 606 Main Street. Upon motion made by Hanks, seconded by Murphy and carried, the Council approved the application.

This was the time set for hearing on the application of the **Rushmore Soccer Club** for a Special Malt Beverage License to be used on March 20, 2004 at the Knights of Columbus Hall, 910 Fifth Street. Upon motion made by Hanks, seconded by Murphy and carried, the Council approved the application.

Upon motion made by Hanks, seconded by Waugh and carried, the Finance Officer was directed to publish notice of hearing on the following applications, said hearings to be held on Monday, March 1, 2004:

25. Ristorante Marsala, LLC dba **Ristorante Marsala**, 609 Main Street, for an On-Sale Wine License (New License – No Video Lottery)
26. Ristorante Marsala, LLC dba **Ristorante Marsala**, 609 Main Street, for an On-Off Sale Malt Beverage License (New License – No Video Lottery)

Consent Calendar Items – 27-59

The following items were removed from the Consent Calendar:

27. Acknowledge the report on the **12th Street sanitary sewer service line**.
33. No. PW021004-06 – Authorize Mayor and Finance Officer to sign Amendment No. 01 to Professional Service Agreement with **Brown and Caldwell** to provide engineering services for the transfer of water rights for an amount not to exceed \$15,000.
48. No. LF021104-05 – Authorize the Finance Officer to sign a letter to State of South Dakota, Department of Legislative Audits, Requesting Time Extension for the **2003 Audit**.
50. Request that staff proceed with the auction of the **YFS building** in its present condition and to authorize staff to proceed with any necessary repairs.

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

Public Works Committee Consent Items

28. No. PW021004-01 – Acknowledge a request for Council members to sign-up for the 2004 Local Board of Equalization Hearings set for March 15-19, 2004.
29. No. PW021004-02 – Approve Change Order No. 01 and final for 2003 Rapid City Bridge Repairs Project No. ST03-1161 to J. V. Bailey Company, Inc. for a decrease of \$12,696.90.
30. No. PW021004-03 – Authorize staff to advertise for bids for Park Drive PCC Paving Replacement Project No. ST03-1245.
31. No. PW021004-04 – Authorize staff to advertise for bids for LaCrosse Street Panel Repairs Project No. STCM04-1369.
32. No. PW021004-05 – Authorize Mayor and Finance Officer to sign a South Dakota Department of Transportation Amended Agreement for Use and Restoration of Haul Road for P 0016(57)69 BRF 190-2(01)0 and P 004(125)44, Omaha from 12th to East Blvd (use of Haines Avenue for Hubbard Mill Trucks).
34. No. PW021004-07 – Authorize Mayor and Finance Officer to sign Amendment No. 01 to Professional Service Agreement with FMG, Inc. for geotechnical investigations for Lemmon Avenue Reconstruction Project No. ST02-1068 for an amount not to exceed \$3,162.
35. No. PW021004-09 – Authorize staff to proceed with Request for Proposals for Chapel Lane Bridge Widening Project No. ST04-1359.
36. No. PW021004-11 – Authorize staff to proceed with Request for Proposals for East Anamosa Water Main Extension Project No. W04-1370.
37. No. PW021004-13 – Authorize staff to proceed with Request for Proposals Low Level Water Reservoirs Interconnection.

- 38. No. PW021004-14 – Approve the purchase of one (1) new current model year one ton, 2x4, regular cab and chassis, Chevrolet Model C3500, Dual Read Wheels, 11,400 GVW from Beck Motors, Pierre for a purchase price of \$16,853 plus \$130 delivery, under State Contract #14070 for Parks Division.

Legal & Finance Committee Consent Items

- 39. Request the Mayor to appoint a task force including Council members and members of the public to research, draft, and finalize an investment policy council and to discuss and review whether or not an investment advisory panel is necessary and if it should meet on a regular basis.
- 40. Request the Mayor to appoint an additional Council member and the new Parks and Recreation Director to the Naming Rights Committee.
- 41. Request the Mayor to appoint an alderman and an alternate alderman as liaison to the Parks and Recreation Board.
- 42. Request the City Attorney’s office to prepare a resolution authorizing implementation of an ad hoc committee as needed for public art.
- 43. Request the Mayor to appoint a task force for a period of 90 days to review the utility rates and make recommendations, and bring the proposed membership of the task force to Council on February 16, 2004.
- 44. Request the Mayor to appoint a task force to review the Storm Water Phase II Plan and bring back a recommendation to Council for compliance.
- 45. Request the Mayor to appoint a task force to review the 40-unit policy, determine whether or not it can be changed, and propose some language to change it.
- 46. Approve appointment of Kenneth Loeschke to the Historic Preservation Commission.
- 47. No. LF021104-02 – Approve Travel Request for Kenneth E. Simmons to attend AAAE Spring Legislative Conference in Washington, D.C. from March 20-24, 2004, in the approximate amount of \$1,671.
- 49. No. LF021104-06 – 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:

Golf Course
 20 Pull Carts
 12 Sets of Rental Clubs

Police Department
 27 Miscellaneous, confiscated weapons to be traded-in (see attachment)

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 16th day of February, 2004.

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

CITY OF RAPID CITY
 s/ Jim Shaw, Mayor

51. No. LF021104-07 – Authorize Mayor and Finance Officer to sign Purchase Agreement with The Active Network, Inc.
52. No. LF021104-08 – Authorize Mayor and Finance Officer to sign RecWare Software Subscription Agreement with The Active Network, Inc.
53. No. LF021104-03 – Authorize Mayor and Finance Officer to sign ProActive Software License and Service Agreement.
54. Approve the following licenses: Residential Contractor: ABC Concrete, Garry McKinnon; Babl Construction, Gary Babl; Century Builders, Inc., D. Johnson, C. Ward, S. Olson, M. Wieseler; Robert Clarke; Creative Environments, Inc., Robert H. Johnston; Gollnick Contracting, Chad D. Gollnick; Knecht Home Center, LLC, Wallace Bork; L & P Construction Leslie R. Riss; Mechanical Drywall & Const., Terry McLaughlin; Larry Olson Construction, Larry H. Olson; RCS Construction, Inc., Robert C. Scull; Reyelts Const., Inc., David Reyelts; Task Masters, Charlie Schlumpberger; Mobile Home Court: Deluxe Mobile Home Park, Wilcox & Reid, LP; Eastbrooke Mobile Home Park, Robert R. Batchelder; Hillsvie Mobile Home Court, John Brewer; Huntington Park, Tom & Tammy Schreiner; Residential Contractor: Massie Construction, Charles F. Massie; Wood Duck Construction, Inc., Craig Mestad; Second Hand: Matt Kimball's Golf Shop, Matthew R. Kimball; Tires, Tires, Tires, Inc., Ron E. Tyrrell; Security Business: Steven L. Dary, S & K Security Specialists, Inc.; Sign Contractor: Barney's Signs, Barney Jorensen; Epcon Sign Company, Mark Lynde.

Planning Department Consent Items

55. No. 02PL029 - A request by Davis Engineering for a **Preliminary and Final Plat** on Tract A of Murphy Ranch Estates Subdivision of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of Tract F of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located southeast of the intersection of Reservoir Road and Longview Drive. (DENIED WITHOUT PREJUDICE)
56. No. 03PL035 - A request by Renner & Sperlich Engineering Company for Dean Kelly for a **Layout, Preliminary and Final Plat** on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive. (APPROVE THE LAYOUT AND PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS, AND CONTINUE THE FINAL PLAT UNTIL MARCH 1, 2004: 1) Prior to Preliminary Plat approval by the City Council, the applicant shall provide documentation regarding the suitability of the proposed lots for on-site waste water facilities. A site plan shall be provided identifying the location of all wells and private waste water disposal systems on the subject property and within one hundred fifty feet of the property, and the location of the proposed on-site waste water facilities; 2) Prior to Preliminary Plat approval by the City Council, the applicant shall submit documentation demonstrating that drainage from the proposed development will not adversely affect downstream properties; 3) Prior to Preliminary Plat approval by the City Council, the applicant shall submit documentation identifying access to proposed Lot C utilizing existing right of way located adjacent to the private roadway easement; 4) Prior to Preliminary Plat approval by the City Council, the applicant shall provide a Wildland Fuels Mitigation Plan for review and approval; 5) Prior to Final Plat approval by the City Council, the applicant shall demonstrate that the owner signature certificate on the plat is correct; 6) Prior to Preliminary Plat approval by the City Council, the applicant shall provide complete engineering plans for dry sewer, curb and gutter, street light conduit, and sidewalks along Corral Drive, or obtain a Subdivision Regulations Variance to waive the required improvements; 7) Prior to Preliminary Plat approval by the City Council,

the applicant shall provide complete engineering plans for paving, water, dry sewer, curb and gutter, street light conduit, and sidewalks for the section line highway abutting proposed Lots C and D, obtain a Subdivision Regulations Variance to waive the required improvements, or vacate this segment of the section line highway; 8) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; 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.)

57. No. 03PL042 - A request by Renner and Sperlich Engineering Co. for Gordon Howie for a **Layout, Preliminary and Final Plat** on Lots 1 thru 5 of Block 18, Lots 1 thru 6 of Block 19, Lot 1 of Block 20, and Lots 1 thru 12 of Block 21, and Drainage Lot A, Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the balance of Tract T of Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located west of the intersection of Pluto Drive and Reservoir Road. (APPROVE THE LAYOUT AND PRELIMINARY PLAT WITH THE FOLLOWING STIPUALTIONS, AND CONTINUE THE FINAL PLAT UNTIL MARCH 1, 2004: 1) Prior to Preliminary Plat approval by the City Council, the applicant shall review the Engineering Division red line comments on the submitted construction plans, including the drainage plans, and submit revised plans, as necessary; 2) Prior to Final Plat approval by the City Council, the plat shall be revised to identify sewer and non-access easements in accordance with the Engineering Division red line revisions; 3) Prior to Preliminary Plat approval by the City Council, the applicant shall submit revised plans for water and sewer improvements for review and approval by the City Engineering Division and Rapid Valley Sanitary District; 4) Prior to Preliminary Plat approval by the City Council, final street names shall be submitted for review and approval, and shall be identified on the final construction plans; 5) Prior to Preliminary Plat approval by the City Council, the applicant shall submit documentation demonstrating the legal entity responsible for providing street maintenance and snow removal on the proposed subdivision dedicated rights-of-way; 6) Prior to Final Plat approval by the City Council, final street names shall be submitted for review and approval with the Emergency Services Communications Center staff. In addition, the plat document shall be revised to show the approved road names; 7) Prior to Preliminary Plat approval by the City Council, the applicant shall identify fire hydrant(s) on the plans along Williams Street, A Street and Reservoir Road as per City and Uniform Fire Code requirements; 8) Prior to Preliminary Plat approval by City Council, the plat shall be revised to identify the major drainage easement traversing Lots 1, 4 and 5; Block 18. The applicant shall demonstrate that the affected lots retain a buildable area; 9) Prior to Preliminary Plat approval by City Council, the plat shall be revised to clearly identify the right of way dedication for Reservoir Road; 10) Prior to Preliminary Plat approval by the City Council, the applicant shall review the drainage comments with the Pennington County Highway staff, and submit revised drainage plans for review and approval, as necessary; 11) Prior to Final Plat approval by the City Council, the applicant shall include the Finance Officer assessment certificate on the plat; 12) Prior to Final Plat approval by the City Council, the applicant shall revise the plat to comply with the length to width lot configuration requirement for Lots 4 and 5, Block 18, or the applicant shall obtain a Subdivision Regulations Variance to waive the length to width requirement; 13) Prior to Final Plat approval by the City Council, the applicant shall revise the plat to include Lot 12, Block 21; 14) Prior to Preliminary Plat approval by the City Council, the applicant shall provide complete engineering plans for water, sewer, paving, curb and gutter, street light conduit, and sidewalks along Williams Street, A Street, C Street, B Court and D Court, or obtain a Subdivision Regulations Variance to waive the required improvements; 15) Prior to Preliminary 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 fee shall be paid.)

58. No. 03PL097 - A request by Renner & Sperlich Engineering Company for Doeck, LLC for a **Preliminary and Final Plat** on Lots 12-21 Block 1, Lots 12-40 Block 2, Lots 1-12 and 21-24 Block 3, and Lots 1, 13, 14, 30 and 31 Block 5 of Auburn Hills Subdivision, located in the NW1/4 of SW1/4 and the SW1/4 of NW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SW1/4 and the SW1/4 of the NW1/4 located in the NW1/4 of SW1/4 and the SW1/4 of NW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Haines Avenue and north and south of Amber Drive. (APPROVE THE LAYOUT AND PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS, AND CONTINUE THE FINAL PLAT UNTIL MARCH 1, 2004: 1) Prior to Preliminary Plat approval by the City Council, an evaluation of the increase drainage flows from this phase of the development shall be submitted for review and approval. In addition, necessary mitigation measures shall be identified; 2) Prior to Preliminary Plat approval by the City Council, the applicant shall demonstrate that all flows from the area within the development and from the basins above the development are being routed within their natural drainage basins, or the applicant shall demonstrate the right to divert drainage into another drainage basin; 3) Prior to Preliminary Plat approval by the City Council, a utility master plan shall be submitted for review and approval. In particular, the utility master plan shall demonstrate that utility services, especially sanitary sewer services, can be provided to the adjacent upstream area. 4) Prior to Preliminary Plat approval by the City Council, the applicant shall demonstrate that all agreements necessary to assure wastewater connection fees for upgrades, improvements or replacement to the sanitary sewer lift station serving this area, are in effect and that the appropriate fees shall be paid; 5) Prior to Preliminary Plat approval by the City Council, road construction plans shall be submitted for review and approval showing curb, gutter and sidewalk along Haines Avenue or a Variance to the Subdivision Regulations shall be obtained; 6) Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Engineering Division; 7) Prior to Preliminary Plat approval by the City Council, a subdivision cost estimate form shall be submitted for review and approval; 8) Prior to Final Plat approval by the City Council, the plat document shall be revised to provide non-access easements in compliance with the Street Design Criteria Manual; 9) Prior to Final Plat approval by the City Council, alternate road names for "Amber Drive" and "Gemstone Place" shall be submitted for review and approval. In addition, the plat document shall be revised to show the approved road names; 10) Prior to Preliminary Plat approval by the City Council, an approach permit shall be obtained for the connection of Amber Drive to Haines Avenue; and, 11) Prior to City Council approval, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fee shall be paid.)
59. No. 03PL104 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lot 13 and Tract A, Block 4; Lots 6 thru 12, Block 16; Lots 1A thru 12A, Lots 1B thru 12B, and Tract B, Block 18; Tract C and Dedicated Streets; Big Sky Subdivision, located in the N1/2 NW1/4 SE1/4 and the SW1/4 NE1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the SW1/4 NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, the unplatted portion of the NW1/4 SE1/4 less Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Patricia Street, Aurora Drive and Carl Avenue. (APPROVE THE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS, AND CONTINUE THE FINAL PLAT UNTIL MARCH 1, 2004: 1) Prior to Preliminary Plat approval by the City Council, all changes shall be made to the construction plans

as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Engineering Division; 2) Prior to Final Plat approval by the City Council, the plat document shall be revised to show Certificate of Title(s) for the three property owners; 3) Prior to Final Plat approval by the City Council, water system improvements shall be in operation, including any necessary off-site improvements, sufficient to provide a minimum of 2,000 gallons per minute of flow to the east end of the proposed subdivision; 4) Prior to Final Plat approval by the City Council, the plat document shall be revised to show a 40 foot wide drainage, sewer and water easement extending west from Patricia Street to the west lot line of the subject property; 5) Prior to Final Plat approval by the City Council, Homestead Street, including the east 115 feet, shall be constructed to collector street standards with a minimum 76 foot wide right-of-way and a 36 foot paved surface, curb, gutter, sidewalk, street light conduit, water, sewer or a Variance to the Subdivision Regulations shall be obtained; 6) A Special Exception is hereby granted to reduce the non-access easement from 50 feet to 30.7 feet along Lot 12B as it abuts Carl Avenue; to reduce the non-access easement from 50 feet to 40.52 feet along Lot 9B, as it abuts Patricia Street; and, to reduce the non-access easement from 50 feet to 40 feet along Lot 1A as it abuts Patricia Street all located in Block 18; 7) Prior to Preliminary Plat approval by the City Council, a cost estimate shall be submitted for review and approval; 8) All Uniform Fire Codes shall be continually met; 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 fees shall be paid.

END OF CONSENT CALENDAR

The next item discussed by the Council was the report on the **12th Street sanitary sewer service line**. Public Works Director Vore explained that typically, the property owners involved with an assessed project would petition the city and begin the process. He asked if the Council wanted City staff to send out the inquiry letters for this particular assessment project. Motion was made by Kooiker, seconded by Hanks and carried to request that staff send out the initial inquiry letters for the 12th Street service line project.

Motion was made by Kroeger and seconded by Waugh to approve No. PW021004-06 – Authorize Mayor and Finance Officer to sign Amendment No. 01 to Professional Service Agreement with **Brown and Caldwell** to provide engineering services for the transfer of water rights for an amount not to exceed \$15,000. Hadley expressed concern about approving a contract for \$15,000 when the city has nothing pending at this time relating to water rights. Substitute motion was made by Hadley and seconded by Kooiker to deny this item. Public Works Director Vore explained that a bill was presented to the city in the amount of \$762.50 for work that was done on the last two water rights projects. There is budget authority to pay all but \$116 of the bill. That is the reason for the request before the Council at this time. Having this Agreement in place will also allow the city to move quickly, if necessary, on future projects. Vore added that any future projects would require Council approval prior to any work being done. Kooiker stated that he feels this agreement should go through the consultant selection process and the scope of work should be defined. Partridge asked if the City has the capability to do this work. Vore explained that the City does not have the staff or capability to perform this type of work. Substitute motion was made by Hanks and seconded by Murphy to authorize staff to pay \$116 to Brown & Caldwell for work previously done (funding to come from the Water Enterprise Fund), and continue action on the Professional Service Agreement for two weeks so that information on this item can be submitted by the Finance Officer and the Public Works Director. Hanks agreed to Kooiker's amendment to the motion to require that the scope of work be defined and that the Agreement go through the Consultant Selection Process. It was the consensus that this item should go back to the Public Works Committee for review.

Alderman Jean French entered the meeting at this time.

Kroeger stated that his understanding of this agreement is that it will allow up to \$15,000 to be spent. If an individual contacts the City wanting to sell water rights, that will be brought to the City Council for consideration. If the Council agrees, then Brown & Caldwell will do their work to acquire the water rights. If the agreement is not in place and someone approaches the city, we would have to go through the entire process which could end up providing a window of opportunity for another entity to acquire those rights. Vore stated that is a correct explanation of the process. Roll call vote was taken: AYE: Hanks, French, Kooiker, Hadley, Kriebel and Partridge; NO: Murphy, Waugh and Kroeger. Substitute motion carried, 6-3.

Motion was made by Kroeger and seconded by Waugh to authorize the Finance Officer to sign a letter to State of South Dakota, Department of Legislative Audits, Requesting Time Extension for the **2003 Audit** (No. LF021104-05). Kooiker asked if Legislative Audits consider it a problem when the firm handling the audit is also handling other work for the city. Finance Officer Preston noted that he would check with the State on this issue. Kooiker also asked if he was correct in understanding that the auditor will look at contracts, including consulting contracts. Preston noted that the issue before the council at this time is a request for a time extension for the 2003 Audit. He noted that he will submit information on the scope of the audit at the next Legal & Finance Committee meeting when the Engagement Letter with Ketel Thorstenson is before the Committee for consideration. Upon vote being taken, the motion carried unanimously.

Motion was made by Kroeger and seconded by Waugh to request that staff proceed with the auction of the **YFS building** in its present condition and to authorize staff to proceed with any necessary repairs. Kroeger asked if the repairs will be made prior to sale of the facility. Hanks explained that the Legal & Finance Committee recommended that only necessary mechanical repairs be done, but not replace carpets or sheetrock that might be torn out by the purchaser. Kroeger stated that typically when a property is for sale, it should be shown at its best. Kooiker asked about a cost estimate for the repairs and the funding source. Finance Officer Preston explained that the direction from the Legal & Finance Committee was to make the necessary mechanical repairs (leaking water line), but not replace sheetrock that was damaged by water. A funding source has not been identified for these costs, but staff has suggested that these costs be replaced from the proceeds of the sale. Upon vote being taken, the motion carried with Kroeger and Kriebel voting no.

Public Hearings

The Mayor announced the meeting was open for consideration of the assessment roll for Cleanup of Miscellaneous Property (No. CC021604-01). Notice of hearing was mailed to the affected property owners on January 20, 2004 and published in the Rapid City Journal on February 9, 2004. No oral or written objections were submitted and the public hearing was closed. The Mayor introduced the following Resolution and Kooiker moved its adoption:

RESOLUTION LEVYING ASSESSMENT FOR CLEANUP OF MISCELLANEOUS PROPERTIES

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

1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by the property clean-up is the amount stated in the proposed assessment roll.
2. The assessment roll for Miscellaneous Property Cleanup is hereby approved and assessments thereby specified are levied against each and every lot, piece or parcel of land thereby described.

- 3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City Finance Office in accordance with the procedure in Section 9-43-43 to 9-43-53 of the South Dakota Compiled Laws of 1967, as amended, and shall be payable in one annual installment bearing interest at the rate not to exceed nine percent (9%).

Dated this 16th day of February, 2004.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

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

Planning Department Items

The Mayor presented No. 03CA044, a request by WellSpring, Inc. for an **Amendment to the Comprehensive Plan to change the future land use designation on a 1.240 acre parcel of land from Light Industrial to Office Commercial with a Planned Commercial Development**, located at 1205 E. St. James Street. The following Resolution was introduced, read and Kooiker moved its adoption:

RESOLUTION AMENDING THE COMPREHENSIVE PLAN
OF THE CITY OF RAPID CITY

WHEREAS the Rapid City Council held a public hearing on the 16th day of February to consider an amendment to the Comprehensive Plan to change the future land use designation on a 1.240 acre parcel of land from Light Industrial to Office Commercial with a Planned Commercial Development, on Lots 1 thru 5, Block 11, Bradsky Subdivision, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, 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 16th day of February, 2004.

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

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

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

The Mayor presented No. 04PL001, a request by Sperlich Consulting, Inc. for Jim Scull for a **Layout and Preliminary Plat** on Lots 1 thru 14 of Block 1, Lots 1 thru 6 of Block 2, and Lot 1 of Block 3, Kennsington Heights Subdivision, located in the SW1/4 of the SW1/4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a

portion of Lot B of Government Lot 4 located in the SW1/4 of the SW1/4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of the future intersection to Elm Avenue and Field View Drive. Motion was made by Kooiker, seconded by French and carried to acknowledge the applicant's withdrawal of the Preliminary Plat, and approve the Layout Plat with the following stipulations: 1) Upon submittal of a Preliminary Plat application, Elm Avenue right-of-way shall be dedicated either as a part of the Preliminary Plat for the subject property or on a separate Preliminary and Final Plat proposal or as an H Lot. The right-of-way shall extend from its current southern terminus along the subject property to the south lot line of the adjacent property located directly east of the subject property. In addition, road construction plans for Elm Avenue shall be submitted for review and approval. In particular, Elm Avenue shall be located within a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained. In addition, the construction plans shall show an eight foot wide bike path located along the east side of Elm Avenue as per the South Robbinsdale Neighborhood Area Future Land Use Plan; 2) Upon submittal of a Preliminary Plat application, a Master Utility Plan shall be submitted for review and approval. In particular, the Master Utility Plan shall show a water connection to the southwest corner of the subject property; 3) Upon submittal of a Preliminary Plat application, additional drainage information shall be submitted for review and approval. In particular, the drainage information shall demonstrate that adequate capacity exists in the channel located north of the subject property to carry the storm run-off from the developed subdivision; 4) Upon submittal of a Preliminary Plat application, necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawing shall be returned to the Engineering Division; 5) Upon submittal of a Preliminary Plat application, the plat document shall be revised to show a ten foot wide planting screen easement along Elm Avenue; 6) Upon submittal of a Preliminary Plat application, the plat document shall be revised to show a non-access easement along Elm Avenue, Field View Drive and along the corner lots as per the Street Design Criteria Manual. In addition, access shall be taken from the lesser order street or a Special Exception to the Street Design Criteria Manual shall be obtained; 7) Prior to Preliminary Plat approval by the City Council, a Special Exception shall be obtained to allow 159 dwelling units in lieu of 40 dwelling units with one point of access or the plat document shall be revised to comply accordingly; 8) Prior to Preliminary Plat approval by the City Council, a Special Exception to reduce the separation between intersections from 125 feet to 90 feet as per the Street Design Criteria Manual shall be obtained or the plat document shall be revised to comply accordingly; 9) Upon submittal of a Preliminary Plat application, a subdivision estimate form shall be submitted for review and approval; 10) Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and, 11) Prior to Preliminary Plat approval by the City Council, a different street name for Craig Court shall be submitted to the Emergency Services Communication Center for review and approval. In addition, the plat document shall be revised to show the approved street name.

Motion was made by Kooiker, seconded by Kroeger and carried to authorize the Mayor and Finance Officer to sign a **waiver of right to protest** a future assessment for street improvements on Lot 3-7, Block 13; and dedicated Streets, Big Sky Subdivision, located in the SE1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota (03SV028).

The Mayor presented No. 03SV028, a request by Dream Design International for Doyle Estes (DTH LLC) for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, sewer, watermain and street light conduit as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 3-7, Block 13; and dedicated Streets, Big Sky Subdivision, located in the SE1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as S1/2 GL3 less Big Sky Subdivision; S1/2 GL4 less Lot H1 and Less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and Less

Right-of-Way, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Buddy Court off of Degeest Drive. Motion was made by Kooiker, seconded by Waugh and carried to approve the requested variance, with the following stipulations: 1) Prior to City Council approval, the applicant shall sign a waiver of right to protest a future assessment for these improvements; and, 2) Prior to City Council approval, the construction plans shall be revised to show a paved turnaround at the western terminus of Homestead Street.

Motion was made by Kooiker, seconded by Kroeger and carried to authorize the Mayor and Finance Officer to sign a **waiver of right to protest** a future assessment for street improvements on Lot 16 of Twilight Hills Subdivision, Section 3, T1N, R8E, BHM, Pennington County, South Dakota (03SV048).

The Mayor presented No. 03SV048, a request by D.C. Scott Co. for Jerry Burrow for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and pavement and to waive the requirement to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 16 of Twilight Hills Subdivision, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, located at 5252 Ross Court. Motion was made by Kooiker, seconded by Waugh and carried to deny the Variance to waive the requirement to dedicate additional right-of-way; and approve the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and pavement as per Chapter 16.16 of the Rapid City Municipal Code, with the following stipulations: 1) Prior to City Council approval, the applicant shall sign a Waiver of Right to Protest a future assessment for the installation of curb, gutter, sidewalk, street light conduit and to improve pavement along Reservoir Road and for the installation of curb, gutter, sidewalk and street light conduit along Ross Court; and, 2) Prior to City Council approval, the applicant shall enter into a cost sharing agreement for improvements along Reservoir Road.

The Mayor presented No. 03SV051, a request by Olsen Development Co., Inc. for a **Variance to the Subdivision Regulations to waive the requirement to reduce the easement width from 49 feet to 32 feet, to reduce the easement width from 52 feet to 32 feet, to reduce the pavement width from 27 feet to 24 feet, to waive the requirement to provide sidewalks on both sides of the street, and to allow a lot twice as long as it is wide as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 28, Block 5, Windmere Subdivision, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Block 5, Windmere Subdivision, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located in the southwest corner of Twilight Drive and Meadow Lane. Motion was made by Kooiker, seconded by Waugh and carried to table the Variance to the Subdivision Regulations to allow a lot twice as long as it is wide. Motion was made by Kooiker, seconded by Waugh and carried to approve the Variance to the Subdivision Regulations to waive the requirement to reduce the easement width from 49 feet to 32 feet, to reduce the easement width from 52 feet to 32 feet, to reduce the pavement width from 27 feet to 24 feet and to waive the requirement to provide sidewalks on both sides of the street as per Chapter 16.16 of the Rapid City Municipal Code, with the following stipulations: 1) Upon submittal of a Preliminary Plat, construction plans showing a sidewalk along one side of the street(s) shall be submitted for review and approval; 2) Upon submittal of a Final Plat, the applicant shall submit a copy of a recorded covenants document identifying maintenance of the access easements and the public water and sewer utilities; and, 3) Upon submittal of a Preliminary Plat, road construction plans shall show Haycamp Lane flared with a minimum 36 foot wide pavement width at the Haycamp Lane/Twilight Drive intersection in order to provide a turning lane as per the Street Design Criteria Manual.

Ordinances & Resolutions

The Mayor announced the meeting was open for hearing on No. 03RZ052, second reading of **Ordinance 4009**, a request by WellSpring, Inc. for a **Rezoning from Flood Hazard District to Office Commercial District** on Lots 1 thru 3, Block 11, Bradsky Subdivision, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1205 E. St. James Street. Notice of Hearing was published in the Rapid City Journal on January 10 and January 17, 2004. Ordinance 4009, having had the first reading on January 5, 2004, it was moved by Hanks and seconded by Waugh that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 4009 the second time.

The Mayor announced the meeting was open for hearing on No. 03RZ053, second reading of **Ordinance 4010**, a request by WellSpring, Inc. for a **Rezoning from Medium Density Residential District to Office Commercial District** on Lots 4 and 5, Block 11, Bradsky Subdivision, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1205 E. St. James Street. Notice of Hearing was published in the Rapid City Journal on January 10 and January 17, 2004. Ordinance 4010, having had the first reading on January 5, 2004, it was moved by Hanks and seconded by Waugh that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 4010 the second time.

Ordinance 4014 (No. 04OA002) entitled an Ordinance Adding Section 17.50.250(C) of the Rapid City Municipal Code to Provide Setback Exceptions for Wheelchair Ramps, having passed the first reading on January 19, 2004, it was moved by Hanks and seconded by French that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 4014 was declared duly passed upon its second reading.

Ordinance 4019 entitled An Ordinance Amending the Regulation of Adult Oriented Businesses by Amending Section 5.70.120 of the Rapid City Municipal Code (No. LF012804-18), having passed the first reading on February 2, 2004, it was moved by Hanks and seconded by French that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 4019 was declared duly passed upon its second reading.

Ordinance 4020 entitled An Ordinance Amending the Rapid City Air Quality Regulations by Amending Section 8.34.020 of the Rapid City Municipal Code to Remove the Rapid City Regional Airport Area from the Air Quality Control Zone (No. 04AQ001), having passed the first reading on February 2, 2004, it was moved by Hanks and seconded by French that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 4020 was declared duly passed upon its second reading.

Ordinance 4021 entitled An Ordinance Repealing Chapter 1.08 of the Rapid City Municipal Code Relating to Wards and Precincts and Adopting a New Revised Chapter 1.08 of the Rapid City Municipal Code (No. LF021104-09), was introduced. Motion was made by Hanks, and seconded by Murphy to approve first reading. Finance Officer Preston submitted a map showing the annexed areas addressed by the ordinance before the Council. After reviewing information and voter numbers with the County Auditor's Office staff, Preston recommended that the voters in the annexed areas south of Highway 44 be included in Precinct 1-4. The current ordinance change recommends that a new precinct of 2-5 be established which would

only have four voters at this time. This scenario would make it difficult to cast an anonymous ballot. Preston recommended that the areas north of Highway 44 be left in Precinct 2-5. There are no registered voters in this area at the present time. Kooiker stated that he is concerned about the voters in the recently annexed Hidden Valley area in the northwest part of the City. The ordinance amendment before the Council at this time would require that those voters travel to the southwest part of town and vote with Ward 3 when the property is adjacent to Ward 5. Kooiker also was concerned about protecting voter anonymity for the voters in the airport annexation area. Kooiker stated that he feels the goals should be to have the wards as contiguous as possible and make sure that we protect voter anonymity. If we have to have people voting in a couple of different places or casting different ballots, then so be it. Preston explained that if the voters in the Hidden Valley area are put in Precinct 5-3, they would be required to vote at Pinedale School for the city issues and then go to Doty Fire Department to vote on the county and state issues. If this area is added to Precinct 3-2, they would vote at Whispering Pines Fire Station for all issues with other voters in this precinct. Hanks stated that it was the intent of his motion to approve first reading, with the amendment to put the annexed areas south of Highway 44 into Precinct 1-4, as recommended by the Finance Officer. Murphy concurred. Partridge noted that the Legislative and County Commission District lines cannot be changed and that presents some challenges when properties are annexed into the city. He spoke against requiring citizens to vote at two different locations on election day. Partridge added that given all the options, the proposal before the Council at this time is the best solution. Kooiker stated that he feels the inconvenience of going to two different places to vote, or casting two different ballots, is nothing compared to the ramifications of casting an open ballot which could turn some people away from voting. Kriebel asked if anyone has asked the people who would be affected by these changes for their opinion. Preston explained that he had contacted the voters who live near the airport. They indicated that they generally vote absentee but they didn't have a strong feeling one way or the other on this issue. These voters did indicate they will be moving within the year and because of the zoning, there will not be people living here in the future. Roll call vote was taken: AYE: Hanks, Murphy, Waugh, Kroeger and Partridge; NO: French, Kooiker, Hadley and Kriebel. The motion carried, 5-4, however, an ordinance requires six affirmative votes. First reading of Ordinance 4021 was not approved. Preston asked for direction from the Council on how to proceed with this issue. There is still time to get it done, but we need to proceed on this issue. No further discussion was held.

Ordinance 4024 entitled An Ordinance Adding a Definition of "Security Activity" to the Security License Regulations by Amending Section 5.52.010 of the Rapid City Municipal Code (No. LF021104-01), was introduced. Motion was made by Hanks and seconded by French to approve first reading. Kriebel expressed concern that this ordinance was too broad and might include individuals taking tickets and checking IDs at school functions or other similar activities. Murphy spoke against the ordinance also noting that members at the Moose Club, Elks Lodge, or other private clubs must show an ID to enter those facilities. Kooiker asked the City Attorney if the Council could pass an ordinance that would require people checking IDs to have clothes on. City Attorney Green noted that the ordinance before the Council at this time is an amendment to the existing security regulations. Kooiker's suggested change would be an amendment to the AOB ordinance which require a new ordinance amendment. French suggested that the City enact regulations that would define what a security person does and when they are required. Green explained that the city's current regulations require persons involved with security activities to be licensed. Typically bartenders and waiters are not required to be licensed as security individuals. People whose primary function is to provide that security function, bouncers and door people, are engaged in security activities and therefore are required to be licensed. French stated that she feels it would be beneficial to the city to have something more definitive that said if you serve alcohol, if you are a bar, you will have this person at the door doing this particular activity and this person will have a license. At the present time, this decision is left up to the individual businesses and is very inconsistent. Kriebel stated that it could be restricted to on-sale liquor establishments, but we will still run into the problem of restaurants and waiters asking for ID if

a patron orders alcohol. Partridge stated that he doesn't feel the ordinance before the Council at this time will be beneficial to the safety of the city. Substitute motion was made by Kooiker and seconded by French to continue this item and ask the City Attorney's Office to see if there is a way to narrow the scope to include on-sale liquor licenses and to look at the issues that were raised. Roll call vote was taken: AYE: Hanks, French, Kooiker and Hadley; NO: Murphy, Waugh, Kriebel and Partridge. Mayor Shaw voted AYE to break the tie and the substitute motion to continue carried, 5-4.

Ordinance 4025 (No. 04RZ001) a request by Bruce Olson for a **Rezoning from Low Density Residential District to Medium Density Residential District** on Lots 4 and 5, Block 1, Haley's Addition, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1123 North 7th Street, was introduced. Upon motion made by Hanks, seconded by French and carried, Ordinance 4025 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, March 1, 2004.

Ordinance 4026 (No. 04RZ002) a request by Stanley & Durr LLC dba Fjords Ice Cream Factory for a **Rezoning from Medium Density Residential District to Neighborhood Commercial District** on Lots 1 and 2, Mediterranean Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1805 and 1815 38th Street, was introduced. Motion was made by Hanks and seconded by French to approve first reading of Ordinance 4026 and direct the Finance Officer to publish notice of hearing thereon, said hearing to be Monday, March 1, 2004. Bridgett Stanley of Fjord's Ice Cream explained that they are requesting a rezone on property only a few blocks from their current location. This will not result in additional traffic on Canyon Lake Drive. Fjord's is a respectful neighbor with limited hours and which is closed part of the year. Stanley submitted petitions signed by individuals living in this area who are opposed to additional apartment buildings being built, and in support of the Fjord's rezone request. Stanley added that in the new location, Fjord's will be able to add three new full time positions, and create a green space with as much landscaping as possible. It was noted that Fjord's has lost the lease at their current location and this is their last attempt to remain on Canyon Lake Drive. Upon vote being taken, the motion to approve first reading carried unanimously.

Ordinance 4027 (No. LF021104-10) entitled An Ordinance Amending Motor Vehicle Noise Restrictions by Amending Chapter 10.24 of the Rapid City Municipal Code, was introduced. Upon motion made by Hanks, seconded by Kroeger and carried, Ordinance 4027 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, March 1, 2004.

The Council recessed at 9:05 and reconvened at 9:25 with all members present.

Legal & Finance Committee Items

Motion was made by Hanks and seconded by Kooiker to direct staff to bring forward a recommendation as far as a proposed **deer management plan**, and invite a representative from the Department of Game, Fish & Parks to the next Council meeting to discuss this issue. Mayor Shaw distributed a preliminary report from the Game Fish & Parks relative to the deer count, and statistical information from the last deer management plan enacted by the City as well as accident reports involving deer. Mike Forrette encouraged the council to consider other methods of controlling the deer population like contraception. Forrette stated he would like to be a part of any committee formed on this issue. Kroeger suggested that the representative from the County Commission also be invited to attend the meeting on this issue. Hanks amended his motion to include a representative of the County Commission. Upon vote being taken, the motion carried unanimously.

Motion was made by Hanks and seconded by Murphy to approve No. CC021604-04 - Purchase of **office furniture** for second floor reorganization. Elkins explained that they have estimated the total project will be \$32,000. Some of these funds were expended in 2003. She added that the action needed at this time is to release approximately \$24,000 from the moratorium funds to purchase cubicles for the Growth Management Department. Public Works Director Vore submitted information on the comparison of costs for Public Works/Engineering work stations. The information showed costs for constructing offices compared to purchasing cubicles for work stations. Vore also requested that the Council release moratorium funds for Dept. 108 for the office re-organization. Vore explained that the city's engineers need total privacy so they can start at the beginning of a project and take it through to the end without interruption. Vore stated that he would not like to see them in cubicles which would not afford the privacy required. Hanks noted that the item that came through committee dealt strictly with Growth Management. He suggested that the Public Works Director take his request through the Legal & Finance Committee. Upon vote being taken, the motion carried with French voting no.

Public Works Committee Items

Motion was made by French and seconded by Murphy to request the City Attorney's Office prepare an ordinance amendment allowing **nonpermanent/temporary signs** of a certain nature in the right-of-way. Hanks stated that this would open the right-of-way to all signs. The city can specify the size, but not what is on the sign. And if a provision is added to the ordinance requiring approval of the adjacent land owner, then the city would be delegating its authority relative to rights-of-way. There are also concerns about the liability the city would incur if obstacles are allowed in the public right-of-way. French stated that we are talking about small signs that would not create issues with sight triangles. There should be a way to accomplish this goal using common sense. Kooiker stated that he feels an ordinance could be written to require that whoever maintains the right-of-way must approve of the sign, and addressing the maximum size, a time limit, and not allowing signs on city-owned property. Kooiker also suggested that the Council defuse part of this issue and deal with the policy of charging realtors \$42.50 to pick up signs that have been confiscated by the City because they were located in the right-of-way. Other cities have a place at the landfill where the signs removed from the right-of-way are taken and the owners can pick them up. Kriebel stated that he does not feel this issue is about helping realtors, or political signs. The issue is to allow individuals who are trying to sell their home to place a sign in the right-of-way advertising the property for sale. Hanks asked the City Attorney if he could draft an ordinance to allow signs advertising a home for sale. Green stated that the city cannot enact an ordinance that regulates the content of speech. If the city enacts an ordinance that allows a sign to be placed in the right-of-way as long as it says certain words, that would be contrary to the first amendment. Green added that for sale signs are deemed to be commercial speech which receives the lowest amount of protection from the constitution. The courts have routinely said that political speech is more important than commercial speech. So if the city allows commercial speech to be placed in the right-of-way, we must also allow political speech. Green added that the issue of liability should also be discussed as it relates to this issue. The obligation of the municipality to maintain the right-of-way. The City of Rapid City requires homeowners to take care of basic maintenance in the right-of-way. But structures in the right-of-way will be the responsibility of the city. If someone is injured as a result of that structure, the city could be liable. Substitute motion was made by Partridge and seconded by Kooiker to take this issue back to the Public Works Committee and request that the City Attorney bring forward a recommendation based on sight triangles, safety, and certain size requirements. Kroeger abstained from discussion or voting on this issue. Hanks asked if the City Attorney would be able to develop such an ordinance. City Attorney Green stated that as long as there are no content regulations contemplated, he may be able to come up with a draft. However, he added that further investigation is needed into the liability issues and the responsibility of the city to maintain public right-of-way easements for the benefit of the public and not for use

by individual members of the public. Kooiker called the question and there were no objections. Upon vote being taken, the motion carried unanimously.

CIP Committee Items

Motion was made by Kroeger, seconded by Hanks and carried to approve No. CC021604-02 - Proposed changes to the Streets & Drainage Base Document, as outlined on the spreadsheet presented by Engineering Division Manager Dan Coon entitled Rev. No. 1 to 7/18/03 Base Documents

Sign Code Board

The next item discussed by the Council was No. CC021604-03 - Lamar Advertising – Appeal of the Decision of the Sign Code Board of Appeals. Terry Westergaard appeared before the Council on behalf of Lamar Outdoor Advertising and explained that his client was given a Notice to remove a billboard that is in the section line right-of-way on property that was recently annexed into the city. Westergaard stated that it is Lamar's position that an exceptional situation exists and that an unnecessary hardship would result because of the strict application of this code by the city. The exceptional situation exists because of three factors: 1) installation of three other billboards near this property in what Lamar characterizes as a violation of the lease they had with the landowner. The other billboards were installed by another advertising company in 2003. 2) new sign code; and 3) annexation of the property. Westergaard stated that an unnecessary hardship would result to Lamar if they are required to remove the billboard because of the spacing requirements. If the other billboards were not in violation of their contract, the Lamar sign could be moved out of the right-of-way. Westergaard added that the lease for this billboard does allow for the sign to be relocated. The sign has been in this location since 1984. Michael Reynolds, representing Epic Outdoor Advertising, explained that his client is in litigation brought by Lamar Advertising trying to prevent any other billboard companies from legally putting signs up on this property which is owned by Heavy Constructors. In the course of that litigation, we discovered that the sign is illegal because it is located in the right-of-way. Under the city's codes, in several sections, the sign is illegal and should be removed. Reynolds also took exception to the characterizing of this issue as a hardship for Lamar Advertising. Lamar has known about the illegal location of this sign for at least a year. Also, to bring down the sign would only take a couple hours and approximately \$1,500 in expense; a nominal undertaking from a hardship perspective. With regard to passage of the sign code, every outdoor advertising company has had to react to the sign code and take measures and expenditures to comply with the code. This is no different than any other outdoor advertising company. Relative to relocating the sign on the same parcel of land, the lease does not allow for relocation under these circumstances. The lease allows for relocation of the sign only in the instance of condemnation or relocation of Interstate 90. Reynolds stated that this sign is located in the right-of-way and it must be removed. He asked the City Council to deny the appeal of the Sign Code Board's decision on this matter. Marty Jackley, representing Heavy Constructors, concurred with the information presented by Mike Reynolds. It is the landowners position that the municipal code should be enforced and the sign should be removed from the section line right-of-way. Jackley stated that with respect to the lease between Lamar and Heavy Constructors, there are only two instances where the sign could be relocated on the property and neither of them would apply to the circumstances of this case. Jackley stated that on behalf of the property owner, he would ask the City to apply city codes relative to this sign. Hanks noted that the only issue before the Council at this time is the appeal of the Sign Board's decision on this matter. City Attorney Jason Green explained that the issue presented to the Sign Code Board of Appeals was whether or not the building official's determination in this case was correct. That is the issue before the Council at this time. Green added that this sign is not eligible for off-premise sign credits because it is a prohibited sign due to the illegal location within the section line right-of-way. Green also stated that under state law, when the billboard was constructed in 1984 within the section line right-of-way, it was an illegal obstruction at that time whether it

was in the city or county. Motion as made by Hadley, seconded by Partridge and carried to uphold the decision of the Sign Code Board of Appeals.

Finance Officer's Items

Preston submitted a sign-up sheet for the 2004 Board of Equalization hearings which will be held March 15-19 at the Pennington County Courthouse.

Preston also informed the Council that an Engagement Letter with Ketel Thorstenson for the 2003 Audit will be presented for approval at the next Legal & Finance Committee meeting. At that time, Preston will make a presentation on the scope of the audit.

Approval of Bills

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

Payroll Paid Ending 02-07-04, Paid 02-13-04	741,192.51
Payroll Paid Ending 02-07-04, Paid 02-13-04	1,580.80
Pioneer Bank, Taxes Paid 02-13-04	174,348.42
Pioneer Bank, Taxes Paid 02-13-04	119.78
Berkley Risk Administrators, January claim payments	14,004.73
First Administrators, claims paid 2-03/04	49,350.53
First Administrators, claims paid 2-11/04	81,459.37
Audio Video Solutions, Grant, projector	3,856.05
L-3 Communications Corp., grant, slide mount trays	4,369.00
PC Connection Place, grant, laptop	1,633.50
BH Power & Light – electricity	4,808.82
US Postmaster, billing postage	2,200.00
Computer Bill List	<u>3,123,408.03</u>
Total	<u>\$4,202,331.54</u>

Payroll Paid Ending 02-07-04, Paid 02-13-04	2,740.80
Pioneer Bank, Taxes Paid 2-13-04	202.49
City of Rapid City, health insurance	792.00
City of Rapid City, postage	9.85
Dakota Business Center, copier maintenance	6.60
SD Retirement System, January pension	429.02
SD School of Mines, telephone	53.50
Standard Life, insurance	<u>7.90</u>
Total	<u>\$4,206,573.70</u>

Police Department Items

Darrell West appeared before the Council to appeal the decision of Police Chief Tieszen to deny his application for **Security License**. West explained that he works as a security person for Woody's Bar located in downtown Rapid City. He was in the bar, off-duty, last September and a problem occurred with patrons. He stepped in to help the security person who was working that night and subsequently was arrested for assault. He noted that he was drinking that night, but was not drunk. When he was taken to the jail for processing, no tests were done for blood alcohol content. West took exception to the police report stating that he was drunk or very drunk. West further explained that he plead guilty to disorderly conduct because he could not afford to fight the charges. He agreed to take a polygraph relative to the incident and offered a video tape of the incident to show what happened in the bar that night. West also submitted a letter from his employer which stated that he is a good

employee and has their support. West stated that he did not strike any individual, with a bottle or anything. West stated that he has had a security license since 2000 and this is the first instance where he has had any problems. West also works construction, weather permitting. Kooiker asked if the license is not granted at this time, when would the applicant be eligible to reapply for a security license. Chief Tieszen stated that in the past he has reviewed new applications in six months, depending on the circumstances. Motion was made by Hanks and seconded by Kooiker to continue this item for two weeks and ask the Police Department to review the video tape provided by Mr. West, and if necessary, ask the applicant to take a polygraph test. Hadley stated that in reviewing the reports filled out the by the Police Officers involved with this incident it was reported that Mr. West was drunk or very drunk by some accounts. Hadley stated that he feels this is hearsay and should not be taken into account. There is no proof that Mr. West was drunk. Hadley stated that he feels it is a harsh sentence to take away a person's livelihood for one incident which involves a lot of hearsay. Murphy stated that he has a problem with the petitioner pleading guilty to the lesser charge of disorderly conduct when he had a videotape of the incident. West stated that he couldn't afford to fight these charges. Green stated that this matter was presented to a court of law and a magistrate judge heard Mr. West plead guilty. He admitted that he acted in a disorderly manner at the date and time stipulated in the charges. This is now an established fact. Whether or not the conduct was sufficient to constitute simple assault is not relevant; the fact has been determined that Mr. West was guilty of disorderly conduct on that date, at that time. Substitute motion was made by Hadley and seconded by French to approve issuance of a security license to Darrell West. Kooiker called the question and there were no objections. Roll call vote was taken: AYE: French, Kooiker, Waugh, Hadley, Kriebel and Partridge; NO: Hanks, Murphy and Kroeger. Motion carried, 6-3.

City Attorney's Items

Motion was made by Hadley, seconded by Waugh and carried to go into executive session to discuss pending litigation and contractual matters. The Council came out of executive session at 11:05 P.M.

Motion was made by Waugh and seconded by Murphy to authorize the Mayor, Finance Officer and Attorneys to execute a Stipulation for Dismissal in the matter of Wardunham et al vs. City of Rapid City et al. Roll call vote was taken: AYE: Hanks, French, Murphy, Waugh, Hadley, Kroeger and Partridge; NO: Kooiker and Kriebel. Motion carried, 7-2.

As there was no further business to come before the Council at this time, the meeting adjourned at 11:15 P.M.

CITY OF RAPID CITY

ATTEST:

Mayor

Finance Officer

(SEAL)