

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

April 17, 2006

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, April 17, 2006 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Mike Schumacher, Ray Hadley, Karen Olson, Bill Okrepkie, Tom Johnson, Ron Kroeger, Deb Hadcock, Bob Hurlbut, Malcom Chapman and Sam Kooiker. The following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Growth Management Director Marcia Elkins, Public Works Director Dirk Jablonski, Police Chief Craig Tieszen, Civic Center Manager Brian Maliske, and Administrative Assistant Jackie Gerry.

**APPROVE MINUTES**

Okrepkie moved, second by Chapman and carried to approve the minutes of April 3, 2006, special Council of April 10, 2006, and Information Committee meeting of April 5, 2006.

**ADOPTION OF THE AGENDA**

The following items were added to the agenda:

- Ellsworth Task Force
- 40.A. No. 06AN001 - A request by Dream Design International, Inc. for a **Petition for Annexation** on a parcel of land located in the NE1/4 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4, SE1/4 SE1/4, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located south of the intersection of Tartan Court and Catron Boulevard.
- 40.B. No. 06PL029 - A request by Dream Design International, Inc. for a **Layout Plat** on Lot 1, Block 1; Lots 1 thru 29, Block 2; Lots 1 thru 29, Block 3; Lots 1 thru 13, Block 4; Lots 1 thru 27, Block 5; Lots 1 thru 6, Block 6; Lots 1 thru 22, Block 7; Lots 1 thru 26, Block 8; Lots 1 thru 16, Block 9; Lots 1 thru 8, Block 10; Lots 1 thru 27, Block 11; Lots 1 thru 13, Block 12; Lots 1 thru 16, Block 13; Lots 1 thru 6, Block 14; Lots 1 thru 14, Block 15; Lots 1 thru 14, Block 16; Lot 1, Block 17; Lot 1, Block 18; Lots 1 thru 22, Block 19; Lots 1 thru 6, Block 20, Lots 1 thru 21, Block 21; and Tracts 1 thru 10 of South Terrace Subdivision, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a parcel of land located in the NE1/4 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4, SE1/4 SE1/4, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located south of the intersection of Tartan Court and Catron Boulevard.
- Appointment of Michelle McKenna to the Business Improvement District Board
- Executive Sessions

Okrepkie moved, second by Olson and carried to adopt the agenda as amended.

**AWARDS AND RECOGNITIONS**

Mayor Shaw presented the Veteran of the Month for April 2006 to Chet Westman and recognized his efforts and dedication to the service of his country.

On behalf of the City of Rapid City, Water Reclamation Superintendent Dave VanCleave accepted an award from the Department of Environment and Natural Resources for the 2005 Municipal Wastewater Operations and Maintenance Excellence and Compliance to the South Dakota Surface Water Discharge Permit.

On behalf of the City of Rapid City, Public Works Director Dirk Jablonski accepted an award from the Department of Environment and Natural Resources, Regional Recycling Program for the 2005 Industrial Wastewater Excellence and Compliance.

Mayor Shaw presented Certificates of Recognition to the following employees and acknowledged their years of service to the City: Gary Shepherd, Fire Department – 30 years; Jack White, retiring after 13 years with Traffic Engineering; Bernie Hall, Development Service Center – 20 years; Ella Keifert, retiring after 47 ½ years with the Street Department; David Anderson, Utility Maintenance – 30 years; Bruce Fisk, Utility Maintenance – 20 years; Verlyn Matt, Street Department – 20 years; and Karl Kinzie, Street Department – 20 years.

Bruce Rampelberg and Pat McElgunn, Ellsworth Task Force extended their appreciation to the Council and City for leadership and funding to ensure that Ellsworth AFB remains open. Rampelberg reported that the South Dakota School of Mines and Technology, during their honors convocation, presented the Ellsworth Task Force with an “Outstanding Public Service Group” award.

### **GENERAL PUBLIC COMMENT**

Steven Brenden, Rapid City reiterated his concerns about granting variances as they relate to streets, sidewalks and public infrastructure.

Dan Michael, Rapid City indicated that advertising on billboards, in telephone books, and in newspapers is not subject to sales tax. He reported corresponding with the Governor, who responded that the issue of whether to tax advertising services in the State has been discussed by the legislature on several occasions. Michael indicated that the Governor reported that several proposals to tax gross receipts for advertising and political advertising failed in committee. Michael explained that few states tax advertising because enforcement of the tax and defining advertising services is difficult. Michael suggested the City and State need to look at this possible taxation.

### **PUBLIC HEARINGS**

The Mayor presented No. CC040306-03, a Sign Ordinance Appeal by Lamar Advertising for the following: A) Off premise sign, 1118 West Main Street described as Lot 41-44 lying south of RR, Blk 6, Riverside Addition, Sec 35, T2N, R73, BHM, Rapid City, Pennington County, South Dakota; B) Billboard, 1925 West Main Street described as Lot 7 – 8 & W12' of Lot 6, Blk 2, Jones Tract, Sec 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; C) Sign, 3345 Sturgis Road described as Tract C, C D Rounds, Sec 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota; D) Sign, 1604 Mount Rushmore Road described as S1/2 of Lot 1-3, Blk 11, West Boulevard Addition, Sec 2, T1N, R7E, BHM, Rapid City, Pennington

County, South Dakota; E) Sign, 425 Omaha Street described as Tract NW 66 less Lot H1 & Lot H2, balance of Lot 12-16 less Lot H1 of Lot 16; N10' of vacated alley adjacent to Lot 12-16 less Lot H1, Blk 66, Original Town of Rapid city, Sec 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota; F) Sign, 644 North LaCrosse Street described as Lot 15-16, Blk 3, Feigels Addition, Sec 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; G) Sign, 418 Knollwood Drive described as All of Blk 6R, Airport Addition, Sec 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota; H) Sign, 112 East North Street described as Tract A of Lot 13-17, Blk 6, Schnasse Addition, Sec 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; I) Sign, 1822 West Kansas City Street described as Lot 40-43, Blk 1, Jones Tract, Sec 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; and J) Sign, 401 West Main Street described as Lot 1-4, Blk 86, Original Town of Rapid City, Sec 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. Olson moved, second by Okrepkie and carried to open the public hearing. City Attorney Green indicated that this appeal involves the proposed downsizing of several billboards. The request is to be allowed to put up electronic reader boards on the faces. He indicated that initially the decision was that this was a permissible change under the Sign Code. Upon appeal to the Sign Code Board of Appeals, the Board determined that the addition of the electronic reader board constituted a structural alteration that went beyond what the exception allowed; therefore, the permit was not issued. Mike Reynolds, attorney for Epic Outdoor Advertising indicated they support upholding the decision of the Sign Code Board of Appeals. Reynolds explained that they believe the intent of the code is to allow someone to make a larger sign smaller. It was not anticipated, when the provision was passed, that a vinyl or traditional billboard sign, made smaller and LED would have to comply with the provision. Reynolds addressed the structural alternations, suggesting the signs under consideration are structurally altered because a support mechanism is added, computer hardware is added, the electrical is altered, and LED is added. Reynolds indicated a structural alternation is allowed, but the following specific conditions must apply: conformance with the code; sole purpose of sign reduction; and alternations must support the size of the sign. He indicated that the alternations in excess of those necessary to reduce the face size do not qualify for the exception. Reynolds asked the Council to uphold the decision of the Sign Code Board of Appeals. Bob Morris, attorney for Lamar Outdoor Advertising indicated that they followed the proper procedures, submitted the necessary application, and the Building Official approved the applications and sign permits were issued by the Building Official. Morris indicated that the City's ordinance establishes all existing signs as lawful, but that any new signs must comply with the ordinance. Morris pointed out that the signs under consideration existed before the adoption of the sign ordinance and are lawful signs. Morris explained that the use of LED reduces the size of the sign face; and pointed out that the ordinance does not prohibit the mechanism use to reduce the size of the sign face, and offers sign credits for those signs that are reduced in size. Morris indicated that Lamar is following the intent and purpose of the sign ordinance; and asked the Council to overturn the decision of the Sign Code Board of Appeal on all ten matters. Sean Casey, Epic Outdoor Advertising explained that Lamar lobbied for this code, and they should be required to follow the code. Steven Brenden, Rapid City asked the Council to uphold the decision of Sign Code Board of Appeal. Olson moved, second by Okrepkie and carried to close the public hearing. City Attorney Green reminded the Council that they appointed a task force to look at the LED sign issue. Green advised the Council, that from a policy standpoint, it is necessary to get the recommendation and input from the task force. Olson moved, second by Hadcock to uphold the decision of the Sign Code Board of Appeal to deny an appeal by Lamar Advertising. Alderman Johnson indicated his preference is not to act on the appeal, allow the task force to do their work and come forward with a recommendation.

Green advised the Council that the appeal has to be decided under the existing ordinance. Upon a vote being taken on the motion, motion carried.

The Mayor presented No. 06CA008, a request by Dream Design International, Inc. to consider an application for an **Amendment to the Comprehensive Plan to relocate arterial streets and to eliminate a collector street on the Major Street Plan** on a parcel of land described as the N1/2 NE1/4, less Lot H1, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the SE1/4 NE1/4 and the E1/2 SE1/4 lying north of the Railroad Right-of-Way, Section 20, T1N, R8E; and the N1/2 and the W1/2 SW1/4 of Section 21, T1N, R8E, all located in BHM, Pennington County, South Dakota, more generally described as being located southeast of the intersection of Elk Vale Road and Old Folsom Road. The following resolution was introduced, read and moved its adoption: The following resolution was introduced, read and Olson moved its adoption:

RESOLUTION AMENDING THE COMPREHENSIVE PLAN  
OF THE CITY OF RAPID CITY

WHEREAS the Rapid City Planning Commission has reviewed the proposed amendment to the Comprehensive Plan and made a recommendation to the Rapid City Council; and

WHEREAS the Rapid City Council held a public hearing on the 17<sup>th</sup> day of April, 2006 at which they considered the recommendation of the Planning Commission and the proposed amendment to the Comprehensive Plan; and

WHEREAS, the proposed Amendment to the Comprehensive Plan would revise the Major Street Plan to relocate arterial streets and to eliminate a collector street on a parcel of land described as the N1/2 NE1/4, less Lot H1, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the SE1/4 NE1/4 and the E1/2 SE1/4 lying north of the Railroad Right-of-Way, Section 20, T1N, R8E; and the N1/2 and the W1/2 SW1/4 of Section 21, T1N, R8E, all located in BHM, Pennington County, South Dakota; and

WHEREAS, it appears that good cause exists to amend the Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED by the Rapid City Common Council that the Major Street Plan component of the Comprehensive Plan of the City of Rapid City be amended to relocate arterial streets and to eliminate a collector street on a parcel of land described as the N1/2 NE1/4, less Lot H1, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the SE1/4 NE1/4 and the E1/2 SE1/4 lying north of the Railroad Right-of-Way, Section 20, T1N, R8E; and the N1/2 and the W1/2 SW1/4 of Section 21, T1N, R8E, all located in BHM, Pennington County, South Dakota as attached to the original hereof and that such amendment be filed with the City Finance Office.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for the adoption of the forgoing resolution was second by Kroeger. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: None; whereupon said resolution was declared duly passed and adopted.

The Mayor presented No. 06FV002, a **Fence Height Exception** to allow a six foot high fence within the required 25 foot yard setback for petitioner Michael and Molly Falk on the east half of Lot 19, all of Lot 20, Block 14, Wise Addition, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 222 East Monroe Street. Olson moved, second by Kroeger to approve the fence height exception with stipulations. Mike and Molly Falk reported receiving a letter from Code Enforcement ordering the repair or replacement of an existing back yard fence. They explained the five foot high fence on Milwaukee Street was replaced with a four foot fence in the same location; and the fence along the alley was replaced with a six foot high fence, also in the same location. They pointed out a problem with the grade at the point of the four foot high and six foot high fence connection. They indicated that they have applied for a variance to allow the fence to remain in its present location. Growth Management Director Elkins reported that the fence is located in the sight distance triangle. Elkins reminded the Council that they do not have the authority to grant the exception to a sight distance triangle. Substitute motion was made by Hadley, second by Johnson to continue to the May 1, 2006 Council meeting. Motion carried.

The Mayor presented No. 05CA018, a request by City of Rapid City for an **Amendment to the Comprehensive Plan amending the Major Street Plan by eliminating and realigning several collector and arterial roads** on all located in Sections 23, 24, 25, 26, 34, 35 and 36 in T1N, R7E, BHM, Pennington County, South Dakota, and Sections 19, 29, 30, 31 and 32, T1N, R8E, BHM, Pennington County, South Dakota, and Sections 1, 2, 3, 11 and 12, T1S, R7E, BHM, Pennington County, South Dakota, and Sections 5, 6, 7, 8, 17 and 18, T1S, R8E, BHM, Pennington County, South Dakota, located south of Minnesota Street, north of Spring Creek Road, east of US Highway 16 and west of SD Highway 79. Olson moved, second by Kroeger and carried to continue to the May 1, 2006 Council meeting, at the applicant's request.

The Mayor presented No. 06CA007, a request by Dream Design International, Inc. for an **Amendment to the Comprehensive Plan by revising the North Rapid Neighborhood Area Future Land Use Plan to change the land use designation from Low Density Residential to Medium Density Residential** on the northern 550 feet of Lot B, Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Thrush Drive and Gold Street. Olson moved, second by Johnson to continue to the May 15, 2006 Council meeting, at the applicant's request. Steven Brenden, Rapid City asked the Council to follow the recommendation of the Planning Commission to deny. Richard Churchwell, Rapid City presented the Council with a petition that asks the Council to deny the amendment. Churchwell asked that notices be mailed to those affected by any new proposal. Hani Shafai, Dream Design International asked for the continuation to allow them an opportunity to develop a new plan to address the concerns raised during Planning Commission hearing. Growth Management Director Elkins indicated that no new notices are expected to be mailed to the landowners. In response to a question from Alderman Kooiker, Shafai indicated their proposal is to include a Planned Development Designation, but have not submitted that application to-date. Friendly amendment was offered by Alderman Kooiker to direct staff to mail postcards to the affected neighborhood within 250 feet. Substitute motion was made by

Kroeger, second by Hadcock to deny without prejudice. Churchwell offered support for the denial, and to allow the applicant to begin the process in submitting a new plan. Elkins reminded the Council that to-date no plan has been submitted. Shafai again reviewed the current layout of the property and current zoning that would permit the applicant to obtain a building permit to construct their apartment units. He noted the landowners would have no opportunity for input if the current zoning remains. Upon a roll call vote on the substitute motion, the following voted AYE: Schumacher, Hadley, Olson, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker;; NO: Okrepkie. Motion carried.

Olson moved, second by Okrepkie and carried to authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of curb, gutter, sidewalk and street light conduit along Elk Vale Road as it abuts Lot 1 of Neff's Subdivision No. 3 and the unplatted portion of the SW1/4 SW1/4, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota. (06SV006)

The Mayor presented No. 06SV006, a request by D.C. Scott Surveyors, Inc. for West River Electric Association for a **Variance to the Subdivision Regulations to waive the requirement to install curb gutter, sidewalk, street light, sewer, water and additional pavement and to waive the requirement to provide a ten foot wide planting screen easement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1R of Neff's Subdivision No. 3 (formerly Lot 1 of Neff's Subdivision and the unplatted portion of the SW1/4 SW1/4), Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 of Neff's Subdivision No. 3 and the unplatted portion of the SW1/4 SW1/4, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 400 Elk Vale Road. Olson moved, second by Kroeger and carried that the Variance to the Subdivision Regulations to waive the requirement to install curb gutter, sidewalk and street light along Elk Vale Road be approved with the following stipulation: 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the 66 foot wide access easement be approved; and, that the Variance to the Subdivision Regulations to waive the requirement to dedicate a ten foot wide planting screen easement be denied without prejudice.

Olson moved, second by Kroeger and carried to authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along the temporary access road as it extends through a parcel of land described as the N1/2 NE1/4, less Lot H1, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the SE1/4 NE1/4 and the E1/2 SE1/4 lying north of the Railroad Right-of-Way, Section 20, T1N, R8E; and the N1/2 and the W1/2SW1/4 of Section 21, T1N, R8E, all located in BHM, Pennington County, South Dakota (06SV013)

The Mayor presented No. 06SV013, a request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, pavement, water, and sewer along the temporary access road as per Chapter 16.16 of the Rapid City Municipal Code** on a parcel of land described as the N1/2 NE1/4, less Lot H1, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the SE1/4 NE1/4 and the E1/2 SE1/4 lying north of the Railroad Right-of-Way, Section 20, T1N, R8E; and the N1/2 and the W1/2SW1/4 of Section 21, T1N, R8E, all

located in BHM, Pennington County, South Dakota, located southeast of the intersection of Elk Vale Road and Old Folsom Road. Olson moved, second by Kroeger and carried that the Variance to the Subdivision Regulations to waive the requirement to install pavement along the temporary access road as per Chapter 16.16 of the Rapid City Municipal Code be denied. That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, and sewer along the temporary access road as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations: 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessments for the improvements; 2. The street shall be constructed with a minimum 24 foot wide paved surface; and, 3. The street shall be located in dedicated right-of-way and/or an easement. If the street is to be located within an easement, then an Exception to the Street Design Criteria Manual shall be obtained to allow an easement to serve more than four properties.

The Mayor presented No. 06VR002, a request by D.C. Scott Surveyors, Inc. for West River Electric Association for a **Vacation of Section Line Right-of-Way** on the east 744.72 feet of the west 869.72 feet of the Section Line Right-of-way, located in the NW1/4 NW1/4, Section 3, T1N, R8E, BHM and in the SW1/4 SW1/, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Elk Vale Road and north of Anamosa Street. The following resolution was introduced, read and Olson moved its adoption:

RESOLUTION OF VACATION  
OF PUBLIC RIGHT-OF-WAY

WHEREAS it appears that the public right-of-way adjacent to the east 744.72 feet of the west 869.72 feet of the Section Line Right-of-way, located in the NW1/4 NW1/4, Section 3, T1N, R8E, BHM and in the SW1/4 SW1/, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Elk Vale Road and north of Anamosa Street; is not needed for public purposes; and

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

NOW THEREFORE, BE IT RESOLVED by the City of Rapid City that the public right-of-way heretofore described, and as shown on Exhibit "A", attached hereto, and incorporated herein, 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 public right-of-way in regard thereto.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for the adoption of the forgoing resolution was second by Kroeger with the following stipulation: Prior to City Council approval, a utility easement shall be recorded at the Register of Deed's Office for that portion of the Section Line Highway to be vacated. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: None; whereupon said resolution was declared duly passed and adopted.

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

The Mayor presented No. LF041206-15, a Resolution on Amendment E, an initiated measure. The following resolution was introduced, read and Chapman moved its adoption:

#### RESOLUTION

WHEREAS, an initiated measure self-titled as "The J.A.I.L. Amendment" has been designated as Amendment E by the Secretary of State and will appear on the November, 2006 general election ballot; and

WHEREAS, Amendment E would abolish the doctrine of judicial immunity, create a special grand jury with an annual budget of over two million dollars, allow for the creation of special court under the jurisdiction of the special grand jury apart from the Unified Judicial System and would allow for jury nullification (a measure previously submitted to and rejected by the electorate); and

WHEREAS, the stated purpose of Amendment E is to correct the abuse of judicial power; and

WHEREAS, the South Dakota and the United States Constitutions and the laws made pursuant to these Constitutions by publicly elected officials currently provide remedies for the correction of any abuse of the judicial power; and

WHEREAS, Amendment E would subject any person or group of persons who exercise judicial authority, including quasi-judicial actions such as members of zoning boards of adjustment, planning commissions, and municipal governing bodies, to limitless liability; and

WHEREAS, Amendment E prevents public money from being used to defend a public official from a claim brought by the special grand jury, subjecting the official to massive personal liability; and

WHEREAS, a number of groups including the South Dakota Republican and Democratic parties, the South Dakota State Bar, the South Dakota Municipal League, and many others have voiced opposition to Amendment E because of the threat it poses to the judicial system and to public officials; and

WHEREAS, the Legislature of the State of South Dakota has unanimously approved House Concurrent Resolution 1004 strongly urging the voters of South Dakota to defeat Amendment E "to protect our system of justice, to protect economic development" and "to protect citizens from frivolous lawsuits"; and

WHEREAS, the Rapid City Common Council has determined that Amendment E would be contrary to the best interests of the City of Rapid City because of the potential damage

Amendment E could do to South Dakota's judicial system and the threat it poses to public servants who serve on many municipal boards, such as the Zoning Board of Adjustment, the Planning Commission, as well as the Rapid City Common Council.

NOW THEREFORE BE IT RESOLVED by the Rapid City Common Council that the Rapid City Common Council joins with the South Dakota Legislature and other groups and strongly urges the voters of South Dakota to reject Amendment E when voting at the 2006 general election.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for the adoption of the forgoing resolution was second by Hurlbut. Alderman Schumacher indicated his agreement with the resolution, but disagreed that it should be the roll of the Council to vote on this issue, because it is an initiated measure. Tom Hennies, member of the South Dakota House of Representatives addressed the Council on Amendment E indicating that this is a non-partisan issue. He explained that the State's Constitution provides for judicial qualification and behavior. He indicated that the Amendment includes citizens' boards, school boards, county commissions, city councils, township boards, professional licensing boards, as well as a host of others; and outlined the requirements as proposed under Amendment E. Alderman Kooiker commented on a previous amendment on the selection of judges that failed at the polls in 2004; and believed that voters are not naïve. He indicated his concern about telling voters how to vote during a public meeting; and suggested the Council needs to decide whether to undertake resolutions regarding items that are going to be on the ballot. Steven Brenden, Rapid City indicated that the Council is campaigning against Amendment E in a public forum; and it is not the place of the Council to campaign against something that is brought forward by the citizens of the State. City Attorney Green pointed out that Amendment E constitutes a direct imminent threat to the continued viability to local governments in South Dakota. If approved, no one will be able to run for public office without purchasing a significant liability insurance policy. No public funds can be used to defend a public official, charged by a special grand jury. Upon a roll call vote being taken, the following voted AYE: Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: Hadley and Schumacher. Motion carried.

Chapman moved, second by Johnson and carried to acknowledge No. LF041206-01, a request for funding Roger Brooks Community / Tourism Assessment and Workshop in the amount of \$5,000; and forward to the BID Board for consideration of funding.

Olson moved, second by Schumacher to (No. LF030106-04), continue the allocation of \$48,000 from CIP Contingency to fund the Canyon Lake Park Road Project to the April 25, 2006 Public Works Committee meeting. Alderman Olson noted that the intersection of Jackson Blvd. and Park Drive is slated for reconstruction in 2009 by the SDDOT; and the DOT intent is to realign Park Drive. Olson noted that the park is open to the public, and that accessibility to Shelters 1 & 2 is from the west entrance and Shelter 3 is accessible from Park Drive. Alderman Hurlbut reported receiving comments about the access to the park as it is currently. Alderman Johnson

stressed the need for Council to take action, indicating that he believed the public wanted the through road.

Substitute motion was made by Johnson, second by Okrepkie to approve the allocation of \$48,000 from CIP Contingency to fund the Canyon Lake Park Road Project; and direct staff to come back with an alternative. Alderman Okrepkie indicated that his constituents want the road to remain as it is, as a through road. Okrepkie offered a friendly amendment to request staff look at reversing the traffic flow through the park; and look at the requirements to construct a barrier along the road, closest to the pond. Alderman Kroeger reminded the members that staff has made their recommendation and provided the cost estimates. The Chair declared there was no second to the amendment. Responding to a question from the Chair, City Attorney Green indicated that Council has not given clear direction on which alternative should be pursued.

Second substitute motion was made by Chapman, second by Hurlbut to continue this item after item No. 19, Canyon Lake Park Road, on the agenda. Alderman Okrepkie called the question, there being no objection, a vote was taken on the motion. Motion carried.

Kroeger moved, second by Chapman and carried to (No. LF041206-07) authorize the Mayor and Finance Officer to sign Covenant Agreement with Farrar Real Estate Limited Partnership.

At 9:57 P.M. the Chair recessed the proceedings; and reconvened at 10:16 P.M.

### **PUBLIC WORKS COMMITTEE ITEMS**

Olson moved, second by Okrepkie to (No. PW041106-06) authorize staff to advertise for bids for the Rushmore Plaza Civic Center Multipurpose Addition Project No. IDP06-1555. Substitute motion was made by Hurlbut, second by Olson and carried to consider after No. No. LF041206-20.

The Mayor presented No. 06VE001, a request by Dream Design International, Inc. to consider an application for a **Vacation of the Non-Access Easement** on Lots 1 and 4 of Block 20; and Lot 1 of Block 19, Red Rock Estates, located in the NE1/4 SE1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the northwest corner of the intersection of Portrush Road and Kennemer Drive and at the northeast and northwest corners of the intersection of Portrush Road and Ainsdale Court. The following resolution was introduced, read and Olson moved its adoption:

#### RESOLUTION OF VACATION OF NON-ACCESS EASEMENT

WHEREAS the Rapid City Council held a public hearing on the 17<sup>th</sup> day of April, 2006 to consider the Vacation of a Non-access Easement on Lots 1 of Block 20, Red Rock Estates, located in the NE1/4 SE1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the northwest corner of the intersection of Portrush Road and Kennemer Drive and at the northeast and northwest corners of the intersection of Portrush Road and Ainsdale Court; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the non-access easement to be vacated and released.

NOW, THEREFORE, BE IT RESOLVED by the Rapid City Council, that the portion of the non-access easement heretofore described, and as shown on Exhibit "A", attached hereto and incorporated herein by this reference, is not needed for public purpose and is hereby vacated.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for the adoption of the forgoing resolution was second by Johnson with the following stipulation: that the Vacation of Non-Access Easement to vacate 30 feet of the non-access easement located along the east side of Lot 1, Block 20 as it abuts Kennemer Drive be approved with the following stipulations: 1. That prior to City Council approval, the Exhibit A shall be stamped by a Professional Engineer; and 2. That the Exception to allow access from Portrush Road, the higher order street, for Lot 1, Block 20, Red Rock Estates as per the Street Design Criteria Manual is hereby approved; and that the City Council acknowledge the applicant's request to withdraw the Vacation of Non-Access Easement to vacate an 85 foot non-access easement along the south side of Lot 4, Block 20 as it abuts Portrush Road and a 50 foot non-access easement along the east side of Lot 1, Block 19 as it abuts Ainsdale Court.. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: None; whereupon said resolution was declared duly passed and adopted.

Olson moved, second by Hurlbut to continue the Canyon Lake Park Road to the April 25, 2006 Public Works Committee meeting. Alderman Johnson believed the appropriate fix to the park is a barrier near the pond. He indicated that he did not oppose reversing traffic flow through the park.

Substitute motion was made Johnson, second Okrepkie to request staff to, in the quickest possible fashion, either go out for bids or quotes and put up a rock retaining wall on the affected area. Alderman Olson read an excerpt from a letter from the South Dakota Department of Transportation that indicated traffic backups will become a problem if traffic is reversed through the park. Alderman Johnson indicated his desire that the road remain a through road, regardless of the direction in which the traffic flows; and that there be a rock retaining wall near the pond. Pat O'Neill, 3944 Jackson Blvd offered support of reversing the traffic flow through the park, installing speed bumps and signs, gating the entrances and closing the gates in the evening. Ken Edel, Rapid City indicated that it is important to have the through road; suggested posting park rules, increasing fines for violations, and increasing law enforcement in the parks. Dave Schwietert, 3936 Jackson Blvd, asked the Council to reverse the flow of traffic through the park from east to west; extend the current guardrail so that it is adequate to protect cars from either direction and add another guardrail on the opposite side of the road for added protection; add more appropriate signage; and consider another exit at the south-end of the parking lot at Shelter 3 and making the current approach one-way in. He suggested these improvements will remove congestion at the east-end of the park, and will facilitate improved utilization of other areas of the park that are not used extensively. It adds safety for the pedestrian crossing the

street. Hal Weber, 3205 Iris Drive suggested it was negligence that caused an accident, not the curve in the road or the pond. Steven Brenden, Rapid City indicated there is a need to expand the parking; supported reversing the traffic flow; installing speed bumps and signs; and installing guardrails. Upon a roll call vote being taken on the substitute motion, the following voted AYE: Okrepkie, Johnson, Hadcock, Kooiker, Schumacher, and Hadley; NO: Olson, Kroeger, Hurlbut, and Chapman. Motion carried.

Johnson moved, second by Okrepkie to (No. LF030106-04), approve the allocation of \$48,000 from CIP Contingency to fund the Canyon Lake Park Road Project Parks Superintendent VanDeusen pointed out that in order to design a retaining wall, the traffic flow must also be decided. Dan Michael, Rapid City suggested the City consider temporary concrete barriers until bids or quotes were solicited, and a decision was made on the traffic flow. Upon a vote being taken on the motion, motion carried with Olson voting NO.

### **ORDINANCES & RESOLUTIONS**

**Ordinance No. 5148** (No. LF041206-06), Regarding Supplemental Appropriation No. 3 for 2006 was introduced. Upon a motion made by Chapman, second by Hadcock and carried, Ordinance No. 5148 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, May 1, 2006 at 7:00 P.M.

**Ordinance No. 5150** (No. LF041206-17), Repealing Chapter 1.08 of the Rapid City Municipal Code Relating to Wards and Precincts and Adopting a New Revised Chapter 1.08 of the Rapid City Municipal Code was introduced. Upon a motion made by Chapman, second by Hadcock and carried, Ordinance No. 5150 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, May 1, 2006 at 7:00 P.M.

**Ordinance No. 5151** (No. 06RZ007), a request by City of Rapid City for a **Rezoning from Flood Hazard District to Park Forest District** on a parcel of land located in Lot 5 of Tittle Springs Subdivision more particularly described as follows: located in the NE1/4SW1/4 of Section 18, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. Said parcel bears N10°05'26"W a distance of 814.22 feet from the southeast corner of Lot 2, marked with a 5/8" rebar with survey cap "LS 4371", of Tittle Springs Subdivision Commencing at the point of beginning: Thence First Course: along a line with a bearing of N89°21'58"W and a distance of 50.00 feet; Thence Second Course: along a line common to Lots 5 and 6 of Tittle Springs Subdivision a bearing of N00°31'31"E and a distance of 44.09 feet; Thence Third Course: along said 500-year flood boundary line a bearing of S82°43'30"E and a distance of 9.86 feet; Thence Fourth Course: along said 500-year flood line a bearing of S83°29'39"E and a distance of 14.28 feet; Thence Fifth Course: along said 500-year flood line a bearing of S72°02'10"E and a distance of 11.45 feet; Thence Sixth Course: along said 500-year flood line a bearing of S78°26'08"E and a distance of 9.22 feet; Thence Seventh Course: along said 500-year flood line a bearing of S68°50'57"E a distance 3.22 feet; Thence Eighth Course along said 500-year flood line a bearing of S64°03'45"E a distance of 3.16 feet; Thence Ninth Course: along the line common with Lots 4 and 5 of Tittle Springs Subdivision with a bearing of S00°31'31"W a distance of 34.43 feet to the point the beginning. Said parcel of land contains 2.021.6 square feet or 0.0464 acres, more or less. All located in Lot 5 of Tittle Springs Subdivision in the NE1/4 of the SW1/4 of Section 18, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota., located at 6201 Magic Canyon Road was introduced. Upon a motion made by Chapman,

second by Hurlbut and carried, Ordinance No. 5151 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, May 1, 2006 at 7:00 P.M.

The Mayor announced the meeting was open for hearing on No. 06RZ005, second reading of **Ordinance No. 5143**, a request by Dream Design International, Inc. for a **Rezoning from Low Density Residential District to Medium Density Residential District** on the northern 550 feet of Lot B, Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the North side of Thrush Drive and west of the intersection of Gold Street and Thrush Drive. Notice of hearing was published in the Rapid City Journal on March 26, 2006 and April 1, 2006. Ordinance No. 5143 have had the first reading on March 20, 2006, it was moved by Chapman, second by Olson to deny without prejudice. Motion carried.

**Ordinance No. 5141** (No. LF032906-13), Establishing the Authority to Grant a Temporary Parking Plan for Special Events by Adding Section 10.40.210 to Chapter 10.40 of the Rapid City Municipal Code having passed first reading on April 3, 2006, it was moved by Chapman, second by Hadcock that the title be read the second time. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: None, whereupon the Mayor declared the motion passed and Ordinance No. 5141 was declared duly passed upon its second reading.

**Ordinance No. 5145** (No. LF032906-18), Amending Chapter 8.40 of the Rapid City Municipal Code Pertaining to Emission Standards by Amending Section 8.40.010 having passed first reading on April 3, 2006, it was moved by Chapman, second by Hadcock that the title be read the second time. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: None, whereupon the Mayor declared the motion passed and Ordinance No. 5145 was declared duly passed upon its second reading.

**Ordinance No. 5147** (No. 06OA002), Establishing the Required Number of Off-Street Parking Spaces for Carpet Stores by Amending Section 17.50.270 of the Rapid City Municipal Code having passed first reading on April 3, 2006, it was moved by Chapman, second by Hadcock that the title be read the second time. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: None, whereupon the Mayor declared the motion passed and Ordinance No. 5147 was declared duly passed upon its second reading..

### **CONTINUED ITEMS CONSENT CALENDAR** – Items 27-40

The following continued items were removed from the consent calendar:

39. No. 06VR001 - A request by Centerline for Founder's Park, LLC for a **Vacation of Right-of-Way** on West Street Right-of-Way adjacent to Philadelphia Street and West Chicago Street, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1350 West Chicago.

Johnson moved, second by Hadcock and carried to continue the items as indicated.

Continue the following items until May 1, 2006:

27. No. 05PL157 - A request by Britton Engineering & Land Surveying for Prairiefire Investments, LLC for a **Preliminary Plat** on Lots 1 and 2, Block 4, Prairiefire Subdivision,

located in NE1/4, Section 26, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 NE1/4, less the Eisenbraun Subdivision, Winton Subdivision and less the E54.4' for Anderson Road Right-of-Way, all located in the NE1/4, Section 26, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the western terminus of Mondo Street.

28. No. 05PL159 - A request by Britton Engineering for Prairiefire Investments, LLC for a **Preliminary Plat** on Lots 11-14, Block 1; Lots 4-11, Block 2; Lots 5-8, Block 3; Lots 3-8, Block 4; Prairiefire Subdivision, located in the NE1/4, Section 26, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of NE1/4 NE1/4 less a portion of Lot 8 and all of Lot 9 of Eisenbraun Subdivision less Winton Subdivision; all of SE1/4 NE1/4 less Eisenbraun Subdivision, less Winton Subdivision and less right-of-way; all in Section 26, T1N, R8E, BHM, Pennington County, South Dakota, located at the western terminus of Mondo Street.
29. No. 05SV060 - A request by Britton Engineering & Land Surveying for Prairiefire Investments, LLC for a **Variance to the Subdivision Regulations to waive the requirement to install sewer, curb, gutter, sidewalk, streetlight conduit; and dedicate additional right-of-way; and allow platting one half of a right-of-way** on Lots 1 and 2, Block 4, Prairiefire Subdivision, located in NE1/4, Section 26, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 NE1/4, less the Eisenbraun Subdivision, Winton Subdivision and less the E54.4' for Anderson Road Right-of-Way, all located in the NE1/4, Section 26, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the western terminus of Mondo Street.
30. No. 05SV061 - A request by Britton Engineering for Prairiefire Investments, LLC for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 11-14, Block 1; Lots 4-11, Block 2; Lots 5-8, Block 3; Lots 3-8, Block 4; Prairiefire Subdivision, located in the NE1/4, Section 26, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of NE1/4 NE1/4, less a portion of Lot 8 and all of Lot 9 of Eisenbraun Subdivision less Winton Subdivision; all of SE1/4 NE1/4 less Eisenbraun Subdivision, less Winton Subdivision and less right-of-way; all in Section 26, T1N, R8E, BHM, Pennington County, South Dakota, located at the western terminus of Mondo Street.
31. No. 06PL003 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 10 thru 21 of Block 2; Lots 2 thru 8 of Block 9; Lots 1 thru 4 of Block 13 of Red Rock Meadows Subdivision, Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the N1/2 of the NW1/4 of the NW1/4 of Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northern terminus of Dunsmore Road.
32. No. 06PL011 - A request by D.C. Scott Surveyors, Inc., for William Morrison for a **Preliminary Plat** on Lots 1, 2 and 3 of Morrison Subdivision (formerly Parcel B of Lot 3), located in the SW1/4 SW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Parcel B of Lot 3, located in the SW1/4 SW1/4 of Section

- 14, T1N, R8E, BHM, Pennington County, South Dakota, located adjacent to the north side of Green Valley Drive and east of Reservoir Road.
33. No. 06PL025 - A request by Wyss Associates, Inc. for Canyon Springs, LLC for a **Preliminary Plat** on Lots 1 thru 87, Block 1; Lot 1, Block 2, Canyon Springs Preserve, less Lot 1 of Firehouse Subdivision and the "Nemo" Road right-of-way, formerly the unplatted portion of the S1/2 SE1/4 and NE1/4 SE1/4 of Section 22; SW1/4 of Section 23; and the NW1/4 NW1/4 of Section 26, T2N, R6E, BHM, Pennington County, South Dakota, legally described as a tract of land located in the S1/2 SE1/4 and NE1/4 SE1/4 of Section 22; SW1/4 of Section 23; and the NW1/4 NW1/4 of Section 26; T2N, R6E, BHM, Pennington County, South Dakota, located adjacent to the west side of Nemo Road.
34. No. 06PL028 - A request by Davis Engineering, Inc. for Bernita White for a **Preliminary Plat** on Lots A1 and A2 of Bar P-S Subdivision, located in the W1/2 SW1/4, formerly Lot A of Bar P-S Subdivision, located in the W1/2 SW1/4, Section 20, T1N, R9E, BHM, Pennington County, South Dakota, legally described as Lot A of Bar P-S Subdivision, located in the W1/2 SW1/4, Section 20, T1N, R9E, BHM, Pennington County, South Dakota, located adjacent to the south west curve of North Airport Road.
35. No. 06PL036 - A request by Executive Homes, Inc. for a **Preliminary Plat** on Lots 1 thru 14 and 21 thru 35, Rockinon Ranch Estates, Phase 1, formerly a portion of land located in the N1/2 NE1/4 SE1/4, Section 23, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of land located in the N1/2 NE1/4 SE1/4, Section 23, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 3211 Bunker Drive.
36. No. 06SV004 - A request by D.C. Scott Surveyors, Inc., for William Morrison for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to waive the requirement to dedicate a ten foot wide planting screen easement as per Chapter 16.16 of the Rapid City Municipal Code** on Parcel B of Lot 3, located in the SW1/4 SW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located adjacent to the north side of Green Valley Drive and east of Reservoir Road.
37. No. 06SV011 - A request by Wyss Associates, Inc. for Canyon Springs, LLC for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 87, Block 1; Lot 1, Block 2, Canyon Springs Preserve, less Lot 1 of Firehouse Subdivision and the "Nemo" Road right-of-way, formerly the unplatted portion of the S1/2 SE1/4 and NE1/4 SE1/4 of Section 22; SW1/4 of Section 23; and the NW1/4 NW1/4 of Section 26, T2N, R6E, BHM, Pennington County, South Dakota, legally described as a tract of land located in the S1/2 SE1/4 and NE1/4 SE1/4 of Section 22; SW1/4 of Section 23; and the NW1/4 NW1/4 of Section 26; T2N, R6E, BHM, Pennington County, South Dakota, located adjacent to the west side of Nemo Road.
38. No. 06SV012 - A request by Sperlich Consulting, Inc. for Sharon Norman for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Old Folsom Road,**

**the Section Line Highway(s), the collector street and Norman Ranch Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 4A, 4B and 5R of Judicial Lot 4; and Lots 6 thru 17, Norman Ranch Subdivision, Section 28, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lots 4 and 5 of Judicial Lot 4 of Norman Ranch Subdivision; the N1/2 SW1/4; the NW1/4 SE1/4 lying southwest of Old Folsom Road less the south 99 feet of NW1/4 SE1/4; the N1/2 N1/2 SE1/4 SW1/4; the W1/2 SW1/4 SW1/4; the N1/2 NE1/4 SW1/4 SW1/4; the west 220 feet of the S1/2 NE1/4 SW1/4 SW1/4; and the west 220 feet of SE1/4 SW1/4 SW1/4; all located in Section 28, T1N, R8E, BHM, Pennington County, South Dakota, located southeast of the intersection of Highway 79 and Old Folsom Road.

Continue the following items until May 15, 2006:

40. No. 04PL185 - A request by Black Hills Surveying for a **Preliminary Plat** on Lots 4 and 5 of Owen Hibbard Subdivision, all located in the W1/2 SW1/4, Section 23, T1N, R7E, BHM, Rapid City Pennington County, South Dakota, legally described as the unplatted portion of Tract A of Tract 1, all located in the W1/2 SW1/4, Section 23, T1N, R7E, BHM, Rapid City Pennington County, South Dakota, located at the intersection of Promise Road and Golden Eagle Drive.
- 40.A. No. 06AN001 - A request by Dream Design International, Inc. for a **Petition for Annexation** on a parcel of land located in the NE1/4 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4, SE1/4 SE1/4, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located south of the intersection of Tartan Court and Catron Boulevard.
- 40.B. No. 06PL029 - A request by Dream Design International, Inc. for a **Layout Plat** on Lot 1, Block 1; Lots 1 thru 29, Block 2; Lots 1 thru 29, Block 3; Lots 1 thru 13, Block 4; Lots 1 thru 27, Block 5; Lots 1 thru 6, Block 6; Lots 1 thru 22, Block 7; Lots 1 thru 26, Block 8; Lots 1 thru 16, Block 9; Lots 1 thru 8, Block 10; Lots 1 thru 27, Block 11; Lots 1 thru 13, Block 12; Lots 1 thru 16, Block 13; Lots 1 thru 6, Block 14; Lots 1 thru 14, Block 15; Lots 1 thru 14, Block 16; Lot 1, Block 17; Lot 1, Block 18; Lots 1 thru 22, Block 19; Lots 1 thru 6, Block 20, Lots 1 thru 21, Block 21; and Tracts 1 thru 10 of South Terrace Subdivision, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a parcel of land located in the NE1/4 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4, SE1/4 SE1/4, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located south of the intersection of Tartan Court and Catron Boulevard.

End of Continued Items Consent Calendar

Kroeger moved, second by Hadcock to continue No. 06VR001, a request by Centerline for Founder's Park, LLC for a **Vacation of Right-of-Way** on West Street Right-of-Way adjacent to Philadelphia Street and West Chicago Street, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1350 West Chicago after No. LF041206-03.

**CONSENT CALENDAR ITEMS** – 41-94

The following items were removed from the Consent Calendar:

70. No. LF041206-20 Approve the amended 2012 Plan as outlined.

75. No. 06TI001 Deny a request by City of Rapid City to consider an application for a **Resolution Creating Tax Increment District No. 60** on Lot 16, Block 31, Nowlin & Wood Replat, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the LaCrosse Street right-of-way from the north boundary of the railroad right-of-way in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota to the south boundary of I-90 Interstate right-of-way, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lot H-1 in the SW1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Anamosa Street and west of LaCrosse Street, and a portion of LaCrosse Street and the southern on/off ramps to US Interstate 90 at Exit 59.
76. No. 06TI002 Deny a request by City of Rapid City to consider an application for a **Project Plan for Tax Increment District No. 60** on Lot 16, Block 31, Nowlin & Wood Replat, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the LaCrosse Street right-of-way from the north boundary of the railroad right-of-way in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota to the south boundary of I-90 Interstate right-of-way, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lot H-1 in the SW1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Anamosa Street and west of LaCrosse Street, and a portion of LaCrosse Street and the southern on/off ramps to US Interstate 90 at Exit 59.
93. No. 06PL033 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1R thru 7R, 4AR and 7AR, Block 1; and Lots 1R thru 4R, 4AR, Block 3, located in the SE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 7, Block 1; and Lots 1 thru 4, Block 3, Rainbow Ridge Subdivision, located in the SE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the north and south side of Alma Street and west of Bunker Drive.

Hadcock moved, second by Kroeger and carried to approve the following items as they appear on the Consent Calendar.

***Public Works Committee Consent Items***

41. No. PW041106-01 Approve an Exception to the Street Design Criteria Manual for 2507 East Saint Patrick Street for the width and location of the existing approach, Fisk Land Surveying.
42. Authorize staff to prepare Requests for Proposals for Energy Saving Performance Contracting.
43. Request staff to continue researching options and costs to create a safer pedestrian crossing situation on East St. Patrick Street.
44. Refer the South Side Sanitary Trunk Sewer Extension to the .16 Utility Fund Committee.
45. No. PW041106-12 Award the informal quote for Canyon Lake Dam Maintenance project to Quinn Construction Inc. in the amount of \$15,450.00.
46. No. PW041106-13 Award the informal quote for Knollwood Drainage survey Project No. DR04-1390.1 to Pinholt Land Surveying in the amount \$4,450.00 for a completion date of June 15, 2006.

47. No. PW041106-16 Award the informal quote for Parkview Softball Complex Safety Netting to Specialty Installation LLC in the amount of \$20,500.00.
48. No. PW041106-02 Approve Change Order No. 1F for Franklin Street Reconstruction, West Boulevard to Mount Rushmore Road, Project No. ST04-1363 to Hills Materials Company for a decrease of \$7,537.44.
49. No. PW041106-03 Authorize staff to advertise for bids for East Saint Patrick Street Water Main Abandonment and Concrete Panel Replacement Project No. W06-1545; CIP #50622.
50. No. PW041106-04 Authorize staff to advertise for bids for Phase 1C - Soo San Watermain Extension, Water Treatment Plant Backwash System Improvements, and Sioux San & Pinedale #2 Booster Station Modifications Project No. W06-1425.1C.
51. No. PW041106-05 Authorize staff to advertise for bids for 9<sup>th</sup> Street to West Boulevard, Clark Street to Fairview Street Sewer Extension Project No. SS06-1556; CIP #50624.
52. No. PW041106-07 Authorize staff to advertise for bids for Haines Avenue PCCP Panel Repair Project No. STCM06-1537; CIP #50445.
53. No. PW041106-08 Authorize the Mayor and Finance Officer to sign a Professional Services Agreement with Kadmas Lee and Jackson for the East Highway 44 Utilities Reconstruction Project No. SSW05-1469; CIP #50489 for an amount not to exceed \$65,052.50.
54. No. PW041106-09 Authorize the Mayor and Finance Officer to sign Right-of-Way agreements for Creek Drive Bridge Replacement, South Dakota Department of Transportation Project No. BRO 8052 (56) PCN H100.
55. No. PW041106-10 Authorize staff to solicit Request for Proposals for professional services for the design and construction administration of playground improvements at City parks.
56. No. PW041106-11 Authorize staff to solicit Request for Proposals for professional services for the design and construction administration of roof replacement improvements on various City buildings.
57. No. PW041106-14 Authorize staff to solicit Request for Proposals for engineering services for Water Wells #13, #14, and #15, City of Rapid City Project No. W06-1578; CIP #50454.
58. No. PW041106-18 Authorize staff to solicit Request for Proposals for 2006 Geotechnical Investigations, Materials Testing and Quality Assurance Testing.
59. No. PW041106-15 Approve a Resolution fixing time and place for hearing on May 15, 2006 for Assessment Roll for Centre Street Sewer Main Extension Project No. SS00-940.

RESOLUTION FIXING TIME AND PLACE FOR HEARING ON  
ASSESSMENT ROLL FOR  
CENTRE STREET SEWER MAIN EXTENSION  
PROJECT NO. SS00-940

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

1. The assessment roll for Centre Street Sewer Main Extension Project No. SS00-940 was submitted to the Finance Office on the 17<sup>th</sup> day of April, 2006. The City Council shall meet at the City/School Administration Center in Rapid City, South Dakota, on Monday, May 15, 2006 at 7:00 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.

2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time and place of hearing thereon, that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.

3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 17<sup>th</sup> day of April, 2006.

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

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

60. No. 06VE003 Approve a **Vacation of the Non-Access Easement** for petitioner Davis Engineering, Inc. on Lot 2 of Block 10, Murphy Ranch Estates Subdivision, located in the NE1/4 NW1/4, NW1/4 NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the southwest corner of the intersection of Springfield Road and Wesson Road.

RESOLUTION OF VACATION  
OF NON-ACCESS EASEMENT

WHEREAS the Rapid City Council held a public hearing on the 17<sup>th</sup> day of April, 2006 to consider the Vacation of a Non-access Easement on Lot 2 of Block 10, Murphy Ranch Estates Subdivision, located in the NE1/4 NW1/4, NW1/4 NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the southwest corner of the intersection of Springfield Road and Wesson Road; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the non-access easement to be vacated and released.

NOW, THEREFORE, BE IT RESOLVED by the Rapid City Council, that the portion of the non-access easement heretofore described, and as shown on Exhibit "A", attached hereto and incorporated herein by this reference, is not needed for public purpose and is hereby vacated.

Dated this 17<sup>th</sup> day of April, 2006.

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

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

- 61. No. 06VE004 Approve a **Vacation of Non-access Easement** for petitioner FMG, Inc. for FICACS, LLC on Lots 1 and 2 of Mediterranean Subdivision, located in the SE1/4 SW1/4, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 1805 38th Street.

RESOLUTION OF VACATION  
OF NON-ACCESS EASEMENT

WHEREAS the Rapid City Council held a public hearing on the 17<sup>th</sup> day of April, 2006 to consider the Vacation of a Non-access Easement on Lots 1 and 2 of Mediterranean Subdivision, located in the SE1/4 SW1/4, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1805 38th Street; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the non-access easement to be vacated and released.

NOW, THEREFORE, BE IT RESOLVED by the Rapid City Council, that the portion of the non-access easement heretofore described, and as shown on Exhibit "A", attached hereto and incorporated herein by this reference, is not needed for public purpose and is hereby vacated.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 62. No. 06VE005 Approve with stipulations a **Vacation of a Drainage Easement** for petitioner CETEC Engineering Services, Inc. for Scott Nelson on Lot 7 of Grimm Addition located in the NE1/4 NW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1600 E. Highway 44.

RESOLUTION OF VACATION  
OF THE DRAINAGE EASEMENT

WHEREAS it appears that a portion of the drainage easement on Lot 7 of Grimm Addition, located in the NE1/4 NW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1600 E. Highway 44, is no longer needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the utility easement to be vacated and released.

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the portion of the utility easement heretofore described and as shown on Exhibit "A", attached hereto and

incorporated herein by this reference, is not needed for a public purpose and is hereby vacated.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 63. No. 06VE006 Approve a **Vacation of Drainage Easement** for petitioner David Asbridge on Lot 11B of Lot 11, Block 2, Grandview Tract, Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3931 Canyon Drive.

RESOLUTION OF VACATION  
OF THE DRAINAGE EASEMENT

WHEREAS it appears that a portion of the drainage easement on Lot 11B of Lot 11, Block 2, Grandview Tract, Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3931 Canyon Drive, is no longer needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the utility easement to be vacated and released.

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

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 64. No. 06SE001 Approve a special **Exception to the Street Design Criteria Manual** to allow three points of access to street system and allow access from both adjoining streets in lieu of lesser traveled streets for petitioner FMG, Inc. for FICACS, LLC on Lots 1 and 2 of Mediterranean Subdivision, located in the SE1/4 SW1/4, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1805 38th Street.
- 65. No. 06TP004 Acknowledge the Pedestrian / Bicyclist Crash Report 2002-2005.
- 66. No. 06TP005 Acknowledge the Rapid City Area Metropolitan Planning Organization 2005 Traffic Volume Counts Report.

- 67. No. 06TP006 Authorize staff to solicit Request for Proposals for the Sheridan Lake Road Traffic Analysis, Route Alignment Study and Environmental Assessment.

**Legal & Finance Committee Consent Items**

- 68. No. LF032906-23 Approve a Resolution Creating the Basin Electric Intertie Study Area.

A RESOLUTION CREATING THE BASIN ELECTRIC  
INTERTIE STUDY AREA

WHEREAS, the City Council has concerns regarding the noise and vibration emissions of the Basin Electric AD – DC power conversion station Intertie system; and

WHEREAS, the City of Rapid City plans to examine the impact of the Intertie on future residential development, land use compatibility, and storm drainage runoff, and

WHEREAS, the City Council may by resolution designate study areas, which because of groundwater, topography, street, road or access inadequacies, availability of sewer or water, or drainage problems, require special information, analysis, and plan development prior to platting as per Chapter 16.08.040 of the Rapid City Municipal Code; and

WHEREAS, the City of Rapid City will establish a special study area in consultation with Pennington County; and

WHEREAS, the City Council has established a one-half mile buffer surrounding the Basin Electric Intertie systems; and

WHEREAS, the study area is located within the City’s three mile platting jurisdiction; and

WHEREAS, the City Council will receive the results of the special study area no later than January 27, 2007; and

WHEREAS, the City Council of the City of Rapid City deems it to be in the best interest of the City that the within described area be designated as a special study area.

NOW, THEREFORE BE IT RESOLVED by the City of Rapid City that the following area is hereby designated as the Basin Electric Intertie Study Area:

That portion of property lying within one-half mile of the S1/2SE1/4SW1/4; S1/2N1/2SE1/4SW1/4; SE1/4SW1/4SW1/4 less W220 feet; S1/2NE1/4SW1/4SW1/4 less W220 feet, all located in Section 28, T1N, R8E, BHM, Pennington County, South Dakota

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 69. Acknowledge the energy efficiency improvements report.
- 71. No. LF020106-08 Acknowledge the withdrawal of an Event Permit for Rapid City Central and Stevens High School/South Dakota High School Activities Association for the final day of the state high school track and field championships.
- 72. No. LF041206-02 Approve a Travel Request for James Ronfeldt and Brad Booth to attend a Training Conference in Kansas City, MO, June 11-15, 2006, in the approximate amount of \$1,850.
- 73. No. LF041206-19 Authorize the Mayor and Finance Officer to sign Agreement with Lamar Advertising for the Police Department.
- 74. No. LF041206-03 Authorize the Mayor and Finance Officer to sign Agreement with Founders Park, LLC as it relates to the vacation of West Street Right of Way and Public Utility Easement.
- 77. No. LF041206-18 Authorize the Mayor and Finance Officer to sign the Utility Easement Document on Lots 12B and Lot 13 of Block 1, Fountain Springs Park Subdivision.
- 78. No. LF041206-04 Approve a Resolution Declaring Property Surplus for the Police Department.

RESOLUTION DECLARING PROPERTY SURPLUS

WHEREAS the below-described property is no longer necessary, useful or suitable for municipal purposes

NOW, THEREFORE, BE IT RESOLVED that the following property be declared surplus and disposed of according to state statutes, including disposal, sale or trade-in on new equipment:

Police Department

2001, Dodge Grand Caravan, VIN 2BHGP44331R332055, License CTY 5871

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

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 79. No. LF041206-05 Authorize the Mayor and Finance Officer to sign an Agreement with the Rushmore Plaza Civic Center for a May 11, 2006, for Defensive Driving.
- 80. No. LF041206-21 Approve a Resolution Approving and Authorizing the Execution of a Governmental Lease Purchase Agreement and Supplements Thereto and Related Documents and Certificates.

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A GOVERNMENTAL LEASE-PURCHASE AGREEMENT AND

## SUPPLEMENTS THERETO AND RELATED DOCUMENTS AND CERTIFICATES

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

1.) The Governmental Lease-Purchase Agreement (the "Agreement" or the "Lease") and the Supplement or Supplements thereto and the Escrow Agreement, if any, are hereby approved substantially in the form presented to this council and on file in the office of the Finance Officer.

2.) The Mayor of the City is hereby authorized to execute the Agreement and any Supplement or Supplements thereto on behalf of the City, and to execute such other certificates and documents as may be necessary and appropriate to effectuate the transactions contemplated by the Agreement and said Supplement or Supplements. The Agreement, the Supplement or Supplements and the related documents may contain such necessary and appropriate variations, omissions and insertions as the Council shall determine to be necessary, and the execution thereof by the Mayor shall be conclusive evidence of such determination and its approval by the Council.

3.) Lessee reasonably anticipates that it will not issue tax-exempt obligations (not including "private activity bonds" as defined in Section 141 of the Internal Revenue Code of 1986, as amended) in an aggregate amount in excess of \$10 million during the calendar year in which the Lease commences. The lease is designated as a qualified tax exempt obligation for purposes of Section 265(b)(c) of the Internal Revenue Code of 1986, as amended, relating to deductibility of interest by financial institutions.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

81. No. LF041206-16 Approve a Travel Request for Dion Lowe to attend Design of Stormwater Management Systems in Minneapolis, MN, April 30-May 2, 2006, in an approximate amount of \$1,879.38.
82. No. LF041206-08 Authorize the Mayor and Finance Officer to sign a Contract with Rushmore Plaza Civic Center for use of the bandshell on June 25, 2006.
83. No. LF041206-09 Acknowledge Swim Center closure report.
84. No. LF041206-10 Authorize the Mayor and Finance Officer to sign a Supplemental Contract for Private Development for Tax Increment District Number Thirty-Two with Red rock Development Co., LLC.
85. No. LF041206-11 Authorize the Mayor and Finance Officer to sign a Settlement Agreement between NGB Investment Company, d/b/a Richland Park Mobile Home Estates, and Walgar Development Corporation and acknowledge acceptance of drainage easements.
86. No. LF041206-13 Authorize the Mayor and Finance Officer to sign Exhibit 3 - Local Governing Body Approval for Cornerstone Rescue Mission's Application to South Dakota

Housing Development Authority for Low Income Housing Tax Credits and HOME Funds for their Transitional Housing Project, A.K.A. Cornerstone Apartments.

87. No. LF041206-00 Acknowledge Raffle Request from Rapid City Area School District 51/4.
88. No. LF041206-14 Approve abatement for Helen Schoedler - \$374.08.
89. Approve the following licenses: Sewer and Water Journeyman: Kevin Good, Kurt Garlick; Sewer and Water Contractor: Chuck Ferguson, Ferguson Construction.

***Growth Management Department Consent Items***

90. No. 06PL014 - A request by D. C. Scott Surveyors, Inc. for West River Electric Association for a **Preliminary Plat** on Lot 1R of Neff's Subdivision No. 3 (formerly Lot 1 of Neff's Subdivision and the unplatted portion of the SW1/4 SW1/4), Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 of Neff's Subdivision No. 3 and the unplatted portion of the SW1/4 SW1/4, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 400 Elk Vale Road. (APPROVE A PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: 1. Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department; 2. Prior to Preliminary Plat approval by the City Council, construction plans for Elk Vale Road shall be submitted for review and approval. In particular, the road construction plans shall show the street constructed with curb, gutter, sidewalk and street light conduit or a Variance to the Subdivision Regulations shall be obtained; 3. Prior to Preliminary Plat approval by the City Council, construction plans for the section line highway located along the south lot line shall be submitted for review and approval. In particular, the road construction plans shall show the section line highway 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 highway shall be vacated. The adjacent property owner(s) shall sign the petition to vacate the section line highway or a Variance to the Subdivision Regulations shall be obtained to allow half a right-of-way; 4. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show the collector street in the northeast corner of the subject property as per the Major Street Plan or a Comprehensive Plan Amendment to the Major Street Plan shall be approved relocating and/or eliminating the collector street. In addition, road construction plans for the collector street shall be submitted for review and approval. In particular, the road construction plans shall show the street located in a minimum 60 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; 5. Prior to Preliminary Plat approval by the City Council, road construction plans for the 66 foot wide access easement shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 26 foot wide paved surface, curb, gutter, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 6. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show the existing City sewer main located along the west lot line of the subject property within a utility easement; 7. Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; and, 8. 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.)

91. No. 06PL021 - A request by Fisk Land Surveying & Consulting Engineers for Cedar Investment Property, LLC for a **Layout Plat** on Lots 1 thru 4, Cedar Subdivision and Dedicated Right-of-Way, formerly the unplatted portion of the NE1/4 SW1/4 NE1/4, Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NE1/4 SW1/4 NE1/4, Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Plant Street and Deadwood Avenue. (ACKNOWLEDGE THE APPLICANT'S REQUEST TO WITHDRAW THE LAYOUT PLAT.)
92. No. 06PL032 - A request by Gail Hanson for a **Layout Plat** on Lots C1 and C2, Willard Addition, Section 4, T1N, R7E, BHM, Rapid City Pennington County, South Dakota, legally described as Lot C, Willard Addition, Section 4, T1N, R7E, BHM, Rapid City Pennington County, South Dakota, located at 1622 Evergreen Drive. (DENY WITHOUT PREJUDICE.)
94. No. 06PL035 - A request by Sperlich Consulting, Inc. for James and Patricia Mirehouse for a **Preliminary Plat** on Lot 5R of Lot 3, Block 4, Grandview Tract, formerly Lot 5 of Lot 3, Block 4, Grandview Tract, and a portion of Lot 4, Block 2, Parkridge Village No. 2; Lot 4R, Block 2, Parkridge Village No. 2, formerly a portion of Lot 4, Block 2, Parkridge Village No. 2, all located in the SW1/4 NE1/4, NW1/4 NE1/4, SE1/4 NW1/4, Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 5 of Lot 3, Block 4, Grandview Tract, and a portion of Lot 4, Block 2, Parkridge Village No. 2; all located in the SW1/4 NE1/4, NW1/4 NE1/4, SE1/4 NW1/4, Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3821 Park Drive. (APPROVE A PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: 1. Prior to submittal of a Final Plat application, the plat document shall be revised eliminating the "Perpetual Use Easement" note; and, 2. Prior to submittal of a Final Plat application, the plat document shall be revised showing the detailed grading and drainage plan note referring to Lot 4R in lieu of Lot 4.)

END OF CONSENT CALENDAR

Johnson moved, second by Olson to (No. LF041206-20), approve the amended 2012 Plan as outlined. Dan Michael, Rapid City believed the Civic Center skyboxes should be outside the 2012 scope so as not to affect other 2012 funded projects. Alderman Kooiker indicated his concern about public input, adjusting the revenue projections, and delaying projects. Alderman Johnson pointed out the potential revenue that could be realized from the number of skyboxes; and that revenue could be used to make necessary improvements to the existing Civic Center facility. Alderman Chapman reported visiting with those organization who will receive 2012 funding and all have offered support of the amended 2012 plan. Finance Officer Preston reiterated that the General Fund budget will use 3.5 percent for revenue projections; and the initial Civic Center request for the expansion was \$14.9 Million and the current request is for \$18.1 Million. Mayor Shaw indicated that this is about additional revenue to the City through the Civic Center, and the expansion allows the Civic Center to have more reservation dates for events and will attract a higher level of activity. A member of the Rapid City Soccer Complex Committee spoke to the Council about being pushed back and funded in FY 2008; but believed

the Civic Center skyboxes is a worthwhile community project. They indicated that their original request for funding was \$4 Million, and they were awarded \$3.8 Million, and they are conducting fund raisers for the remaining balance. Finance Officer Preston explained there is a difference in the projected revenues for the General Fund and the 2012. The revenue projection is 4.5 percent over a five-year plan; and when a plan consists of one-time purchases or projects, the plan can be adjusted and projects delayed when the revenue projection is lower than anticipated. Upon a roll call vote on the motion to approve, the following voted AYE: Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, Hadley, and Olson; NO: Kooiker and Schumacher. Motion carried.

Hurlbut moved, second by Johnson and carried to (No. PW041106-06), authorize staff to advertise for bids for the Rushmore Plaza Civic Center Multipurpose Addition Project No. IDP06-1555.

The Mayor presented No. 06VR001, a request by Centerline for Founder's Park, LLC for a **Vacation of Right-of-Way** on West Street Right-of-Way adjacent to Philadelphia Street and West Chicago Street, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1350 West Chicago. The following resolution was introduced, read and Olson moved its adoption:

RESOLUTION OF VACATION  
OF PUBLIC RIGHT-OF-WAY

WHEREAS it appears that the public right-of-way adjacent to West Street Right-of-Way and adjacent to Philadelphia Street and West Chicago Street, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 1350 West Chicago; is not needed for public purposes; and

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

NOW THEREFORE, BE IT RESOLVED by the City of Rapid City that the public right-of-way heretofore described, and as shown on Exhibit "A", attached hereto, and incorporated herein, 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 public right-of-way in regard thereto.

Dated this 17<sup>th</sup> day of April, 2006.

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

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for the adoption of the forgoing resolution was second by Chapman with the following that the Vacation of Right-of-Way be approved with the following stipulation: 1. Prior to City Council approval, the applicant shall enter into an agreement with the City to insure that

West Street shall remain in place with adequate easement(s) being recorded at the Register of Deed's Office and to insure the coordination of the removal and construction of access street(s) as needed. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Kooiker; NO: None; whereupon said resolution was declared duly passed and adopted.

The Mayor presented No. 06TI001, a request by City of Rapid City to consider an application for a **Resolution Creating Tax Increment District No. 60** on Lot 16, Block 31, Nowlin & Wood Replat, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the LaCrosse Street right-of-way from the north boundary of the railroad right-of-way in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota to the south boundary of I-90 Interstate right-of-way, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lot H-1 in the SW1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Anamosa Street and west of LaCrosse Street, and a portion of LaCrosse Street and the southern on/off ramps to US Interstate 90 at Exit 59. Alderman Okrepkie believed this project to be an opportunity to enhance the area, using private funds. City Attorney Green reminded the members that the Planning Commission denied this request, and advised that the Council does not have the authority to approve the creation of this district. Hani Shafai, Dream Design Internatinal outlined the project plan as nodes, landscaping, and plantings along the interstate on-off ramps, landscaping on LaCrosse Street in the area between the railroad tracks and Sam's Club and an area across the street from Sam's Club occupied by an apartment complex. Shafai indicated that the Tax Increment District will be funded privately, by the property owner of the apartament complex; and the total cost for the Tax Increment District is an estimated \$525,000. He indicated that approximately forty percent of the money will go towards building the enhancements in front of the apartments – landscaping, creating a berm, and fence to minimize the noise from the traffic; and the remaining balance will go to the ramps and area behind Sam's Club. Shafai suggested the private landowner is taking the risk, not the taxpayer.

Johnson moved, second by Chapman to deny No. 06TI001, a request by City of Rapid City to consider an application for a **Resolution Creating Tax Increment District No. 60** on Lot 16, Block 31, Nowlin & Wood Replat, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the LaCrosse Street right-of-way from the north boundary of the railroad right-of-way in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota to the south boundary of I-90 Interstate right-of-way, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lot H-1 in the SW1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Anamosa Street and west of LaCrosse Street, and a portion of LaCrosse Street and the southern on/off ramps to US Interstate 90 at Exit 59; and deny No. 06TI002, a request by City of Rapid City to consider an application for a **Project Plan for Tax Increment District No. 60** on Lot 16, Block 31, Nowlin & Wood Replat, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the LaCrosse Street right-of-way from the north boundary of the railroad right-of-way in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota to the south boundary of I-90 Interstate right-of-way, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and Lot H-1 in the SW1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Anamosa Street and west of LaCrosse Street, and a portion of LaCrosse Street and the southern on/off ramps to US Interstate 90 at Exit 59. Upon a roll call vote, the

following voted AYE: Johnson, Kroeger, Hadcock, Hurlbut, Chapman, and Olson; NO: Schumacher, Hadley, and Okrepkie. Motion carried to deny.

The Mayor presented No. 06PL033, a request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1R thru 7R, 4AR and 7AR, Block 1; and Lots 1R thru 4R, 4AR, Block 3, located in the SE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 7, Block 1; and Lots 1 thru 4, Block 3, Rainbow Ridge Subdivision, located in the SE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the north and south side of Alma Street and west of Bunker Drive. Olson moved, second by Chapman to approve a Preliminary Plat. Upon a vote being taken on the motion to approve, motion carried with Alderman Kroeger abstaining.

### **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 comments or objections were voiced. Chapman moved, second by Johnson and carried to close the public hearing.

Chapman moved, second by Johnson and carried to continue Two Lefties' and Pancho's Mexican Grill, LLC dba **Panchero's Mexican Grill**, 1221 West Omaha Street for a Retail (On-Off Sale) Malt Beverage license hearing to May 15, 2006.

Chapman moved, second by Hadcock and carried to approve the following alcohol license applications: M. G. Oil Company dba **Market Square Casino**, 1624 East St. Patrick Street for a Retail (On-Off Sale) Malt Beverage license with Video Lottery transfer from Red Rock Golf Club, LLC dba Red Rock Golf Club, 6520 Birkdale Drive.

### ***Set for Hearing (May 1, 2006)***

Chapman moved, second by Hadcock and carried, and the Finance Officer was directed to publish notice of hearing on the following application, said hearing to be held as follows:

97. **Rapid City Area Chamber of Commerce** for a special Beer & Wine License for an event scheduled May 9, 2006 at the Black Hills Surgery Center, 216 Anamaria Drive
98. **Rapid City Area Chamber of Commerce** for a special Beer & Wine License for an event scheduled June 13, 2006 at the Black Hills Visitor Information Center, 1851 Discovery Circle
99. **Rapid City Fine Arts Center, Inc.** for a special Wine License for an event scheduled May 12, 2006 at the Dahl Arts Center, 713 7<sup>th</sup> Street
100. **Rapid City Fine Arts Center, Inc.** for a special Beer & Wine License for an event scheduled June 8, 2006 at the Dahl Arts Center, 713 7<sup>th</sup> Street
101. **Unity of the Black Hills Church**, 11012 Walnut Street, Piedmont, SD for a special Wine License for an event scheduled May 21, 2006 at home of Tony Diehl, 721 West Blvd.
102. Tanya Tschakert dba **Caffe Amore**, 505 North 5<sup>th</sup> Street for a Package (Off-Sale) Liquor License
103. Atlantis, LLC dba **Watiki Indoor Water Park Resort / Fairfield Inn & Suites**, 1314 North Elk Vale Road for a Retail (On-Off Sale) Malt Beverage License

Chapman moved, second by Olson to direct the Finance Officer to publish notice of hearing on May 1, 2006 on the following application: SCL, Inc. dba **The Hall Inn**, 214 East St. Joseph Street for a Retail (On-Off Sale) Malt Beverage License transfer from Stanley Kline dba **The Hall Inn**, 214 East St. Joseph Street. City Attorney Green reported that there is a minor issue with the application. The transfer Affidavit is signed, but not notarized. He advised the Council to set the hearing, realizing that the hearing may not be held if the notarization is not completed before the hearing date. Motion carried.

### **ITEMS FROM THE MAYOR**

Kroeger moved, second by Johnson to approve the appointment of Michelle McKenna to the Business Improvement District (BID) Board for a term of one year. Substitute motion was made by Schumacher, second by Hadley to continue the appointment to the May 1, 2006 Council meeting. Upon a roll call vote, the following voted AYE: Schumacher; NO: Kroeger, Hadcock, Hurlbut, Chapman, Kooiker, Hadley, Olson, Okrepkie, and Johnson. Substitute motion failed. Upon a vote being taken on the motion to approve, motion carried with Schumacher voting NO.

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

Alderman Schumacher indicated his desire to have minutes / notes of the Future Land Use Committee meetings, explaining that they do not need to be extensive. Schumacher moved, second by Kooiker to direct the Future Land Use Committee to keep general notes of their committee meetings. Alderman Hadcock pointed out that in a previous action, Council tabled this issue.

Substitute motion was made by Hadcock, second by Hurlbut to deny. Alderman Kooiker was of the opinion that this warrants some discussion because minutes are recorded for the Plumbing Board, Electrical Board, Sign Code Board of Appeals, etc.

Second substitute motion was made by Kooiker, second by Schumacher to remove the item from the table. Upon a roll call vote, the following voted AYE: Chapman, Kooiker, Schumacher, Hadley, Okrepkie, and Johnson; NO: Hadcock, Hurlbut, Olson, and Kroeger. Motion carried.

Motion was made by Kooiker, second by Schumacher to refer the discussion of minutes / notes of the Future Land Use Committee meetings to the April 25, 2006 Public Works Committee meeting for further consideration. Growth Management Director Elkins explained that the Future Land Use Committee is a subcommittee of the Planning Commission; and involves Council members, Planning Commissioners, and staff who work in an informal process. This Committee will extend an invitation to affected land owners and concerned individuals to attend their meetings to discuss concerns. When issues are resolved, public meetings will be conducted. When there is a draft, supported by the Future Land Use Committee, there will be a formal hearing and notices will be mailed to affected property owners. When a formal plan is in place, the Planning Commission will make a recommendation to the Council. In response to a question from Mayor Shaw, Elkins explained that the Future Land Use Committee is created by the Planning Commission to assist them in their work. Alderman Kroeger explained that this committee is a working committee and have no final approval.

Upon a roll call vote being taken on the motion to refer to the Public Works Committee, the following voted AYE: Kooiker, Schumacher, Hadley, Okrepkie, and Johnson; NO: Hurlbut, Chapman, Olson, Kroeger, and Hadcock. The Chair declared a tie vote, and voted NO. Motion failed.

### **BID AWARDS**

The following companies submitted bids for No. CC041706-02 Sweeper Broom Refills for the Street Division opened March 30, 2006: Sheehan Mack Sales & Equipment, Inc. and Old Dominion Brush Company, Inc. Staff reviewed the bids and recommends all bids be rejected and re-advertised. Johnson moved, second by Hurlbut and carried to reject all bids for the Sweeper Broom Refills and authorize staff to advertise for bids.

The following companies submitted bids for 2006 Mill and Overlays, Various Locations, Project No. ST06-1570 / CIP No.50549 opened April 17, 2006: Staff reviewed the bids and recommends all bids be referred to the April 25, 2006 Public Works Committee meeting; whereupon Hadcock moved, second by Olson and carried to refer the bid award to the Public Works Committee.

### **APPROVAL OF BILLS**

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

Payroll Paid Ending 04-1-06, Paid 04-07-06	721,726.96
Payroll Paid Ending 04-1-06, Paid 04-07-06	3,408.80
Pioneer Bank, Taxes Paid 04-07-06	175,716.92
Pioneer Bank, Taxes Paid 04-07-06	235.42
First Administrators, claims paid 04-05-06	103,597.15
Pennington County Auditor, PSB Construction, parking	57,193.47
Berkley Risk Administrators, March claims	94,337.09
1 <sup>st</sup> National Bank in Sioux Falls, SRF loan payments	388,219.18
Black Hills Electric Cooperative, electricity	545.40
Black Hills Power & Light, electricity	9,047.57
Montana Dakota Utilities, gas	9,112.19
West River Electric Association, electricity	18,986.58
United States Postmaster, postage	1,600.00
Computer Bill List	<u>2,453,726.94</u>
Subtotal	\$4,037,453.67
Payroll Paid Ending 03-18-06, Paid 03-24-06	2,603.83
Pioneer Bank, Taxes Paid 03-24-06	199.20
Charles Braunersrither, volunteer stipend	150.00
City of Rapid City, postage	6.34
City of Rapid City, health insurance	733.00
Dakota Business Center, copier maintenance	13.69
Rapid City Area Schools, postage	0.37
Prairie Wave Communications, telephone	31.66

SD Retirement Systems, pension	306.90
Standard Life, life insurance	<u>7.92</u>
Total	\$4,041,506.58

### **POLICE DEPARTMENT ITEMS**

Johnson moved, second by Schumacher and carried to open the public hearing on an appeal by Erik Dudley on a denial of a security license. City Attorney Green advised the Council that Erik Dudley has filed an application for a security license, and the Police Chief has denied the application. This is the opportunity for the applicant to appeal that decision. Erik Dudley explained the indiscretions of his youth indicating that a former roommate was a drug dealer. Dudley indicated that the Police Department entered the residence illegally; and he was arrested illegal and his rights were violated. Dudley reported the case was dismissed. Dudley reported that he is a mechanical journeyman, has a family, and owns his own home. He explained that he wants a part-time job for some extra income for himself and his family. Dudley indicated that he did not believe the indiscretion of his youth should be held against him. Police Chief Tieszen reported that on April 13, 1999 drug agents executed a drug warrant on the home. In addition to finding marijuana and drug paraphernalia, seven grams of methamphetamine were found under the applicant's mattress. Tieszen explained the charge was intent to distribute, and the charge was dismissed. Tieszen reported that the applicant has applied to provide security at Venue Eight; an establishment where the Police Department has had issues and difficulties, and is a place inhabited by young adults. He explained that this is the basis for the denial of the application. Tieszen further reported that State criminal records indicate the applicant was charged with a DUI offense in late 1999; and additionally, possession of marijuana and drug paraphernalia. Also, in 2001 the applicant was charged with underage alcohol possession. Dudley's response was that during the search the drug paraphernalia, utensils used to smoke, and utensils used to weigh the drugs were found in his roommate's room. Dudley indicated he had a problem with marijuana and alcohol.

Hurlbut moved, second by Schumacher to overturn the denial of a security license, subject to monitoring by the Police Department for Erik Dudley, 924 N. Maple Avenue. In response to a question from Alderman Chapman, Tieszen explained that all licenses are monitored. Annually, the licenses are renewed, reviewed by the Police Department and approve or denied. Tieszen asked for direction, if monitoring is to be something more than is done annually. Alderman Olson suggested that the monitoring requirement should not be imposed on the Police Department. Aldermen Hurlbut, Schumacher, Johnson and Hadley offered support to overturn the denial. Question was called by Alderman Kooiker. There being no objection a vote was taken on the motion. The following voted AYE: Kooiker, Schumacher, Hadley, Johnson, and Hurlbut; NO: Chapman, Olson, Okrepkie, Kroeger, and Hadcock. The Chair declared a tie vote, and voted NO. Motion failed.

Johnson moved, second by Okrepkie and carried to open the public hearing on an appeal by Derrick Torian on a denial of a security license. As the applicant did not appear before the Council, Okrepkie moved, second by Kooiker and carried to uphold the denial of a security license for Derrick Torian, 1804 Evergreen Drive.

### **CITY ATTORNEY'S ITEMS**

Okrepkie moved, second by Olson and carried to go into Executive Session at 12:45 A.M. to discuss pending litigation matters. The Council came out of Executive Session at 1:00 A.M. with all members present. No action was taken.

**ADJOURN**

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

ATTEST:

CITY OF RAPID CITY

\_\_\_\_\_  
Finance Office

\_\_\_\_\_  
Mayor

(SEAL)