

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

November 15, 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, November 15, 2004 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Ray Hadley, Malcom Chapman, Tom Murphy, Jean French, Ron Kroeger, Karen Olson, Sam Kooiker, Tom Johnson and Bill Waugh. The following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included City Finance Officer Jim Preston, Acting Public Works Director Ted Vore, City Attorney Jason Green, Growth Management Director Marcia Elkins, Fire Chief Gary Shepherd, Police Chief Craig Tieszen, Parks and Recreation Director Jerry Cole and Administrative Assistant Jackie Gerry.

**APPROVE MINUTES**

Hadley moved, seconded by French and carried to approve the minutes of November 1, 2004.

**ADOPTION OF THE AGENDA**

The following items were added to the agenda:

- Consider Agenda Item Nos. 76, 87, 88 and 92 after Agenda Item No. 6
- Agenda Item No. 30 to reflect Second Reading, Ordinance 4098
- Executive Session to discuss pending litigation, contractual and personnel matters
- (8a) Wage Scale, Alderman Kooiker
- Consider Agenda Item No. 8 under General Public Comment
- (8b) Council Procedures, Alderman Hadley
- (8c) Landfill Odor, Alderman Hadley
- (103) Loyalty Oath

Johnson moved, seconded by Olson and carried to adopt the agenda as amended.

**AWARDS AND RECOGNITIONS**

At this time Mayor Shaw recognized former Ward Five Alderman Jeff Partridge and thanked him for his service to the community.

**GENERAL PUBLIC COMMENT**

Johnson moved, seconded by Waugh to limit audience comments to five minutes and Council responses to five minutes, as it relates to the issue of Pedestrian safety at Fifth/Franklin. Upon a roll call vote, the motion carried with the following voting AYE: Chapman, Murphy, Kroeger, Olson, Johnson and Waugh; NAY: Hadley, French and Kooiker. Alderman Kooiker reminded the

Council of the recent pedestrian/vehicle accident on Fifth Street at Franklin Street and explained there had been a traffic signal at this intersection before the widening of Fifth Street. He indicated there is a traffic signal on Mount Rushmore Road at Franklin and believed it logical to have a signal on Fifth Street at Franklin. He requested the traffic signal be returned to this location. Tammy Quillen, 1602 5<sup>th</sup> Street addressed the Council explaining she is the mother of the child involved in the accident, commenting on the speed of the vehicle traffic on Fifth Street and the difficulties pedestrians face trying to cross Fifth Street, and pleaded with the Council to return the traffic signal to this location. David Seals, 515 Franklin addressed the Council urging them to install the traffic signal and suggesting the speed limit be reduced and increase traffic fines for those exceeding the posted speed limit. Dan Myhre, 1328 Kansas City addressed the Council commenting that he believed speeding on Fifth Street will increase with the extension of Fifth Street. In response to questions from Alderman Kooiker, Police Chief Tieszen indicated he had no knowledge of the reported traffic signal at this location or why it would have been removed; and also indicated there is no crossing guard stationed at this intersection. Alderman Kooiker indicated his desire to place a crossing guard on Fifth Street at Franklin Street while this issue is being look at, in terms of the traffic signal and other solutions; and questioned whether it was safe and reasonable to put a crossing guard at this location, beginning Tuesday. Police Chief Tieszen indicated he was not aware of the number of children that cross at this intersection; and there was no crossing guard available to place at this intersection beginning Tuesday. Kooiker asked that the City consider this intersection a high priority. Kooiker moved to asked the Public Works and Police Departments to work on and bring together an assessment report for the November 30, 2004 Public Works Committee meeting; and if the assessment report indicates feasibility for a crossing guard and other interim measures, he asked that these recommendations be made part of the motion. Seconded by Olson. Friendly amendment was offered by French to place a crossing guard at this location immediately, while awaiting the assessment report. The Chair ruled the amendment was not germane to the motion. Tieszen indicated if so directed by Council, he would place a patrol officer at this location immediately until a crossing guard could be hired. Upon a vote being taken on the motion, motion carried.

Motion was made by French to direct the Police Department to immediately place a patrol officer on Fifth Street at Franklin for speed control and pedestrian monitoring, until further notice; which would be until the assessment report is presented. Seconded by Kooiker. Alderman Murphy spoke in opposition to the motion as he believed the Police Department is monitoring and controlling the speed along Fifth Street. Alderman Johnson indicated the motion was vague and asked the Council not to put the Police Chief in a position of asking him to do whatever measures are appropriate. He believed the Police Chief does this on a daily basis. This puts the Chief and the department in a position to be undeservedly scrutinized. Tieszen reported his department has focused on this area as it relates to speed enforcement. He reported in 2004 they have written 1,700 moving violations along Fifth Street, and within five blocks of Franklin they have written 475 moving violations. If so directed, he would assign an officer dedicated to accomplishing the assignment. Upon a roll call vote being taken, the motion carried with the following voting AYE: Hadley, French, Kroeger, Kooiker and Waugh; NAY: Chapman, Murphy, Olson and Johnson.

Police Chief Tieszen asked for clarification on whether this intersection should be staff beginning at 8:00 A.M. until 8:00 P.M., including weekends. Alderman French offered that a patrol officer should be at this location beginning at 7:30 A.M. until 7:30 P.M. and no weekends.

Mayor Shaw recognized Aaron Wright, 614 Wambli Drive who reported the recent installation of a street light in his neighborhood causing a glaring problem. His bedroom window coverings are unable to filter out the brightness of the light. He asked that the street light be removed. Johnson moved, seconded by Waugh to refer this issue to the November 30, 2004 Public Works Committee meeting for a recommendation. Motion carried.

### **BID OPENINGS**

The following companies submitted bids for No. CC111504-01 Whitehead Ballfield Improvements Phase 3 (Irrigation, Fencing, Grading & Seeding), Project No. PR04-1428, opened November 2, 2004: Sprinkler Guys, LLC, Shamrock Enterprises, Inc. and Black Hills Hydro-Turf, Inc. Staff reviewed the bids and recommends the award to Sprinkler Guys, LLC. French moved, seconded by Kroeger and carried to approve the bid award of Whitehead Ballfield Improvements Phase 3 (Irrigation, Fencing, Grading & Seeding), Project No. PR04-1428 to the lowest responsible bidder meeting specifications, Sprinkler Guys, LLC, for the low unit prices bid for a total contract amount of \$30,516.01.

The following companies submitted bids for No. CC111504-01 North Elk Vale Sewer Main Extension, Project No. SS03-1292, opened November 9, 2004: Mainline Contracting, Inc., Heavy Constructors, Inc., Dba Excavating Specialists, Highmark, Inc., R.C.S. Construction Inc., Quinn Construction, Inc. and Hills Materials Company. Staff reviewed the bids and recommends the award to Mainline Contracting, Inc. French moved, seconded by Kroeger and carried to approve the bid award of Elk Vale Sewer Main Extension, Project No. SS03-1292 to the lowest responsible bidder meeting specifications, Mainline Contracting, Inc., for the low unit prices bid for a total contract amount of \$654,899.25.

The following companies submitted bids for No. CC111504-01 Centre Street Sewer Main Extension, Project No. SS00-940, opened November 10, 2004: Shovelhead Excavating Inc., R.C.S. Construction, Inc., Mainline Contracting, Inc., Site Work Specialists, Inc., Highmark, Inc., Heavy Constructors Inc. dba Excavating Specialists, Quinn Construction, Inc., Simon Contractors of SD, Inc. and Hills Materials Company. Staff reviewed the bids and recommends the award to Shovelhead Excavating, Inc. French moved, seconded by Kroeger and carried to approve the bid award of Centre Street Sewer Main Extension, Project No. SS00-940 to the lowest responsible bidder meeting specifications, Shovelhead Excavating, Inc., for the low unit prices bid for a total contract amount of \$274,087.50.

### **ITEMS FROM COUNCIL MEMBERS/LIAISON REPORTS**

This being the time for the Ward 5 Alderman Selection, Alderman Kroeger commented on a concern expressed by Ward 5 Candidate, Bob Hurlbut about a conflict of interest. He explained Mel Dreyer is a Broker/Owner of Caldwell Banker; while he is a Broker/Associate, who is an independent contractor with Caldwell Banker and receives an income from the sale of properties. City Attorney Green was of the opinion that there is no conflict of interest and Alderman Kroeger will not be required to abstain from the selection of the Ward 5 Alderman. Motion was made by Kroeger that voting be done by paper ballot, the ballot to be signed, each Council member will cast two ballots; on the first ballot each Council member will choose two candidates. When the vote is tallied, the two highest scoring candidates will advance to the second round; and on the second ballot each Council member will choose only one candidate. Seconded by French. Motion carried.

|         | <b>WARD 5 CANDIDATES</b> |                 |                |              |
|---------|--------------------------|-----------------|----------------|--------------|
|         | <b>Dreyer</b>            | <b>Hamilton</b> | <b>Hurlbut</b> | <b>White</b> |
| Hadley  |                          |                 | <b>X</b>       | <b>X</b>     |
| Chapman |                          | <b>X</b>        | <b>X</b>       |              |
| Murphy  | <b>X</b>                 | <b>X</b>        |                |              |
| French  |                          |                 | <b>X</b>       | <b>X</b>     |
| Kroeger | <b>X</b>                 | <b>X</b>        |                |              |
| Olson   |                          |                 | <b>X</b>       | <b>X</b>     |
| Kooiker |                          |                 | <b>X</b>       | <b>X</b>     |
| Johnson | <b>X</b>                 | <b>X</b>        |                |              |
| Waugh   | <b>X</b>                 |                 |                | <b>X</b>     |
| Total   | 4                        | 4               | 5              | 5            |

Motion was made by Kooiker to permit the successful candidates two minutes to address the Council. Seconded by Johnson. Upon a vote being taken on the motion, motion failed.

|         | <b>WARD 5 CANDIDATES</b> |              |
|---------|--------------------------|--------------|
|         | <b>Hurlbut</b>           | <b>White</b> |
| Hadley  | <b>X</b>                 |              |
| Chapman | <b>X</b>                 |              |
| Murphy  | <b>X</b>                 |              |
| French  | <b>X</b>                 |              |
| Kroeger |                          | <b>X</b>     |
| Olson   | <b>X</b>                 |              |
| Kooiker |                          | <b>X</b>     |
| Johnson |                          | <b>X</b>     |
| Waugh   |                          | <b>X</b>     |
| Total   | 5                        | 4            |

The Chair announced the successful candidate as Bob Hurlbut. It was noted that Hurlbut would be sworn in at the end of the meeting.

Upon an inquiry from Alderman Kooiker about a written policy for pay increases for a City employee assuming an acting position, Human Resource Director Preston explained there is no written policy but a long-standing practice that a City employee receives a pay increase based on the midpoint of the difference of the employee's current salary and the salary of the position to be assumed; and this practice applies only to department heads. Out-of-class pay for employees is covered under union contract provisions. Alderman Kooiker expressed concern about the lack of a written policy for management positions. Motion was made by Murphy to request a formal written policy as it relates to administrative positions (department heads) receiving pay increases when assuming an acting position. Seconded by Chapman. Substitute motion was made by Johnson to refer the discussion to the December 1, 2004 Legal & Finance Committee. Seconded by Waugh. Discussion followed relative to receiving input from the City's bargaining units. Motion carried.

Alderman Hadley expressed his opposition to what he termed a manipulation of the Council meeting to move the Invocation and Pledge of Allegiance ahead of the Roll Call and Determination of Quorum. He indicated that Roberts Rules of Order #64 indicates the roll call is

the first item to be conducted at a meeting. He suggested that if an individual Council member must protest, they do it on their personal time and not in an official capacity. Motion was made by Hadley that the Roll Call and Determination of Quorum, as per the Roberts Rules, be the first item of business to be taken by the Council. Seconded by French. Motion carried.

Alderman Hadley reiterated his concerns with a landfill odor and a nuisance caused by birds feasting at the landfill. He asked whether the compost operation could cease until staff determined a fix in the equipment; and questioned whether garbage remained uncovered during the night. Acting Public Works Director Vore assured the Council that staff is addressing the odor concerns by applying a chemical to the compost to mask the odor. He explained he would be working with staff to insure that all garbage will be covered after it has been dumped. Motion was made by Johnson to refer the discussion of the landfill odor to the November 30, 2004 Public Works Committee meeting. Seconded by Waugh. Mike Lewis, AFSCME President explained the compost must have a moisture content of 44% when exiting the primary building, which is an enclosed structure, to the secondary building which is considered to be an open structure. He explained, while the compost is in the primary building the odor is filter through a scrubber. He also explained that although they have applied a chemical to mask the odor, there is no way to control the odor unless the secondary building is enclosed. In response to a question from Alderman Kooiker, Vore explained what has happened is that what is termed as "overs" from the Dano Drums, material that can not be composted, are dumped on the landfill and may not be covered. He assured Council, staff will address this issue to make certain the overs are covered. Lewis pointed out there are roll-off trucks, coming off the tip-floor that do have garbage, being dumped and not being covered. Teresa Pullins also pointed out there are five to six semi-trucks, and yard waste containers that are being dumped between the hours of 5 – 6:30 and not being covered by the con-covered that is to be used under the City's State permit for dumping at the landfill. Motion carried.

At 9:09 P.M. Mayor Shaw recessed the meeting; and the meeting reconvened at 9:30 P.M.

### **CONTINUED ITEMS CONSENT CALENDAR** – Items 9-30

The following items were removed from the Consent Calendar:

19. No. 04PL133 - A request by Dream Design International for a **Preliminary Plat** on Tract H, Lots 13A-18A, Lots 13B-18B, Block 4, Tracts F and G, Lots 1A-11A, Lots 1B-11B, Block 19; Lots 1A-8A, Lots 1B-8B, Block 20; and Dedicated Streets, located in the S1/2 SE1/4 NW1/4 and NE1/4 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract E and Lot 14, Block 4, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located south of Homestead Street west of Aurora Drive.

Hadley moved, seconded by Olson and carried to continue the following items as indicated.

### **Continue the following items until December 6, 2004:**

9. No. 04CA030 - A request by Dream Design International for an **Amendment to the Comprehensive Plan to relocate a Collector Street on the Major Street Plan** on the SE1/4 NW1/4 and the SW1/4 of Section 25, T1N, R7E to a right-of-way 76.00 feet in width with the centerline described as follows: commencing at the found corner stamped R.L.S. No. 4208 of the center ¼ of Section 26, T1N, R7E, BHM, Rapid City, Pennington

County, South Dakota; thence N55°50'19"W along a non-visual line, 963.91 feet to the true point of beginning; thence S20°01'45"E 210.75 feet; thence along a curve to the right having a radius of 526.00 feet, included angle of 21°19'54", and a curve length of 195.83 feet; thence S01°18'09"W 1450.65 feet; said parcel containing 3.24 acres more or less all located in Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of South Highway 16 and south of U.S. Highway 16B (Catron Boulevard).

10. 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.
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. 04PL044 - A request by Sperlich Consulting Inc. for Walgar Development for a **Layout and Preliminary Plat** on Lot 2 of Block 1, Minnesota Park Subdivision, located in the SW1/4 of the NE1/4 of the SE1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract B of Robbinsdale Addition No. 10, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located south of Wisconsin Avenue and East Minnesota Street.
16. No. 04PL122 - A request by CETEC Engineering Services for Park Hill Development for a **Preliminary Plat** on Lots 8, 9, 10 and 11 of Block 3; and Lots 5, 6, 7, and 8 of Block 4; and dedicated right-of-way of Park Meadows Subdivision located in the NE1/4 of SE1/4, Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the NE1/4 SE1/4 less the west 650 feet of the east 700 feet of the south 372.5 feet, Section 7, T1N, R7E, BHM; and a portion of Lots 1, 2, and 3R of Block 4 of Park Meadows Subdivision, Section 7, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current southern terminus of Oakland Street.
17. No. 04PL129 - A request by Sperlich Consulting, Inc. for Jim Scull for a **Preliminary Plat** on Lots 15-17 of Block 1, Lots 7-19 of Block 2, and Lots 2-6 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 Government Lot 4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southwest of the intersection of Elm Avenue and Field View Drive.
18. No. 04PL131 - A request by Sperlich Consulting for a **Preliminary Plat** on Lots 1 through 10, Block 2, Commerce Park Subdivision, located in the E1/2 SW1/4 SE1/4 Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as NE1/4 SW1/4 SE1/4 and the N1/2 SE1/4 SW1/4 SE1/4, all in Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current southern terminus of Fountain Plaza Drive.
20. No. 04PL135 - A request by Sperlich Consulting, Inc. for Paul Reinke for a **Layout Plat** on Lots 18 thru 20 of Copper Oaks No. 2, Lots 11 thru 13 Block 2, Lots 8 thru 12 of Block 3, Lots 1 thru 5 of Block 4, Lots 1 thru 8 of Block 5 and Lot A of Copper Oaks No. 3 Subdivision located in the NE1/4, Section 7, T1S, R7E, BHM, Pennington County, South Dakota, legally described as unplatted balance of the N1/2NE1/4 less Right-of-way, unplatted balance of the SE1/4NE1/4, SW1/4NE1/4 less the south 23 feet of the east 240 feet of the west 593 feet the of SW1/4NE1/4, less Copper Oaks all located in Section 7, T1S, R7E, BHM, Pennington County, South Dakota, located along Wild Turkey Way and Quartz Canyon Lane.
21. No. 04PL146 - A request by Centerline, Inc. for 3 T's Land Development LLC for a **Preliminary Plat** on Lots 11 thru 16 and Lots 31 thru 42, Minnesota Ridge Heights Subdivision, located in the NW1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion and Tract R of NW1/4 SW1/4 located in the NW1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located 0.75 miles west of Fifth Street and Minnesota Avenue.

22. No. 04PL148 - A request by Davis Engineering for a **Preliminary Plat** on Lots 10 thru 13, Block 3; Lots 9 thru 15, Block 4; Lots 2 thru 7, Block 5; Lot 1, Block 8; Lots 2, Block 10; Lots 2 thru 5, Block 11; all located in Murphy Ranch Estates Subdivision, 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 Reservoir Road.
23. No. 04VR004 - A request by FMG, Inc. for Leigh Tange and James Adams c/o Nemo Road Properties for a **Vacation of Section Line Highway** on the 66 foot section line highway less the east 33 feet of said 66 foot right-of-way, located between the SE1/4 of Section 21 and the NE1/4 of Section 28, all located in T2N, R8E, BHM, Pennington County, South Dakota, located north of I-90 and west of Elk Vale Road.
24. No. 04VR008 - A request by TSP for Rob Poeppel for a **Vacation of Public Right-of-Way** on the balance of the North 1/2 of Block 4 and balance of the South 1/2 of Block 4 and alley right-of-way all located in Feigels Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 900 East Watertown.
25. No. 04FV014 - A request by Michael Altstiel for a **Fence Height Exception to allow a six foot fence in the front yard setback** on Lot 1, Block 1, Mall Ridge Subdivision No. 2, Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 504 Lion Drive.
26. No. 04FV019 - A request by FMG Engineering for Menard, Inc. for a **Fence Height Exception to allow a 13'4" high fence in the General Commercial Zoning District and within the 25' front yard setback** on Lots 1, 2, 3 and 6, Tract A, Menard Subdivision, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the southeast corner of the intersection of Eglin Street and East Anamosa Street.
27. No. 04SE002 - A request by Daniel and Lori Smith for a **Special Exception to the Street Design Criteria Manual to allow access from a higher order street** on Lot 2 of Block 13, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1802 Valentine Street.
28. No. 04SV037 - A request by Brent Pushing for a **Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way and to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the section line highway and the interior street as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 4, Brentwood Subdivision, Section 25, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, legally described as S1/2 NW1/4 SW1/4 SE1/4; S1/2 NE1/4 SW1/4 SE1/4; SW1/4 SW1/4 SE1/4; SE1/4 SW1/4 SE1/4, Section 25, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, located at the end of Sunridge Road.
29. No. 04VE021 - A request by Dream Design International, Inc. for Scott Nash for a **Vacation of Drainage Easement** on Lot 2 thru 7, Block 9, Meadows Subdivision,

Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Field View Drive at the intersections of Arlington Drive and Montage Drive.

30. No. 04RZ047 - Second Reading, Ordinance 4098, a request by Mike Tennyson and Pat Tlustos for a **Rezoning from Heavy Industrial District to Office Commercial District** on the unplatted portion of the W1/2 NW1/4 SE1/4 and Block 1, North Riverside Addition; all located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1350 West Chicago Street.

End of Continued Items Consent Calendar

The Mayor presented No. 04PL133, a request by Dream Design International for a **Preliminary Plat** on Tract H, Lots 13A-18A, Lots 13B-18B, Block 4, Tracts F and G, Lots 1A-11A, Lots 1B-11B, Block 19; Lots 1A-8A, Lots 1B-8B, Block 20; and Dedicated Streets, located in the S1/2 SE1/4 NW1/4 and NE1/4 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract E and Lot 14, Block 4, Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located south of Homestead Street west of Aurora Drive. Kroeger moved, seconded by French and carried with Waugh voting NAY to approve the Preliminary Plat with the following revised stipulations: 1. Prior to submittal of a Final Plat application, the utility master plan shall be revised to include private utilities; 2. Prior to submittal of a Final Plat application, information demonstrating that the required volume of the adjacent detention pond will not be reduced as a result of the subdivision improvements shall be submitted for review and approval; 3. Prior to submittal of a Final Plat application, the plat document shall be revised to show a pedestrian access easement across Tract T; 4. A Special Exception is hereby granted to allow Patricia Street to be constructed three feet off the centerline of the right-of-way in lieu of on the centerline of the right-of-way as per the Street Design Criteria Manual; 5. Prior to Preliminary Plat approval by the City Council, a sediment control plan for the any additional work area beyond the current plans shall be submitted for review and approval as needed. In addition, erosion controls and best management practices shall be implemented to prevent sediment discharge; 6. Prior to Preliminary Plat approval by the City Council, a revised drainage plan shall be submitted for review and approval. In addition, the plat document shall be revised to provide additional drainage easements as needed; 7. Prior to Preliminary Plat approval by the City Council, revised construction plans for the proposed road reconfiguration shall be submitted for review and approval, In addition, all necessary changes shall be made to the construction plans as identified on the redlined drawings. The red lined drawings shall be returned to the Engineering Division; 8. Prior to Preliminary Plat approval by the City Council, a subdivision cost estimate shall be submitted for review and approval; 9. Prior to Preliminary Plat approval by the City Council, Tract H shall be revised to provide a minimum 6,500 square foot lot size for a single family residence or 4,000 square foot lot size for a townhome lot or a Variance to reduce the lot size to allow a 3,264 square foot lot shall be obtained. If the lot is to be used as a park or some other community use, then the 3,264 square foot lot shall be allowed contingent upon documentation showing ownership and maintenance of the lot being submitted for review and approval; 10. All Uniform Fire Codes shall be continually met; 11. A Special Exception is hereby granted to allow two approaches along Homestead Street in lieu of Aurora Drive, the lesser order street, as per the Street Design Criteria Manual; 12. Prior to submittal of a Final Plat application, the plat document shall be revised to show a non-access easement along Homestead Street except for the two approved approach locations and along all corner lots as per the Street Design Criteria Manual; 13. Prior to submittal of a Final Plat application, the plat

document shall be revised to show Lot 13 A and 13 B of Block 4 or the title heading shall be revised to read "Lot 13, Block 4"; 14. Prior to submittal of a Final Plat application, a street name change for either Big Sky Drive or Patricia Street shall be submitted and approved. In addition, the plat document shall be revised to show the correct street name as needed; 15. Prior to submittal of a Final Plat application, a different street name for Garden Circle 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; 16. Prior to submittal of a Final Plat application, the plat title shall be revised to place "Replat of Tract E and Lot 13, Block 4, Big Sky Subdivision" in parenthesis; 17. Prior to submittal of Final Plat application, the plat document shall be revised to show all corner pins; and, 18. 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.

### **ALCOHOLIC BEVERAGE LICENSE APPLICATIONS**

The Mayor announced the meeting was open for hearing on the listed applications for Alcoholic Beverage Licenses to operate within the City of Rapid City, South Dakota. No public comments were received. Motion was made by Kroeger, seconded by Hadley and carried to close the public hearing.

Motion was made by Johnson, seconded by Waugh and carried to approve the following alcohol license applications:

#### **On Sale Retail Liquor License**

31. Shiba Investments, Inc. dba **Radisson**, 445 Mt. Rushmore Road for a On Sale Retail Liquor License

#### **On Sale Retail Wine License**

32. Guang Huan Huang dba **Hunan Chinese Restaurant**, 1720 Mt. Rushmore Road for a On Sale Retail Wine License

#### **Special Malt Beverage and Special Wine License**

33. **Rapid City Fine Arts Council, Inc.** for a Special Malt Beverage and Special Wine License to be used on November 19, 2004 (Perm Collection Opening Reception) at the Dahl Arts Center 713 7<sup>th</sup> Street
34. **Rapid City Fine Arts Council, Inc.** for a Special Malt Beverage and Special Wine License to be used on December 2, 2004 (Children's Home Society Fundraiser) at the Dahl Arts Center 713 7<sup>th</sup> Street
35. **Rapid City Fine Arts Council, Inc.** for a Special Malt Beverage and Special Wine License to be used on December 3, 2004 (Art for Giving Reception) at the Dahl Arts Center 713 7<sup>th</sup> Street
36. **Rapid City Fine Arts Council, Inc.** for a Special Malt Beverage and Special Wine License to be used on December 7, 2004 (Evenings Out Art Lecture) at the Dahl Arts Center 713 7<sup>th</sup> Street

Upon motion made by Johnson, seconded by Waugh and carried, the Finance Officer was directed to publish notice of hearing on the following applications, said hearing to be held on Monday, December 6, 2004.

On-Sale Retail Liquor License Transfer

37. Rushmore Cuisine, Inc. dba **Ruby Tuesday**, 2707 Mt. Rushmore Road for an On-Sale Retail Liquor License Transfer (from High Plains Securities, Inc.)

Off-Sale Package Liquor License

38. Staple & Spice Market, Inc. dba **Staple & Spice Market**, 601 Mt. Rushmore Road for an Off-Sale Package Liquor License

**CONSENT CALENDAR ITEMS** – Items 39-71

The following items were removed from the Consent Calendar:

58. No. 04TI009 A request by Haven Stuck for BWWW Enterprises, LLC to consider an application for a Resolution Creating Tax Increment District #48 on Tract B of NE1/4SE1/4 and SE1/4SE1/4 and Tract C of SE1/4SE1/4, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lots A, C & D of Tract A of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lots E, F and K of Tract A, Schlottman Addition of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots G and H of Tract A of Schlottman Addition located in SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the 50 foot dedicated public right-of-way lying north of Lots A, C, & D of Tract A of SE1/4 of SE1/4 and lying north of Lots E, F, G and H of Tract A, Schlottman Addition of SE1/4 of SE1/4 all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as East Saint Charles Street located between Sedivy Lane and South Valley Drive; and, the 66 foot dedicated public access road located in the SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as Sedivy Lane beginning south of the railroad right-of-way in the SE1/4 of Section 5 extending south approximately 1,026 feet more or less, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of South Valley Drive, south of SD Highway 44 and north of E. St. Charles Street and South Valley Drive Right-of-way.
59. No. 04TI010 A request by Haven Stuck for BWWW Enterprises, LLC to consider an application for a Tax Increment District #48 - Project Plan on Tract B of NE1/4SE1/4 and SE1/4SE1/4 and Tract C of SE1/4SE1/4, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lots A, C & D of Tract A of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lots E, F and K of Tract A, Schlottman Addition of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots G and H of Tract A of Schlottman Addition located in SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the 50 foot dedicated public right-of-way lying north of Lots A, C, & D of Tract A of SE1/4 of SE1/4 and lying north of Lots E, F, G and H of Tract A, Schlottman Addition of SE1/4 of SE1/4 all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as East Saint Charles Street located between Sedivy Lane and South Valley Drive; and, the 66 foot dedicated public access road located in the SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as Sedivy Lane beginning south of the railroad right-of-way in the SE1/4 of Section 5 extending south approximately 1,026 feet more or less, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more

generally described as being located west of South Valley Drive, south of SD Highway 44 and north of E. St. Charles Street and South Valley Drive Right-of-way.

63. Request City Attorney's Office to draft an ordinance regarding options relating to garbage rates
67. No. 04PL137 - A request by Russell and Dalaina Salamun for a **Layout Plat** on Lot 1R of Block 1 and Lot 2R of Block 1, Schamber Subdivision, NE1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the north 68.5 feet of Lot H, less the east 33 feet, Block 1 of Lot 3; and the south 44 feet of Lot H of Lot 3; Schamber Subdivision, NE1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2016 and 2020 Elmhurst Drive.

Hadley moved, seconded by Waugh and carried to approve the following items as they appear on the Consent Calendar.

***Set for Hearing (December 20, 2004)***

39. No. 04VR010 - A request by CETEC Engineering Services, Inc. to consider an application for a **Vacation of Right-of-Way** on a portion of Spring Canyon Trail right-of-way located south of Mountain Pine Lane right-of-way adjacent to Lot 3 Block 5 and Lot 5 Revised Block 4 of Clarkson Subdivision; Tract 1 of Glessnor Addition; the unplatted balance of the N1/2 SE1/4; and the unplatted part of the S1/2 NE1/4 lying south of Lot 5 Revised of Clarkson Subdivision, all located in Section 31, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 8503 Clarkson Road.
40. No. 04VR011 - A request by Lyle Henriksen for Chase & Company, LPI to consider an application for a **Vacation of Right-of-Way** on that portion of Greenway Street right-of-way lying between the east line of Holcomb Avenue right-of-way and a line between the south corner of Lot 3 and the east corner of Lot 19 of Block 1 of Millard Addition, located in NE1/4 of NE1/4 of Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located along Greenway Street between Holcomb Avenue and North Maple Avenue.

***Public Works Committee Consent Items***

41. Acknowledge the report on the Omaha Street Construction/Left Turn Signal by the South Dakota Department of Transportation
42. No. PW110904-01 Approve Change Order No. 1F for Star of the West Parking Lot Project No. PR04-1336 to Simon Contractors of South Dakota, Inc. for a decrease of \$4,698.01.
43. No. PW110904-02 Approve Change Order No. 3F for Whitehead Ballfields Improvements Restroom and Picnic Shelter Project No. PR04-1332 to Tru-Form Construction, Inc. for a decrease of \$120.00.
44. No. PW110904-03 Approve Change Order No. 1F for Carmel Townhomes High Pressure Water Main Relocation Project No. DEV03-639 to Lind Exco for an increase of \$686.08.
45. No. PW110904-04 Approve Change Order No. 2 for South East Connector Water & Sewer Reconstruction Project No. SSW02-1137 to Heavy Constructors, Inc. for a decrease of \$20,623.50.

- 46. No. PW110904-11 Authorize staff to advertise for bids for One (1) New Current Year Model Vacuum Trailer for Water Collection and Distribution Department
- 47. No. PW110904-07 Approve an Initial Resolution setting time and place for hearing on December 6, 2004 for Block 13 Alley Paving (West Boulevard Addition) Project No. ST04-1420.

INITIAL RESOLUTION  
FOR  
BLOCK13 ALLEY PAVING (WEST BOULEVARD ADDITION)  
PROJECT NO. ST04-1420

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

1. This Council deems it necessary to improve by installing approximately 575 linear feet of alley located in Block 13 West Boulevard Addition, as outlined in the proposed Resolution of Necessity for Block 13 Alley Paving (West Boulevard Addition) Project ST04-1420, which is on file with the Finance Officer. Sixty percent (60%) of the costs will be assessed to the affected property owners on an equal benefit basis for the alley paving improvements; except Lots 6, 7, and 8, which will be assessed a flat rate.

2. This Council will meet at the City/School Administration Center in the City of Rapid City, South Dakota, on Monday the 6<sup>th</sup> day of December, 2004 at 7:00 P.M. for the purpose of considering any objections to such proposed Resolution of Necessity. The Finance Officer is directed to give notice of such meeting by publishing the time and place of such meeting once each week for two successive weeks in the official newspaper of the City.

Dated this 15<sup>th</sup> day of November, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 48. No. PW110904-08 Request staff to proceed with revisions to the handicap access ramp details to include detectable warning panels as required by ADA as outlined in the Rapid City 2004 Standard Specifications for Public Works Improvements.
- 49. No. PW110904-10 Approve a request for consideration by the South Dakota Army National Guard to lease an additional 8.6 acres of City property positioned north of the Rapid City landfill along Catron Boulevard with the existing 60 year lease.
- 50. No. 04TP021 - Approve the Draft 2005 Unified Planning Work Program

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

- 51. No. LF111004-01 Approve Appointment of Malcom Chapman to City Insurance Committee
- 52. No. LF111004-02 Approve Appointment of Mark S. Kjellerson to Rapid City Mayor's Committee on Disabilities
- 53. No. LF111004-03 Approve Appointment of Jacqueline Allen to Beautification Committee

54. No. LF111004-05 - Authorize Mayor and Finance Officer to Sign Memorandum of Understanding with the United States Department of Homeland Security Federal Protective Service.
55. Authorize staff to advertise for bids for One (1) New Current Model Year 75' Aerial Ladder Truck for the Fire Department
56. Authorize staff to purchase from State Contract One SUV (Budgeted Amount-\$25,000)
57. No. 04TP022 Authorize Mayor and Finance Officer to Sign Amendment No. 1 to the Professional Service Agreement with Ferber Engineering, Inc. for the Airport Future Land Use Plan Contract Extension (No cost, time extension only)
60. No. LF111004-06 Approve a Resolution to Become a South Dakota Retirement System Special Pay Program Unit

RESOLUTION TO BECOME A  
SOUTH DAKOTA RETIREMENT SYSTEM  
SPECIAL PAY PROGRAM UNIT

BE IT RESOLVED AS FOLLOWS:

WHEREAS, House Bill 1033 of the 2004 Legislative Session offers qualified members of special pay program units of the South Dakota Retirement System (SDRS) the opportunity after July 1, 2004, of receiving a tax advantage and a Social Security advantage when terminating active service in SDRS by having special termination payments transmitted to the Special Pay Program;

WHEREAS, House Bill 1033 offers such qualified members' employers a corresponding Social Security advantage;

WHEREAS, the City of Rapid City wishes to offer this option to its qualified regular benefited employees, all of whom are members of SDRS;

WHEREAS, the City of Rapid City agrees to transmit all special pay data by electronic media and understands that reporting final compensation data electronically is a condition which must be met in order to participate;

WHEREAS, City of Rapid City understands and agrees to the following points:

Only special, lump-sum payments made to an employee at the time of the employee's termination are transmitted to the special pay program;

Only employees age 55 or older qualify to have such special pay transmitted to the special pay program;

Only such special payments of \$2,000 or more qualify to be transmitted to the special pay program;

If the employee qualifies and the special pay qualifies, transmission of such special pay to the special pay program is mandatory; and

The City of Rapid City shall pay to SDRS an initial, one-time fee per participant of .75% of such special pay or \$45, whichever is greater.

NOW, THEREFORE, BE IT RESOLVED, that the City of Rapid City shall become a special pay program unit of the South Dakota Retirement System under the terms and conditions of House Bill 1033 of the 2004 Legislative Session with an effective date of January 1, 2005.

BE IT FURTHER RESOLVED that a copy of this RESOLUTION shall be transmitted to SDRS as soon as possible after adoption.

Dated this 15<sup>th</sup> day of November, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 61. No. LF111004-07 Approve a Resolution Establishing a Stop Pay Policy for Lost or Destroyed Checks Issued by the City of Rapid City

A RESOLUTION ESTABLISHING A STOP PAY POLICY FOR LOST  
OR DESTROYED CHECKS ISSUED BY THE  
CITY OF RAPID CITY OF RAPID CITY

WHEREAS the City of Rapid city issues checks to employees, individuals, and businesses in the course of doing business; and

WHEREAS on occasion the recipient of a City check will lose or otherwise suffer the destruction of such check; and

WHEREAS the city of Rapid City issues another check in the same amount to the individual or business that either loses or suffers destruction of the original check in some manner; and

WHEREAS the city of Rapid City has an interest in making sure that lost or stolen checks of five-hundred dollars (\$500.00) or more have a stop payment issued, and that the individual or business requesting another check bear the cost of this stop payment order.

NOW, THEREFORE, BE IT RESOLED by the city of Rapid City that the City shall initiate a stop payment order for all lost or destroyed checks issued by the City and over the amount of five hundred dollars (\$500.00).

BE IT FURTHER RESOLVED by the city of Rapid City that the recipient of a replacement check based on a lost or destroyed original check shall bear the cost of issuing the stop payment order on the original check.

Dated this 15<sup>th</sup> day of November, 2004.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 62. Approve closing the ice facility and the swimming facility on Thanksgiving, Christmas and Easter
- 64. Authorize City Attorney to Approve Editorial Changes Suggested by the Code Publisher
- 65. Approve the following Licenses: Plumbing Apprentice: Bradley L. Job, William Kribell;  
Residential Contractor: Chad Zandstra Landscaping & Construction, Chad Zandstra

***Planning Department Consent Items*** (None)

- 66. No. 04PL060 - A request by Sperlich Consulting, Inc. for Jim Scull for a **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 "Government" Lot 4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Lot B of "Government" Lot 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. (APPROVE PRELIMINARY PLAT, WITH THE FOLLOWING STIPULATIONS: 1. Prior to Preliminary Plat approval by the City Council, 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. In addition, the plat document shall be revised to dedicate an additional ten feet of right-of-way along Elm Avenue or a Variance to the Subdivision Regulations shall be obtained; 2. Prior to Preliminary Plat approval by the City Council, additional drainage information shall be submitted for review and approval. In particular, an erosion control design for the storm pipe discharge shall be submitted for review and approval. In addition, the drainage information shall demonstrate that the flared and elbow sections of the storm pipe tie-rod together for the appropriate length; 3. Prior to Preliminary Plat approval by the City Council, 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; 4. Prior to Preliminary Plat approval by the City Council, 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; 5. A Special Exception to reduce the separation between the Field View Drive/Elm Avenue intersection and the Field View Drive/Davin Drive intersection from 125 feet to 90 feet as per the Street Design Criteria Manual is hereby granted; 6. Prior to Preliminary Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; 7. 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; 8. Upon submittal of a Final Plat application, the plat document shall be revised to show a ten foot wide planting screen easement along Elm Avenue; and, 9. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

68. No. 04PL140 - A request by Dream Design International, Inc. for Dr. Marvin Buehner for a **Layout Plat** on Lots 1 thru 3, Block 1, Falcon Crest Subdivision, Section 32, T1N, R7E, BHM, Pennington County, South Dakota, legally described as W1/2 W1/2 SW1/4, Section 32, T1N, R7E, BHM, Pennington County, South Dakota, located one half mile south of the intersection of Sheridan Lake Road and Countyside Boulevard. (APPROVE LAYOUT PLAT, WITH THE FOLLOWING STIPULATIONS: 1. A Special Exception is hereby granted to allow 101 dwelling units in lieu of 40 dwelling units with one point of access with the stipulation that a note be placed on the plat stating that the property may not be further subdivided; 2. A Special Exception to the Street Design Criteria Manual to allow a 2,000 foot long cul-de-sac with no intermediate turnarounds in lieu of a maximum 500 foot long cul-de-sac with intermediate turnarounds every 600 feet shall be granted with the stipulation that a Wild Fire Mitigation Plan shall be submitted for review and approval and the plan shall be implemented; 3. Upon submittal of a Preliminary Plat application, a grading plan and an erosion and sediment control plan for all improved areas shall be submitted for review and approval; 4. Upon submittal of a Preliminary Plat application, a drainage plan shall be submitted for review and approval. In particular, the drainage plan shall address the characteristics of downstream drainage facilities. In addition, adequate facilities for conveyance of increased or modified flows, proper easements for use of the drainage facilities or demonstration of the application of legal reasonable use principles shall be provided. The plat document shall also be revised to provide drainage easements as necessary to convey upstream run-off across the property; 5. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If a central sewer system is proposed, the applicant shall identify the entity responsible for operation and maintenance and obtain South Dakota Department of Environment and Natural Resource approval. If individual on-site wastewater systems are used, then an on-site wastewater plan prepared by a Registered Professional Engineer demonstrating that the soils are suitable for on-site wastewater systems shall be submitted for review and approval. In particular, the information shall include percolation test data and location as well as soil profile data and locations. In addition, a septic tank plan must be submitted for review and approval as per Chapter 16.20.040.N of the Rapid City Municipal Code; 6. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review. If a shared well and/or a community water facility is proposed then it shall be designed as a public water system or a Variance to the Subdivision Regulations shall be obtained. In addition, the proposed aquifer and anticipated depth of the well(s) shall be identified. The plat document shall also be revised to show utility easement(s) as needed; 7. Upon submittal of the Preliminary Plat application, a pavement design with supporting geotechnical information shall be submitted for review and approval; 8. Upon submittal of the Preliminary Plat application, road construction plans for Limelight Lane shall be submitted for review and approval. In particular, Limelight Lane shall be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 9. Upon submittal of a Preliminary Plat, road construction plans for the section line highways located along the south and west lot lines shall be submitted for review and approval. In particular, the road construction plans shall show the section line

highways constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained or the section line highways shall be vacated. The adjacent property owner(s) shall sign the petition(s) to vacate the section line highways or a Variance to the Subdivision Regulations shall be obtained to allow half a right-of-way; 10. Upon submittal of the Preliminary Plat application, a fire hydrant design plan showing the location of fire hydrants and water lines, including the size of the proposed water lines, shall be submitted for review and approval or a Variance to the Subdivision Regulations waiving the requirement to provide a central water system shall be obtained; 11. Upon submittal of a Final Plat application, a road maintenance agreement for Limelight Lane shall be submitted for review and approval; 12. Upon submittal of a Final Plat application, a reserve area shall be shown or a note shall be placed on the plat indicating that at the time a Building Permit application is submitted, a reserve drainfield area will be identified and held in reserve unless a public sewer system is provided; 13. Upon submittal of a Final Plat application, the plat title shall be revised to read "Section 32"; in lieu of "Section 31"; 14. Upon submittal of the Preliminary Plat application, a cost estimate of the subdivision improvements shall be submitted for review and approval; and, 15. 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.)

69. No. 04PL147 - A request by Daniel P. Wegner for a **Layout Plat** on Lots 4A and 4B of Tract 2 Revised, Cavern Crest Subdivision, Section 11, T1N, R6E, BHM, Pennington County, South Dakota, legally described as Lot 4 of Tract 2 Revised, Cavern Crest Subdivision, Section 11, T1N, R6E, BHM, Pennington County, South Dakota, located at 2680 Cavern Road. (APPROVE LAYOUT PLAT, WITH THE FOLLOWING STIPULATIONS: 1. Upon submittal of a Preliminary Plat application, a drainage plan shall be submitted for review and approval. In addition, the plat document shall be revised to provide drainage easements as necessary; 2. Upon submittal of a Preliminary Plat application, a grading plan and an erosion and sediment control plan for all improved areas must be submitted for review and approval; 3. Upon submittal of a Preliminary Plat application, an on-site wastewater plan prepared by a Registered Professional Engineer showing an evapotranspiration system or a holding tank wastewater disposal system shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained; 4. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains and lines shall be submitted for review. Data to confirm that proposed on-site well(s) have sufficient flows and water quality shall be submitted for review and approval. If a shared well and/or a community water facility is proposed then it shall be designed as a public water system or a Variance to the Subdivision Regulations shall be obtained. In addition, the plat document shall be revised to show utility easement(s) as needed; 5. Upon submittal of the Preliminary Plat application, road construction plans for Cavern Road shall be submitted for review and approval. In particular, Cavern Road shall be constructed with curb, gutter, sidewalk, street light conduit, sewer and water or a Variance to the Subdivision Regulations shall be obtained; 6. Upon submittal of the Preliminary Plat application, a site plan shall be submitted identifying existing structures, wells, septic systems and existing and proposed approaches along Cavern Road; 7. A Special Exception is hereby granted to allow more than four lots to access via an easement; 8. A Special Exception is hereby granted to allow an approximate 2,500 foot

long cul-de-sac with one intermediate turnaround in lieu of a maximum 500 foot long cul-de-sac with intermediate turnarounds at intervals not exceeding 600 feet in extreme fire danger areas; 9. Upon submittal of a Final Plat application, a note shall be placed on the plat indicating that at the time a Building Permit is applied for, an evapotranspiration system or holding tank system is provided for on any new wastewater disposal systems; 10. Prior to submittal of a Final Plat application, the applicant shall submit a plat document showing the proper street name and dedicated right-of-way for Cavern Road and shall show the required Final Plat certificates; and, 11. Prior to submittal of a Final Plat application, a Wild Fire Mitigation Plan shall be submitted for review and approval. In addition, the Wild Fire Mitigation Plan shall be implemented.)

### **Raffles**

70. Acknowledge Rushmore Chapter of ABATE, Inc. raffle for a 2005 Harley-Davidson Motorcycle, Budweiser neon sign, and Black Hills Gold watch; drawing to be on or before August 13, 2005
71. Acknowledge The Literacy Network raffle for a hand crafted knife, valued at \$375, to be conducted December 15 to March 15, 2005 at the Rushmore Mall

### **END OF CONSENT CALENDAR**

The Mayor presented No. 04TI009, a request by Haven Stuck for BWWW Enterprises, LLC to consider an application for a Resolution Creating Tax Increment District #48 on Tract B of NE1/4SE1/4 and SE1/4SE1/4 and Tract C of SE1/4SE1/4, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lots A, C & D of Tract A of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lots E, F and K of Tract A, Schlottman Addition of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots G and H of Tract A of Schlottman Addition located in SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the 50 foot dedicated public right-of-way lying north of Lots A, C, & D of Tract A of SE1/4 of SE1/4 and lying north of Lots E, F, G and H of Tract A, Schlottman Addition of SE1/4 of SE1/4 all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as East Saint Charles Street located between Sedivy Lane and South Valley Drive; and, the 66 foot dedicated public access road located in the SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as Sedivy Lane beginning south of the railroad right-of-way in the SE1/4 of Section 5 extending south approximately 1,026 feet more or less, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of South Valley Drive, south of SD Highway 44 and north of E. St. Charles Street and South Valley Drive Right-of-way. The following Resolution was introduced, read and Kroeger moved its adoption:

#### **A RESOLUTION CREATING TAX INCREMENT DISTRICT #48 EAST ST. CHARLES STREET, CITY OF RAPID CITY**

WHEREAS the property within the following described District meets the qualifications and criteria set forth in SDCL 11-9; and,

WHEREAS the Council of the City of Rapid City finds that the aggregated assessed value of taxable property in this District, plus the assessed values of all other districts currently in effect,

does not exceed ten percent (10%) of the total assessed value of taxable property in the City of Rapid City; and,

WHEREAS the Council finds that:

- (1) Not less than twenty-five percent (25%), by area, of the real property within the district is a blighted area as defined in SDCL 11-9-9 through 11-9-11; and,
- (2) The improvement of the area is likely to significantly enhance the value of substantially all of the other real property in the district; and,

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the real property legally described as:

Tract B of NE1/4SE1/4 and SE1/4SE1/4 and Tract C of SE1/4SE1/4, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and,

Lots A, C & D of Tract A of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lots E, F and K of Tract A, Schlottman Addition of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots G and H of Tract A of Schlottman Addition located in SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the 50 foot dedicated public right-of-way lying north of Lots A, C, & D of Tract A of SE1/4 of SE1/4 and lying north of Lots E, F, G and H of Tract A, Schlottman Addition of SE1/4 of SE1/4 all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as East Saint Charles Street located between Sedivy Lane and South Valley Drive; and, the 66 foot dedicated public access road located in the SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as Sedivy Lane beginning south of the railroad right-of-way in the SE1/4 of Section 5 extending south approximately 1,026 feet more or less, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota.

is hereby designated as Tax Increment District Number 48, City of Rapid City.

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. Growth Management Director Elkins explained this district addresses a water issue as it relates to adequate fire flows. The following voted AYE: Hadley, Chapman, Murphy, French, Kroeger, Olson, Kooiker, Johnson and Waugh; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 04TI010, a request by Haven Stuck for BWWW Enterprises, LLC to consider an application for a Tax Increment District #48 - Project Plan on Tract B of NE1/4SE1/4 and SE1/4SE1/4 and Tract C of SE1/4SE1/4, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lots A, C & D of Tract A of SE1/4SE1/4 of Section

5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lots E, F and K of Tract A, Schlottman Addition of SE1/4SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots G and H of Tract A of Schlottman Addition located in SE1/4 SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the 50 foot dedicated public right-of-way lying north of Lots A, C, & D of Tract A of SE1/4 of SE1/4 and lying north of Lots E, F, G and H of Tract A, Schlottman Addition of SE1/4 of SE1/4 all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as East Saint Charles Street located between Sedivy Lane and South Valley Drive; and, the 66 foot dedicated public access road located in the SE1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota known as Sedivy Lane beginning south of the railroad right-of-way in the SE1/4 of Section 5 extending south approximately 1,026 feet more or less, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of South Valley Drive, south of SD Highway 44 and north of E. St. Charles Street and South Valley Drive Right-of-way. The following Resolution was introduced, read and French moved its adoption:

RESOLUTION APPROVING THE PROJECT PLAN  
FOR TAX INCREMENT DISTRICT #48  
EAST ST. CHARLES STREET AS SUBMITTED BY THE  
RAPID CITY PLANNING COMMISSION

WHEREAS the Council of the City of Rapid City has determined that it is in the best interest of the City to implement plans which promote economic development and growth in the City; and,

WHEREAS the Council embraces the concept of Tax Increment Financing as a tool to encourage this desirable growth and redevelopment; and,

WHEREAS there has been established Tax Increment District #48 – East St. Charles Street; and,

WHEREAS the Council deems desirable to promote economic development and create jobs in the corporate limits of the City of Rapid City; and,

WHEREAS the Project Plan submitted helps make this development feasible by assisting in water line infrastructure improvements for fire protection along East St. Charles Street; and,

WHEREAS the use of Tax Increment Funding to promote this development is in keeping within the statutes adopted by the South Dakota State Legislature; and,

WHEREAS there has been developed a Project Plan for this Tax Increment District which proposes this improvement; and,

WHEREAS the Council has considered the Project Plan submitted by the Planning Commission and determined that the Project Plan for Tax Increment District #48 – East St. Charles Street is economically feasible; and,

WHEREAS the Council has further determined that this Project Plan is in conformity with the adopted Comprehensive Plan,

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the Tax Increment District Project Plan for Tax Increment District #48 – East St. Charles Street be, and is hereby, approved as attached hereto.

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: Hadley, Chapman, Murphy, French, Kroeger, Olson, Kooiker, Johnson and Waugh; NO: None, whereupon said Resolution was declared duly passed and adopted.

Motion was made by French to deny a request for the City Attorney's Office to draft an ordinance regarding options relating to garbage rates. Seconded by Hadley. French indicated she did not support making an exception for a housing project in south Rapid City, who desires not to receive City services for garbage collection. In response to an inquiry from Alderman Kooiker, Acting Public Works Director Vore indicated it would be difficult to determine the revenue loss because it is not known how much would be generated under a new ordinance. Alderman Kroeger spoke against the motion indicating if an apartment complex were constructed they would be allowed to contract their garbage collection service. Upon a roll call vote the motion carried with the following voting AYE: Johnson, Kooiker, Olson, French, Chapman and Hadley; NAY: Waugh, Kroeger and Murphy.

The Mayor presented No. 04PL137, a request by Russell and Dalaina Salamun for a **Layout Plat** on Lot 1R of Block 1 and Lot 2R of Block 1, Schamber Subdivision, NE1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the north 68.5 feet of Lot H, less the east 33 feet, Block 1 of Lot 3; and the south 44 feet of Lot H of Lot 3; Schamber Subdivision, NE1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2016 and 2020 Elmhurst Drive. Kroeger moved, seconded by Waugh to approve the Layout Plat with the following stipulations: 1. Upon submittal of the Preliminary Plat application, road construction plans shall be submitted for review and approval for 38th Street. In particular, the road construction plans from Cottonwood Street to the north property line shall show the street constructed with a minimum 47 foot right-of-way and a 22 foot paved surface with curb, gutter, sidewalk, street light conduit and sewer or a Variance to the Subdivision Regulations shall be obtained; 2. Upon submittal of the Preliminary Plat application, road construction plans shall be submitted for review and approval for Elmhurst Drive. In particular, the road construction plans shall show the street constructed with a minimum 47 foot right-of-way and a 22 foot paved surface and sidewalk or a Variance to the Subdivision Regulations shall be obtained; 3. Upon submittal of the Preliminary Plat application, a drainage plan shall be submitted for review and approval. In addition, the plat document shall be revised to show drainage easements as needed; 4. Upon submittal of the Preliminary Plat application, a cost estimate of the subdivision improvements shall be submitted for review and approval; 5. Upon submittal of the Preliminary Plat application, additional right-of-way shall be dedicated for Elmhurst Drive and 38th Street; 6. Prior to submittal of the Final Plat application, a Subdivision Variance shall be obtained to allow lots twice as wide as they are long; 7. Prior to submittal of the Final Plat, the applicant shall obtain a Variance to the zoning lot width for a single family dwelling at the front building line from 50 feet to 44 feet; 8. Prior to submittal of the

Final Plat, the applicant shall obtain a Variance to reduce the front yard setback on Elmhurst Drive from 26 feet to 11.5 feet; 9. Prior to submittal of the Final Plat, the applicant shall obtain a Variance to reduce the side yard setback on the intermediate property line to allow the existing garage from eight feet to 0.5 feet; 10. Prior to submittal of the Final Plat, 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 submittal of a Final Plat application, the plat document shall be revised to include the required Final Plat certificates. Connie Thomas, 1851 38<sup>th</sup> Street expressed concern with the future development of this lot and indicated she did not favor an apartment building on this site. She explained that the streets are narrow and would not accommodate heavy traffic flows. She asked that the layout plat be denied. Growth Management Director Elkins reported staff's discussion with the applicant about options and whether the layout plat should be denied without prejudice until the sale of the adjacent property is settled. She explained the applicant desires to move forward. Substitute motion was made by Olson to continue No. 04PL137, a request by Russell and Dalaina Salamun for a Layout Plat to the December 6, 2004 Council meeting. Seconded by Waugh. Discussion followed relative to the applicant's intent of constructing an apartment building. Motion carried.

### **PUBLIC HEARINGS**

Motion was made by Johnson, seconded by Olson to continue the public hearing on No. CC111504-02, a Resolution of Necessity for Block 8 Alley Paving (West Boulevard Addition) Project No. ST03-1330 to the December 6, 2004 Council meeting. Motion carried.

The Mayor announced that the meeting was open for consideration of the assessment roll for Miscellaneous Property Cleanup (No. CC111504-03). Notice of hearing was mailed to the affected property owners on October 19, 2004 and published in the Rapid City Journal on November 8, 2004. No oral objections were made; but one written objection was received and reviewed by the Council. The following Resolution was introduced, read and Johnson 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 15<sup>th</sup> day of November, 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 Murphy. The following voted AYE: Hadley, Chapman, Murphy, French, Kroeger, Olson, Kooiker, Johnson and Waugh; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor announced that the meeting was open for consideration of the assessment roll for Parkview Drive Extension Project No. ST01-1006 (No. CC111504-04). Motion was made by Johnson, seconded by Waugh to approve. Upon a request from staff to continue, a substitute motion was made by Kroeger, seconded by Hadley to continue the public hearing on No. CC111504-04, a Resolution Levying Assessment for Parkview Drive Extension Project No. ST01-1006, to the December 6, 2004 Council meeting. Motion carried.

The Mayor presented No. 04FV012, Deny without prejudice a Fence Height Exception for petitioner Dennis Rogers to allow a seven foot six inch fence in a Low Density Residential District on Lot 13, Block 16, South Robbinsdale Subdivision, Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 801 East Indiana Street. Motion was made by French, seconded by Olson to deny without prejudice. Alderman Hadley addressed this request commenting about the swimming pool being located on this property for the past thirty years. The fence became an issue when it was reported this pool was consider to be a haven for mosquitoes and there was a potential for an outbreak of the West Nile Virus. He reported the applicant has indicated they do not have the funds available to file a Variance request. Substitute motion was made by Hadley to authorize the fees related to filing this Variance be paid from Council Contingency. Substitute motion died for lack of a second. City Attorney Green explained that because this fence was erected as a result of a City street widening project, the City could be a co-applicant with the homeowner and fees would not be charge as the City is the applicant. Growth Management Director Elkins indicated it is unclear whether this fence was a part of a reconstruction project and this needs to be resolved before the City can be name a co-applicant. Substitute motion was made by Hadley to continue the Fence Height Exception for petitioner Dennis Rogers to allow a seven foot six inch fence in a Low Density Residential District on Lot 13, Block 16, South Robbinsdale Subdivision, Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 801 East Indiana Street to the February 7, 2005 Council meeting. Seconded by French. Substitute motion carried with Johnson voting NAY.

The Mayor presented No. 04CA032, a request by the City of Rapid City for an **Amendment to the Comprehensive Plan adopting the U.S. Highway 16 Corridor Future Land Use Plan** on property located north of Cathedral Drive, south along U.S. Highway 16 approximately one mile either side of U.S. Highway 16 to south of Reptile Gardens. Johnson moved, seconded by Waugh to continue the public hearing to a Special Council meeting on Monday, December 13, 2004 at 7:00 P.M.

The Mayor presented No. 04SV053, a request by Sperlich Consulting, Inc. for Paul Reinke for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and to improve pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 18 thru 20 of Copper Oaks No. 2, Lots 11 thru 13 Block 2, Lots 8 thru 12 of Block 3, Lots 1 thru 5 of Block 4, Lots 1 thru 8 of Block 5 and Lot A of Copper Oaks No. 3 Subdivision located in the NE1/4, Section 7, T1S, R7E, BHM, Pennington County, South Dakota, legally described as the unplatted balance of the N1/2NE1/4 less Right-of-way, unplatted balance of the SE1/4NE1/4, SW1/4NE1/4 less the south 23 feet of the east 240 feet of the west 593 feet the of SW1/4NE1/4, less Copper Oaks all located in Section 7, T1S, R7E, BHM, Pennington County, South Dakota, located along Wild Turkey Way and Quartz Canyon Lane. Motion was made by Hadley, seconded by Waugh to approve the Variance with the following stipulations. Variance to the Subdivision Regulations to waive the requirement to improve the section line highway with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer be denied; That the Variance to the Subdivision Regulations to waive the requirement to provide a minimum 24 foot wide paved surface along the two un-named cul-de-sacs, Quartz Canyon Place and Wild Turkey Way be denied; That the Variance to the Subdivision Regulations to waive the requirement to provide a minimum 20 foot wide paved surface along the emergency access easement be denied; That the Variance to the Subdivision Regulations to waive the requirement to improve pavement along Wilderness Canyon Road and Quartz Canyon Lane from 24 feet to 27 feet be approved with the following stipulations: 1. Prior to submittal of a Final Plat application, the applicant shall sign a waiver of right to protest any future assessments for the pavement improvement along Wilderness Canyon Road and Quartz Canyon Lane; and, 2. A note prohibiting on-street parking shall be placed on the plat. That the Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, sidewalk, street light conduit and sewer along the two un-named cul-de-sacs, Quartz Canyon Place, Quartz Canyon Lane and Wild Turkey Way be approved with the following stipulation: 1. Prior to submittal of a Final Plat application, the applicant shall sign a waiver of right to protest any future assessments for the improvements. Mary Yelick of Wilderness Canyon Road expressed concerns with the amount of traffic that will be generated and suggested the City should require sidewalk for pedestrian safety. She also addressed the fact that the plan does not show an ingress or egress for traffic movement. Elkins responded there is a proposal to construct an emergency paved access. With the consent of the Council, Alderman Hadley withdrew his motion. Motion was made by Kooiker, seconded by French to refer No. 04SV053 to the Planning Commission and direct staff to readvertise the Notice. Motion carried.

The Mayor presented No. 04SV055, a request by Russell and Dalaina Salamun for a **Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1R of Block 1 and Lot 2R of Block 1, Schamber Subdivision, NE1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the north 68.5 feet of Lot H, less the east 33 feet, Block 1 of Lot 3; and the south 44 feet of Lot H of Lot 3; Schamber Subdivision, NE1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2016 and 2020 Elmhurst Drive. Motion was made by Hadley, seconded by Olson and carried to continue No. 04SV055 to the December 6, 2004 Council meeting.

Motion was made by Hadley, seconded by Kroeger and carried to Authorize Mayor and Finance Officer to sign a waiver of right to protest a future assessment for the installation of water on

Vale street and sewer on Vale Street, West Rapid Street and 32<sup>nd</sup> Street as they abuts Lot 1, Lot 2, Lot 3 less Lots A and B, and adjacent vacated alley in Block 14, Green Acres Addition, located in SW1/4 Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3117 W. Rapid Street. (04SV057)

Motion was made by Hadley, seconded by French and carried to Authorize Mayor and Finance Officer to sign a waiver of right to protest a future assessment for the installation of curb, gutter and sidewalk along S.D. Highway 44 as it abuts a portion of Tract T of Trailwood Village, and Lot B of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota (04SV058)

Motion was made by Hadley, seconded by Waugh and carried to Authorize Mayor and Finance Officer to sign a waiver of right to protest a future assessment for the installation of curb, gutter and sidewalk along Reservoir Road as it abuts Lot 1 of Block 18, Trailwood Village, located in the SE1/4 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota (04SV059)

The Mayor presented No. 04SV060, a request by Daniel P. Wegner for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water, sewer and pavement along Cavern Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 4A and 4B of Tract 2 Revised, Cavern Crest Subdivision, Section 11, T1N, R6E, BHM, Pennington County, South Dakota, legally described as Lot 4 of Tract 2 Revised, Cavern Crest Subdivision, Section 11, T1N, R6E, BHM, Pennington County, South Dakota, located at 2680 Cavern Road. Motion was made by Hadley, seconded by Kroeger and carried to approve the Variance with the following stipulation: 1. Prior to submittal of a Final Plat application, the applicant shall sign a waiver of right to protest any future assessments for the improvements along Cavern Road.

The Mayor presented No. 02VR004, a request by Willard Werth for Black Hills Auto for a **Vacation of Right-of-Way** on a parcel of land located in the SW1/4 SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; said 0.057 acre of land lying south of Jess Street, and west of Lot 8 of SSJE Subdivision, and shown on Survey Plat recorded in Plat Book 28, Page 154 in the office of the Pennington County Register of Deeds, and being more particularly described by metes and bounds as follows to-wit: Beginning at an iron rod with cap marked "D.C. Scott L.S. 2540" found for the northerly northwest corner of said Lot 8 of SSJE Subdivision on the south right-of-way line of Jess Street, a 60 foot wide public right-of-way; thence, South 24°41'07" West, along the northwesterly line of said Lot 8 of SSJE Subdivision, a distance of 109.89 feet to a point for corner; thence North 02°21'15" West, a distance of 100.00 feet to an iron rod with cap marked "Dean Scott, L.S. 4897" set for corner on the south right-of-way line of Jess Street, as previously described; thence, South 89°55'11" East, along on the south right-of-way line of Jess Street, a distance of 50.00 feet to the POINT OF BEGINNING and containing 0.057 acre of land, more or less, located at 1221 Jess Street. The following Resolution was introduced, read and Hadley moved its adoption:

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

WHEREAS it appears that the right-of-way in the SW1/4 SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; said 0.057 acre of land lying south of Jess Street, and west of Lot 8 of SSJE Subdivision, and shown on Survey Plat recorded in Plat Book

28, Page 154 in the office of the Pennington County Register of Deeds, and being more particularly described by metes and bounds as follows to-wit: Beginning at an iron rod with cap marked "D.C. Scott L.S. 2540" found for the northerly northwest corner of said Lot 8 of SSJE Subdivision on the south right-of-way line of Jess Street, a 60 foot wide public right-of-way; thence, South 24°41'07" West, along the northwesterly line of said Lot 8 of SSJE Subdivision, a distance of 109.89 feet to a point for corner; thence North 02°21'15" West, a distance of 100.00 feet to an iron rod with cap marked "Dean Scott, L.S. 4897" set for corner on the south right-of-way line of Jess Street, as previously described; thence, South 89°55'11" East, along on the south right-of-way line of Jess Street, a distance of 50.00 feet to the POINT OF BEGINNING, more generally described as being located at 1221 Jess Street; is not needed for public purposes; and

Incorrect legal: Right-of-Way in the SW1/4 SW1/4 of Section 32, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; said 0.057 acre of land lying south of Jess Street, and west of Lot 8 of SSJE Subdivision, and shown on Survey Plat recorded in Plat Book 28, Page 154 in the office of the Pennington County Register of Deeds, and being more particularly described by metes and bounds as follows to-wit: Beginning at an iron rod with cap marked "D.C. Scott L.S. 2540" found for the northerly northwest corner of said Lot 8 of SSJE Subdivision on the south right-of-way line of Jess Street, a 60 foot wide public right-of-way; thence, South 24°41'07" West, along the northwesterly line of said Lot 8 of SSJE Subdivision, a distance of 109.89 feet to a point for corner; thence North 02°49'02" West, a distance of 100.00 feet to an iron rod with cap marked "Dean Scott, L.S. 4897" set for corner on the south right-of-way line of Jess Street, as previously described; thence, South 89°55'11" West, along on the south right-of-way line of Jess Street, a distance of 50.00 feet to the POINT OF BEGINNING, more generally described as being located at 1221 Jess Street

Revised Legal: Right-of-Way in the SW1/4 SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; said 0.057 acre of land lying south of Jess Street, and west of Lot 8 of SSJE Subdivision, and shown on Survey Plat recorded in Plat Book 28, Page 154 in the office of the Pennington County Register of Deeds, and being more particularly described by metes and bounds as follows to-wit: Beginning at an iron rod with cap marked "D.C. Scott L.S. 2540" found for the northerly northwest corner of said Lot 8 of SSJE Subdivision on the south right-of-way line of Jess Street, a 60 foot wide public right-of-way; thence, South 24°41'07" West, along the northwesterly line of said Lot 8 of SSJE Subdivision, a distance of 109.89 feet to a point for corner; thence North 02°21'15" West, a distance of 100.00 feet to an iron rod with cap marked "Dean Scott, L.S. 4897" set for corner on the south right-of-way line of Jess Street, as previously described; thence, South 89°55'11" East, along on the south right-of-way line of Jess Street, a distance of 50.00 feet to the POINT OF BEGINNING

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

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

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

Dated this 15<sup>th</sup> day of November, 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: Hadley, Chapman, Murphy, French, Kroeger, Olson, Kooiker, Johnson and Waugh; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 04VR002, a request by Alliance of Architects and Engineers for Rapid City Journal for a **Vacation of Right-of-Way** on Lots 1 thru 32, Block 79, Original Townsite of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 507 Main Street. The following Resolution was introduced, read and Hadley moved its adoption with the following stipulations: 1. Prior to City Council approval, the proposed vacated portion of the right-of-way shall be recorded at the Register of Deed's office as a utility easement with a note on a miscellaneous document that the City and utility companies retain the right to access the fenced utility easement; 2. A Knox Lock Box shall be installed in an accessible location as determined by the Fire Department; 3. Any future approach locations provided to the affected properties shall comply with all applicable provisions of the Street Design Criteria Manual; and, 4. Prior to City Council approval, written documentation from all of the affected utility companies shall be submitted indicating no objection to the vacation.

RESOLUTION OF VACATION OF RIGHT-OF-WAY

WHEREAS it appears that an alley twenty feet in width and four hundred feet in length south of Lots 1 through 16 and north of Lots 17 through 32 all of Block 79 of the Original Townsite of Rapid City located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 507 Main Street is not needed for public purposes; and

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

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

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

Dated this 15<sup>th</sup> day of November, 2004.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

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

### **ORDINANCES & RESOLUTIONS**

**Ordinance No. 4094** (No. 04OA007) Amending All References to the Uniform Building Code of the City of Rapid City Municipal Code in Chapter 17 having passed first reading on November 1, 2004, it was moved by Johnson, seconded by Waugh that the title be read the second time. The following voted AYE: Hadley, Chapman, Murphy, French, Kroeger, Olson, Kooiker, Johnson and Waugh; NO: None; whereupon the Mayor declared the motion passed and Ordinance 4094 was declared duly passed upon its second reading.

**Ordinance No. 4095** (No. 04OA008) Extending the Temporary Zoning Controls for the Airport Zoning District Contained in Ordinance No. 3963 which Added Chapter 100 to the Rapid City Municipal Code having passed first reading on November 1, 2004, it was moved by Johnson, seconded by Waugh that the title be read the second time. The following voted AYE: Hadley, Chapman, Murphy, French, Kroeger, Olson, Kooiker, Johnson and Waugh; NO: None; whereupon the Mayor declared the motion passed and Ordinance 4095 was declared duly passed upon its second reading.

The Mayor introduced No. LF102704-10A Second Reading, **Ordinance No. 4096** Amending Section 13.04.005, Section 13.04.060, Section 13.04.080, Section 13.04.090, Section 13.04.095, Section 13.04.100, Section 13.04.110, Section 13.04.130, Section 13.04.160, Section 13.04.170, Section 13.04.260, Section 13.04.590, and Section 13.04.600 and Adding a New Section 13.04.061 of Chapter 13.04 of the Rapid City Municipal Code Pertaining to Water Rates and Fees; and No. LF102704-11A Second Reading, **Ordinance No. 4097** Adding Section 13.08.215 and Section 13.08.361 and Amending Section 13.08.010, Section 13.08.350, Section 13.08.360, Section 13.08.365, and Section 13.08.370 of the Rapid City Municipal Code Pertaining to Sewer Rates and Fees. Motion was made by Olson, seconded by Waugh and carried to continue Second Reading of Ordinance 4096 and Ordinance 4097 to a Special Council meeting on Monday, November 22, 2004 at 7:00 P.M. Motion carried.

**Ordinance No. 4093** (No. LF111004-10) Amending All References to the Uniform Building Code of the Rapid City Municipal Code in Chapters 2, 5, 12 and 15 was introduced. Upon a motion made by Johnson, seconded by Waugh and carried, Ordinance 4093 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 held on Monday, December 6, 2004 at 7:00 P.M.

**Ordinance No. 4083** (No. LF102704-12) an Ordinance Regulating On-Site Wastewater Disposal and Treatment by Adding Chapter 13.08 of the Rapid City Municipal Code to Add Article VIII was introduced. Upon a motion made by Johnson, seconded by Waugh and carried, Ordinance 4083 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 held on Monday, December 6, 2004 at 7:00 P.M.

**Ordinance No. 4099** (No. 04RZ056), a request by Mike Tennyson and Pat Tlustos to consider an application for a **Rezoning from Park Forest District to Office Commercial District** on the north 640 feet of the unplatted portion of the W1/2 NW1/4 SE1/4 except Block 1, North Riverside Addition; all located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1350 West Chicago Street was introduced. Upon a motion made by Johnson, seconded by Waugh and carried, Ordinance 4099 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 held on Monday, December 6, 2004 at 7:00 P.M.

### **LEGAL & FINANCE COMMITTEE ITEMS**

Police Chief Tieszen, who address No. LF111004-04, approve Event Permit for Motorcycle Parking during the 2005 Rally. He reported the Mayor's appointed Committee met to discuss various options to develop a plan that would alleviate parking concerns in the downtown area. The intent is to bring a proposal forward as an Event Permit for Motorcycle Parking. He outlined the proposal and asked the Council to continue this item to the January 12, 2005 Legal and Finance Committee meeting to permit him an opportunity to present the proposal to the Downtown Association. Olson moved, seconded by Kroeger to continue No. LF111004-04, Approve Event Permit for Motorcycle Parking during the 2005 Rally to the January 12, 2005 Legal and Finance Committee meeting. Motion carried.

Police Chief Tieszen explained to the Council that the vendor providing service for the ICAD software has been terminated and they are seeking to identify a new software vendor to provide an information system that will serve the Police and Fire Departments, Sheriff's Department, jail and detention center. He expected that within the next sixty days they will present the Council, for approval, an agreement that is expected to exceed One Million Dollars. They have also identified grant money that may pay for the entire project.

### **PUBLIC WORKS COMMITTEE ITEMS**

Motion was made by Hadley, seconded by French and carried to approve No. PW102604-09A, a request for authorization to prepare an H-Lot plat for additional right-of-way at the intersection of Fairmont Boulevard and Mount Rushmore Road.

Motion was made by Hadley, seconded by Waugh and carried to approve No. PW102604-09B, a request for authorization to accept a deed for the H Lot for additional right-of-way at the intersection of Fairmont Boulevard and Mount Rushmore Road.

Motion was made by Hadley, seconded by French and carried to approve No. PW102604-09C, authorization for Mayor and Finance Officer to sign an Agreement with JR Investments, LLC to construct improvements to the western half of the intersection of Fairmont Boulevard and Mount Rushmore Road.

Motion was made by Hadley, seconded by French to approve No. PW102604-02, a request for a variance to waive sidewalk requirement as per City of Rapid City Subdivision Regulations at 515 South Street, Barb Fritz, Action Development Group. Acting Public Works Director Vore outlined staff's recommendation to reconstruct the sidewalk from the driveway across the front yard, and suggest the value and use of the sidewalk is not known. He explained that it has been

determined that pedestrian are using the street to traverse this area. Barb Fritz addressed the Council explained she has made an effort to lower the grade of the property but could not make the sidewalk work because of the grade. She is unable to meet the City's regulations. She explained that currently the walk does not extend to Fifth Street. If installed, the walk would extend to an existing retaining wall and would have a forty foot setback on the property. Alderman Olson pointed that Dakota Middle School students use this area to board school buses and sidewalks may have some value. Alderman Hadley restated his motion to include a request for the property owner to sign a waiver of right to protest any future assessment. Olson suggested this issue be referred to Path Committee. Substitute motion was made by Olson to refer to the Path Committee, the request for a variance to waive sidewalk requirement as per City of Rapid City Subdivision Regulations at 515 South Street. Seconded by Chapman. Alderman Johnson suggested staff provided an alterative for the walk and the concern for the safety of children has been heard. City Attorney Green pointed out the Council is ultimately responsible to make the decision and suggested the substitute motion include a continuation of the action by the Council to a date specific. With the consent of the Council, Alderman Olson withdrew the substitute motion. Substitute motion was made by Johnson, seconded by Waugh to deny the request for a variance to waive sidewalk requirement as per City of Rapid City Subdivision Regulations at 515 South Street, Barb Fritz, Action Development Group. Upon a roll call vote, the substitute motion carried with the following voting AYE: Chapman, Olson, Kooiker, Johnson and Waugh; NAY: Hadley, Murphy, French and Kroeger.

The Mayor presented No. PW110904-06, Authorize Mayor and Finance Officer to sign a Covenant Agreement with Jim Parker to extend water main along Skyline Drive to the Dinosaur Park facility. Acting Public Works Director Vore explained that Jim Parker constructed a home anticipating that he would be served with City water. It was suggested that a proposed agreement made with the City was found not to be a binding agreement. He explained that the City has an unconditional watermain extended to the Dinosaur Park and at some point in time should the main fail the City will need to extend another watermain to serve the park. He recommended the City cost-share with Jim Parker to extend the watermain. The City's share will be \$41,520 and Jim Parker's share will be \$24,480; he explained the funds would come from the Water Enterprise Fund. Motion was made Johnson, seconded by Kroeger and carried to Authorize Mayor and Finance Officer to sign a Covenant Agreement with Jim Parker to extend watermain along Skyline Drive to the Dinosaur Park facility.

Motion was made by Hadley, seconded by Waugh and carried to Authorize Fire Chief Shepherd to enter into discussion and negotiations with Western Dakota Technical Institute to prepare a formal Proposal for Council consideration at a later date regarding the use of the southern portion of the Landfill buffer land for a Fire Training Center.

Motion was made by Johnson, seconded by Murphy and carried to table Lindbergh/Haines Avenue Intersection traffic signal.

### **APPROVAL OF BILLS**

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

Payroll Paid Ending 10-30-04, Paid 11-5-04

630,639.15

|  |                     |
|--|---------------------|
| Payroll Paid Ending 10-30-04, Paid 11-5-04   | 1,604.80            |
| Pioneer Bank, Taxes Paid 11-5-04             | 153,265.21          |
| Pioneer Bank, Taxes Paid 11-5-04             | 121.62              |
| First Administrators, claims paid 11-2-04    | 59,744.34           |
| First Administrators, claims paid 11-9-04    | 43,991.65           |
| Berkley Risk Administrators, priced billings | 31,623.07           |
| Montana Dakota Utilities, gas                | 1,069.48            |
| Black Hills Power & Light, electricity       | 3,414.17            |
| United States Postmaster, postage            | 1,600.00            |
| Computer Bill List                           | <u>2,937,422.78</u> |
| Sub-Total                                    | \$3,864,496.27      |

|  |                |
|--|----------------|
| Payroll Paid Ending 10-30-04, Paid 11-5-04 | 2,450.46       |
| Pioneer Bank, Taxes paid 11-5-04           | 187.46         |
| City of Rapid City, postage                | 11.12          |
| City of Rapid City, health insurance       | 351.00         |
| Dakota Business Center, copier maintenance | 19.51          |
| Rapid City Journal, advertisement          | 74.30          |
| SD Executive Management Finance, telephone | 22.47          |
| SD Retirement System, October retirement   | 180.91         |
| SD School of Mines & Technology, telephone | 52.86          |
| Standard Life, November life               | <u>3.50</u>    |
| Total                                      | \$3,867,849.86 |

**CITY ATTORNEY’S ITEMS**

Motion was made by Kroeger, seconded by French and carried to continue No. LF101304-08, Authorization for Mayor and Finance Officer to sign Agreement for Water and Sewer Service with Atlantis, LLC. To December 6, 2004 Council meeting.

**SWEAR IN NEW COUNCIL MEMBER**

At this time City Finance Officer Preston swore in new Council member, Bob Hurlbut.

Kroeger moved, seconded by Waugh and carried to go into executive session to discuss pending litigation, contractual and personnel matters.

As there was no further business to come before the Council at this time, the meeting adjourned at 11:36 P.M.

CITY OF RAPID CITY

ATTEST:

\_\_\_\_\_

Mayor

\_\_\_\_\_

Finance Officer

(SEAL)