

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

June 18, 2007

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, June 18, 2007 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Karen Olson, Ron Kroeger, Sam Kooiker, Malcom Chapman, Tom Johnson, Lloyd LaCroix, Bill Okrepkie, and Deb Hadcock; and the following Alderpersons arrived during the course of the meeting: Bob Hurlbut; and the following were absent: Mike Schumacher.

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Growth Management Director Marcia Elkins, Public Works Director Dirk Jablonski, Fire Chief Gary Shepherd, Police Chief Craig Tieszen, and Administrative Coordinator Jackie Gerry.

**ADOPTION OF AGENDA**

The following items were added to the agenda:

- Add Public Comment after Executive Session
- Appointment of John Brewer to the Planning Commission
- North Rapid mural
- Parks and recreation landscaping
- Emergency Equipment Repair
- Set special Council meeting, June 28, 2007 at 12:30 P.M.

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

**APPROVE MINUTES**

Okrepkie moved, second by LaCroix and carried to approve the minutes of May 21, 2007 and June 8, 2007 special Council meeting.

**AWARDS AND RECOGNITIONS**

Mayor Shaw presented the Veteran of the Month for June, 2007 to Richard Stradinger and recognized his efforts and dedication to the service of his country and community.

**EXECUTIVE SESSION**

Okrepkie moved, second by LaCroix to go into Executive Session at 7:19 P.M. for the reasons permitted by SDCL 1-25-2 (3). Upon a roll call vote, the following voted AYE: Olson, Kroeger, Chapman, Johnson, LaCroix, Okrepkie, and Hadcock; NO: Kooiker. Motion carried.

Chapman moved, second by LaCroix to come out of Executive Session at 7:43 P.M. with all members present. Motion carried unanimously.

Chapman moved, second by Johnson and carried to open public comment on Items 3 – 5; and allow three minutes for each speaker.

Bill Honerkamp, Black Hills Badlands & Lakes Association indicated that the Association members were excited when it was apparent that Cabela was coming; and they want Rapid City to do whatever is necessary to bring Cabela to the City. He indicated that they are concerned about offering the Visitor Information Center as an incentive, as the VIC is a community asset. He pointed out that information centers are stand-alone facilities and any information center associated with a store, a stadium, or a Civic Center is rare and have not been successful. He reported surveying the first 200 people at the VIC about whether they would stop if the facility had been located in a retail store in a shopping complex; and reported that only one indicated in the affirmative. Honerkamp explained that the VIC would only occupy one-half the space that they currently occupy; suggested that the VIC would be difficult to find; and indicated that there would be marketing disadvantages because the Black Hills Visitor's Information Center would become known as the Cabela Information Center. Honerkamp asked the Council to consider replatting, rebuilding, or perhaps moving the current VIC structure.

John Brockelsby, Reptile Gardens offered support of the Cabela retail store but asked that the VIC be kept at its present location believing there will be an increase in the visitation because of Cabela.

Janet Smith, Rapid City indicated that she is offended that the City would pay large amounts of money to an out-of-town company without regard to the people who are business people in the community. She commented on a recent news article from Richmond, WI that reported that the City of Richmond turned down the location of a Cabela store in their community because they can not afford the \$10 Million and land gift. Smith suggested that anyone could use a Cabela retail store, but not at the expense of the tax dollars that have been raised by those living and working in the community. She also pointed out that the City will violate a 20-year lease with the BHB&L Association. She asked that the City not give the land or the money to the Cabela retail store.

Bill Freytag, Rapid City favored the Cabela retail store and reminded the Council and citizens that the sales tax is what causes the front door to swing on City Hall. He explained that sales tax subsidizes everyone's property tax. He explained that the City's portion of the property tax will not pay the Police and Fire Departments' budgets. Freytag pointed out that the City's General Fund exists on sales tax revenue. He indicated that Cabela and the other retailers that will follow are estimated to bring \$3.7 Million per year in sales tax dollars to the City. He suggested that bringing a Cabela retail store to the City is a win-win situation.

Marilyn Oakes, Keystone explained that she and her family are commercial property owners. She pointed out that there have been national corporations that have leased property and explained that those national corporations have not always performed as they were expected to perform in this area. As a taxpayer, she indicated her concern that if a Cabela retail store is brought to the City, what is to prevent them from leaving the area within the next five years. She indicated her opposition to giving Cabela the 30 acres on a major commercial interchange.

Frank Morrison, Rapid City asked if the City would give him \$2 Million, 30 acres of land, and a building for a development.

Curt Pochardt, Rapid City indicated his desire to publicly hear the discussion that Council had in their negotiations and Executive Session about this deal; and if approved, the justification.

Dorothy Amick, Rapid City believed the deal being made with Cabela's is wrong. She indicated that there is a need for a visitors' center for the tourist who comes to tour the Black Hills and the surrounding area. She believed it poor business on the City's part and a waste of money.

Ken Fuerst, Rapid City offered support for the Cabela retail store because it will create a lot of tax revenue.

Cody Ackerman, Rapid City indicated his support of the Cabela retail store but opposed the incentive to bring the retail store to Rapid City. Ackerman offered a little history about a super market wanting tax increment financing to locate in the vicinity of Shopko. He explained that the request was denied because it was believed it was an unfair advantage because other local grocery stores had not asked nor received tax increment financing. He asked if the City would consider such a deal with other sports retailers and questioned the expense to the taxpayer when relocating the VIC; the total cost of the package given to the Cabela retail store; the projected loss of taxes over 20 years of the TIF; the projected value of the land and building in 12 years or 20 years, if the City kept the land and sold the land at the end of the lease or TIF.

John Esposti, Keystone and BHB&L Association commission member pointed out that tourism is a major industry in all of western South Dakota and a major employer in the Rapid City area. He indicated that the Association plays a crucial roll in leading and supporting the tourism community; and that there is the on-going economic benefit of the BHB&L and VIC stature and prestige of having the headquarters in Rapid City, and the potential of economic stability and growth from its continued presence. Esposti indicated that it is an important goal in keeping the headquarters and regional information center of a region-wide industry in Rapid City; but that it will best serve as a stand alone facility. Esposti asked that the City leave the present structure and present occupancy in tact and build the Cabela retail store adjacent to the VIC.

Mike Verchio, Hill City and BHB&L Association Vice President asked that the VIC remain a stand alone facility; and if need be, relocate the structure. He asked for the opportunity to work with the City Council and Cabela's to make certain that they have every opportunity to be a success.

Paul Bradsky, Manager of ISIS Hospitality LLC indicated that their ownership group has five individual memberships in the BHB&L Association; and indicated that they do not agree with the position of the BHB&L Association on this issue. As members, he indicated that they would like to see their properties in the entire Black Hills promoted to its fullest extent as possible. He pointed out that the Association has had eight years in its present location to maximize its visitors; and if their attendance could increase from 65,000 a year to 10, 15 or 20 times that by being relocated inside Cabela's, the Association should be supporting the relocation.

Brian Boyer, Custer and BHB&L Association President reported that they had hired a consultant to look at the issue. Boyer indicated that the consultant reports that typically these centers are free-standing. He indicated their concern about logistical problems in locating the VIC inside a retail business. He indicated that they will need the continued support of the leadership of the City Council and the BHB&L Association Board. Boyer explained that it is critical to have signage along the interstate so that people know there is a visitors' center. He explained that it

is important to have a separate and independent entrance into the building. He asked to be included in the negotiations of the lease.

Steven Brenden, Rapid City suggested that people will not come to the Black Hills because of Cabela's. He indicated that they will come because of the hills and because this is a retail center.

Kevin Rhodes, Cabela's reported that they anticipate having the store open next year. He indicated that it is important to understand that while they are a retailer, they have demonstrated time and again that they have become a tourist destination. He indicated that they will respect the needs of the VIC to have a separate entrance, signage, and identity that separates them from Cabela's; and believed they could work together and create the VIC inside the complex that will bring more people into the visitor center than they have been able to experience over the last eight years. Rhodes indicated that they are committed to being a good corporate citizen in Rapid City, and publicly offered a commitment to contribute five percent of the development proceeds from the land where the current Visitor Information Center is located for the proposed soccer complex.

Mark Kirkeby, Rapid City pointed out that Cabela's has the potential to be an incredible tourist destination. He indicated that he is troubled by the position of the BHB&L Association and asked the Council to bring Cabela's to the area.

Lisa Sissenstein, Rapid City questioned the value of what the City is giving away and pointed out the interest in this area by other big box vendors. She spoke of the cooperative effort to market the Black Hills region as a tourist destination and asked the Council to say no to the request of land and money.

Brian Hagg, Rapid City suggested that there is a need to look at the vision for the City for the future. He pointed out that this is a marvelous retailer and they have become a final destination resort wherever they build. He believed this to be an investment and requested the City approve the request.

Pat Hall, Rapid City commented that in 1972 when the Civic Center was proposed, he opposed the facility; and suggested that this was foolish on his part. He commented that he was also against the City leasing the land for the hotel; and suggested that this, too, was foolish on his part. He reported that he has seen what Cabela's has done for the City of Mitchell, South Dakota; and urged the Council to look at what is good of the City, and suggested that Cabela's will be good for the City.

Mary Treeby, Rapid City questioned the amount of money that the City is putting towards this development; asked if this is the best use; and suggested that this business could come to Rapid City on its own. She questioned the number of jobs and if the jobs will bring money to the City's economy.

Duane Pankratz, Rapid City indicated that he owns property on the south side of the interstate and asked if the City would give some incentives for that site.

Olson moved, second by Okrepkie and carried to close public comment on Items 3 – 5.

LaCroix moved, second by Olson and carried to consider Items 3, 4, and 5 at one time.

Okrepkie moved, second by Johnson to (No. CC061807-03), authorize the Mayor and Finance Officer to sign an Agreement between City of Rapid City and Rapid City Economic Development Foundation, Inc.; to (No. CC061807-04 - Authorize Mayor and Finance Officer to Sign Agreement between City of Rapid City and Cabela's Retail, Inc.; and No. CC061807-05 - Authorize Mayor and Finance Officer to Sign Lease Agreement between Cabela's Retail, Inc. and City of Rapid City. Alderman Kooiker reported that, until recently, Cabela's was interested in the 30 acre corner property where the VIC is located for the reason of putting their store on the property. He explained that this has changed, the concept has changed, and they decided to look at some non-contiguous property on the same side of the interstate toward Exit 60. Kooiker indicated that Cabela's remains interested in the 30 acre parcel as an incentive to come to Rapid City. He explained that Cabela's will be able to develop the land, sell the land, plat the land, and the City will be transferring the 30 acre parcel without an appraisal. Kooiker suggested there is a need for a cost-benefit analysis and a written appraisal. Kooiker indicated that he is not opposed to Cabela's coming to Rapid City or locating on the VIC site. Alderman LaCroix indicated his concern about Cabela's and the 30 acres and reported asking Cabela representatives about the theme of the retail store and whether it would be a Black Hills theme. LaCroix indicated that he suggested to the Cabela representatives that a percentage of the sale of the land be contributed to the youth soccer complex proposed in the vicinity. Mayor Shaw pointed out that the 30 acre parcel will be placed back on the property tax rolls and could possibly generate sales tax revenue. Although a non-profit organization, Shaw indicated that the BHB&L Association is a private organization and it is not the responsibility of the taxpayers to provide a home for the BHB&L Association. He believed relocating the VIC to the Cabela retail store will attract more attention for the tourism industry in western South Dakota. Shaw indicated that the City will help the BHB&L Association find a new location for their office. Alderman Johnson reported that he has analyzed the proposal and believes it is a benefit for the community. He pointed out that increasing the sales tax will help the City maintain its infrastructure; and suggested the investment in Cabela's is an investment for the community. Johnson explained that as the development occurs, new wealth is created, property values go up, and the money will come back into the community to pay the City for its \$2 Million investment, land investment and possibly a new fire station that is needed for this area. He also explained that there is a 10-year reversionary period whereby if Cabela's moves, the City will get back the land and cash. Beyond that 10-year period, there is a scale that protects the City's interest. He also indicated that in the agreement there is a 30-year right to have VIC in the retail store, as well as four 5-year lease extensions. Alderman Chapman indicated his support; indicated that the Council discussions and negotiations have been done in good faith; and suggested this is a good investment in the community. He indicated that Cabela's can not build another retail store within 150 miles of Rapid City. As it relates to tourism, Chapman indicated that the VIC and Cabela's will reach more tourists.

In response to a request from Alderman Okrepkie, City Attorney Green explained that the first agreement is with the Rapid City Economic Development Foundation and that agreement contemplates the transfer of land to the Foundation, who will then transfer the land for economic development purposes. The second agreement is between the City and Cabela's, whereby the City agrees to provide Cabela's \$2 Million over the course of two and one-half years from the City's Opportunity Capture Fund, which is part of the 2012 program; and also the land that the VIC is currently located on, approximately 30 acres. This is set up as an incentive to Cabela's to locate its store within the City of Rapid City. It is contemplated to be an investment within the

agreement with Cabela's that it is set out that the City is considering establishing a tax increment district to allow the taxpayers to recapture their investment in the project. Cabela's has agreed that they will do whatever they need to do to facilitate the City's recapture of the investment through the tax increment district. The agreement is a lease between the City and Cabela's for space within the new store. He indicated that the exact space is not yet identified, and the final design is not yet finalized. The City has the right to appoint a designee to work with Cabela's on the design of the final space so that it meets the needs of both Cabela's and whoever leases the space. It is contemplated by the Council that it will be the Black Hills Badlands & Lakes Association to continue the operation of the Visitors' Information Center. That lease provides a term of 30-years, with the option of four 5-year renewals for a total of a 50-year lease.

Alderman Okrepkie indicated his support for the project. In response to a question from Alderman LaCroix, Green indicated that approval is with the addition of the obligation to pay five percent of the sales back to the City for use for outdoor recreation activities.

Substitute motion was made by LaCroix, second by Okrepkie to (No. CC061807-03), authorize the Mayor and Finance Officer to sign an Agreement between City of Rapid City and Rapid City Economic Development Foundation, Inc.; to (No. CC061807-04), authorize the Mayor and Finance Officer to sign an Agreement between City of Rapid City and Cabela's Retail, Inc.; and to (No. CC061807-05), authorize the Mayor and Finance Officer to sign a Lease Agreement between Cabela's Retail, Inc. and City of Rapid City; and that approval is with the addition of the language to the agreement with Cabela's that is currently before the Council, obligating Cabela's to pay five percent of the sale of the land back to the City for use for outdoor recreation activities. Upon a roll call vote on the substitute motion, the following voted AYE: Olson, Kroeger, Chapman, Johnson, LaCroix, Okrepkie, and Hadcock; NO: Kooiker; whereupon substitute motion carried on a 7 – 1 vote.

At 9:25 P.M. the Chair recessed the proceedings; and reconvened at 9:45 P.M.

### **GENERAL PUBLIC COMMENT**

Steven Brenden, Rapid City addressed the yard waste collection sites and asked the citizens to fill a bin before choosing an empty bin.

Bonnie Redden, Rapid City addressed the Council on the duties of the Mayor and suggested the Mayor is not fulfilling his duties; and the mission of the City Council and suggested the Council is not ensuring the trust of the citizens. She asked all Council members to resign.

Curt Pochardt, Rapid City suggested the Council should have had more public discussion relative to the Cabela retail store.

### **NON-PUBLIC HEARING ITEMS** -- Items 6 - 82

Johnson moved, second by Okrepkie and carried to open public comment on Items 6 - 65. Steven Brenden, Rapid City addressed Items #25 (07VE009) and #26 (07VE010) and wondered what is proposed for the area; and #44 (LF081307-31) questioning how this will effect the moratorium in this area. Jean Kessloff, Rapid City addressed Item #28 (LF050207-34) reporting that the Mayor solicited input from the Historic Preservation Commission on the reappointment

of Dennis Halterman. She reported that the Commission unanimously supported the reappointment and has not changed their minds. Kessloff asked the Council to reappoint Dennis Halterman to the Commission. Jim Phoenix, Rapid City addressed Item #32 (LF061307-23) asking what ethics the Council and the Committees have on excusing themselves from some of the business that comes before them for action. LaCroix moved, second by Chapman and carried to close public comment on Items 6 – 65.

At 10:02 P.M. Alderman Hurlbut entered the meeting.

**CONSENT ITEMS** – Items 6 - 65

The following items were removed from the Consent Items:

39. No. LF061307-20 – Authorize staff to hire two grant funded FTE's and one five-eighths funded FTE as a liaison officer at Central High School.

43. No. LF061307-30 – Authorize Mayor and Finance Office to sign a Covenant Agreement with Midland Rushmore, LLC, securing the payment of future off-site improvements to serve Rushmore Crossing.

61. No. LF061307-18 – Approve Consolidated Annual Performance and Evaluation Report (CAPER – Fiscal Year 2006) and to authorize Mayor to sign SF 424 form.

64. No. 07PL054 - A request by Cody Schad for a Layout Plat on Lots 1, 2, 3 and 4 of Quartz Canyon Subdivision, Section 7, T1S, R7E, BHM, Pennington County, South Dakota, legally described as Government Lot 1, and Lot A of Lot 2 of SW/14 NW/14, and Government Lot 2 less Lot A, all of Section 7, T1S, R7E, BHM, and Government Lot 6 of Section 6, T1S, R7E, BHM, Pennington County, South Dakota, located near the Strato Bowl.

Johnson moved, second by LaCroix and carried to approve the following items as they appear on the Consent Items.

***Alcoholic Beverage License Applications Set for Hearing (July 2, 2007)***

6. **Baseball Parents, Inc.** for a special Beer License for an event scheduled July 3, 2007 at Fitzgerald Stadium, Canyon Lake Drive
7. **International Bison Conference** for a special Beer License for an event scheduled July 26, 2007 on Sixth Street (Main Street to north alley)
8. Northstar, Inc. dba **Hunan Chinese Restaurant**, 1720 Mt. Rushmore Road for a Retail (On-Sale) Wine License TRANSFER from Hunan of RC, Inc. dba as Hunan Chinese Restaurant, 1720 Mt. Rushmore Road
9. Northstar, Inc. dba **Hunan Chinese Restaurant**, 1720 Mt. Rushmore Road for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery TRANSFER from Hunan of RC, Inc. dba as Hunan Chinese Restaurant, 1720 Mt. Rushmore Road

**2007 – 2008 RETAIL (ON-OFF SALE) MALT BEVERAGE NO VIDEO LOTTERY**

10. Hunan of RC, Inc. dba **Hunan Chinese Restaurant**, 1720 Mt. Rushmore Road for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
11. Faryat, Inc. dba **Botticelli's Ristorante Italiano**, 523 Main Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery

2007 – 2008 RETAIL (ON-OFF SALE) MALT BEVERAGE WITH VIDEO LOTTERY

12. Angies, Inc. dba **Angie's**, 1028 East North Street for a Retail (On-Off Sale) Malt Beverage License with Video Lottery

**Public Works Committee Consent Items**

13. No. PW061207-16 - Direct staff to prepare a joint water supply and storage agreement between the City of Rapid City and the City of Box Elder.
14. No. PW061207-02 – Authorize payment of a sewer backup claim to McCarthy Properties, LLC for property located at 601 12<sup>th</sup> Street in the amount of \$20,466.00.
15. No. PW061207-03 – Approve Change Order No. 2F for Solar Powered School Zone Beacons and School Speed Zone Signs Project No. SIG06-1617 / CIP No. 50638 to Brown Traffic Products, Inc. for an increase of \$17,270.75.
16. No. PW061207-04 – Approve Change Order No. 4 for Meade Street Reconstruction - Phase 1, East Meade Street from Birch Avenue to Hoefer Court Project No. DR03-1333 / CIP No. 50145 to Highmark, Inc. for a decrease of \$66,492.62.
17. No. PW061207-06 – Authorize staff to advertise for bids for Paper Refuse Bags, for resale.
18. No. PW061207-07 – Authorize staff to advertise for bids for Catron Boulevard Sanitary Sewer Main Extension, Project No. SS06 -1635 / CIP 50671.
19. No. PW061207-08 – Authorize staff to advertise for bids for Miscellaneous Improvements Project 2007, Project No. MIP07-1612 / CIP #50298.
20. No. PW061207-09 – Authorize the Mayor and Finance Officer to sign a Permanent Utility Easement with Black Hills Power, Inc. to allow Black Hills Power, Inc. access to the electrical power system for the Well 12 and Stoney Creek Booster Station project, City Project #W03-953 / CIP50318.
21. No. PW061207-10 – Authorize the Mayor and Finance Officer to sign a Professional Services Agreement with FMG, Inc. for analysis and design of drainage elements 2 and 20 in the Knollwood Drainage Basin; Project No. DR04-1390 / CIP #50312 for an amount not to exceed \$169,910.00.
22. No. PW061207-11 – Authorize the Mayor and Finance Officer to sign a Funding, Maintenance and Encroachment Agreement with the South Dakota Department of Transportation for Project PH 1777(13) PCN00LM Signal Upgrade, Pavement Markings and ADA Ramps at Sheridan Lake Road and West Main Street for an estimated cost of \$13,107.00.
23. No. PW061207-12 – Authorize the Mayor and Finance Officer to sign a Sewer Construction Fee Resolution for Southside Drive Sanitary Sewer Trunk Line.

## CONSTRUCTION FEE RESOLUTION

WHEREAS, Rapid City Municipal Code Section 13.08.365 and SDCL Section 9-48-15 allows the Common Council to impose sewer construction fees for connection to the sanitary sewer utility in certain areas; and

WHEREAS, sanitary sewer has been extended westerly, 3700 lineal feet, from the Water Reclamation Facility per plans filed with the City under Public Works File No. SS06-1594, Southside Drive Sanitary Sewer Trunk Line as shown on Exhibit A, attached hereto and incorporated hereto; and

WHEREAS, the City requested the Developer, (Prairiefire), to oversize the sanitary sewer from an 8" to a 27" diameter main to provide additional capacity to accommodate future upstream growth. The Project was bid both 8" and 27" wherein the City agreed to pay the difference, \$433,869.67 - \$194,395.60, that results in the City paying \$239,474.07 for the requested oversize; and

WHEREAS, sanitary sewer oversize costs associated with the Southside Drive Sanitary Sewer Trunk Line, up to the Prairiefire Development connection, Public Works Project SS06-1594, should be proportioned according to the benefit each property receives, excluding the original 75 lots within the Prairiefire Development; and

WHEREAS, the sanitary sewer oversize costs for the 27" sanitary sewer total \$239,474.07 will be proportioned to the properties identified in Exhibit A-R according to the benefits to accrue to such property before such property shall be served with such facilities; and

WHEREAS, these utility construction fees are based on the benefits that accrue to such property, and should be established on a per-acre system. "Benefiting areas" include those properties that will benefit from a sanitary sewer increase in diameter to service the regional area, and do not necessarily directly abut newly constructed sanitary sewer. Thus, these properties may need to extend additional sanitary sewers at their cost prior to connecting to this infrastructure; and

WHEREAS, the Common Council finds, after conducting a comprehensive investigation of the areas benefited by the construction of the sanitary sewer associated with the Southside Drive Sanitary Sewer Trunk Line, (Prairiefire Development), Public Works Project No. SS06-1594, that such utility construction fees are appropriate and in the best interest of the City, community, and the sewer utility.

NOW, THEREFORE, be it resolved that utility construction fees are hereby imposed on the property that benefits from the oversize portion of the construction of the sanitary sewer associated with Southside Drive Sanitary Sewer Trunk Line, Public Works Project No. SS06-1594; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A-R shall be required to pay its proportional share of the oversize cost of construction of the sanitary sewer associated with Southside Drive Sanitary Sewer Trunk Line, Public Works Project No. SS06-1594 prior to being served with City sanitary sewer; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A-R and qualifying as benefiting property shall pay  $(\$239,474.07 / 3045 \text{ acres}) = \$78.65$  per acre prior to connection to the City's sanitary sewer; and

BE IT FURTHER RESOLVED that all sanitary sewer construction fees collected as established herein shall accrue to the 0.16 Utility Fund; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the balance of the project costs totaling \$239,474.07 is collected, at which time this Resolution and the utility construction fee shall automatically expire.

Dated this 18<sup>th</sup> day of June, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

- 24. No. PW061207-13 – Authorize the Mayor and Finance Officer to sign a Water Construction Fee Resolution for Meadows Subdivision Phase V.

CONSTRUCTION FEE RESOLUTION

WHEREAS, Rapid City Municipal Code Section 13.04.095 and SDCL Section 9-47-16 allows the Common Council to impose water construction fees for connection to the water utility in certain areas; and

WHEREAS, a water main has been extended in the Meadows Subdivision Phase V per plans filed with the City under City Development Files No. DEV04-684: Meadows Subdivision Phase V as shown on Exhibit A, attached hereto and incorporated hereto; and

WHEREAS, the City has requested the developer to install a 16” water main to provide additional capacity to accommodate future upstream growth, and the City has paid the developer \$19,377.98 for the requested oversizing; and

WHEREAS, water oversize costs associated with the Meadows Subdivision Phase V, City Development File No. DEV04-684 should be proportioned according to the benefit each property receives; and

WHEREAS, the water oversize costs for the 16” water main total \$19,377.98 will be proportioned to the properties identified in Exhibit A according to the benefits to accrue to such property before such property shall be served with such facilities; and

WHEREAS, these utility construction fees are based on the benefits that accrue to such property, and should be established on a per-acre system. “Benefiting areas” include those properties that will benefit from a water main increase in diameter to service the regional area, and do not necessarily directly abut newly constructed water main. Thus, these properties may need to extend additional water mains at their cost prior to connecting to this infrastructure; and

WHEREAS, the Common Council finds, after conducting a comprehensive investigation of the areas benefited by the construction of the water main associated with the Meadows Subdivision Phase V, City Development File No. DEV04-684, that such utility construction fees are appropriate and in the best interest of the City, community, and the water utility.

NOW, THEREFORE, be it resolved that utility construction fees are hereby imposed on the property that benefits from the oversize portion of the construction of the water main associated with Meadows Subdivision Phase V, City Development File No. DEV04-684; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A shall be required to pay its proportional share of the oversize cost of construction of the water main associated with Meadows Subdivision Phase V, City Development File No. DEV04-684 prior to being served with City water; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A as benefiting property shall pay \$286.02 per acre prior to connection to the City's water main; and

BE IT FURTHER RESOLVED that all water construction fees collected as established herein shall accrue to the water utility enterprise fund; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the balance of the project costs totaling \$19,377.98 is collected, at which time this Resolution and the utility construction fee shall automatically expire.

Dated this 18<sup>th</sup> day of June, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

- 25. No. 07VE009 – Approve a request by Fisk Land Surveying & Consulting Engineers, Inc. for Dennis Selting to consider an application for a **Vacation of a Note on a Plat** on Lot B of Lot 3 of Dairyland Subdivision located in the SW1/4 SE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2340 E. St. Patrick Street.

RESOLUTION OF VACATING A  
NOTE ON A PLAT

WHEREAS, the owner of Lot B of Lot 3 of Dairyland Subdivision located in the SW1/4 SE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, has requested that the note on the plat of Lot C of Lot 3 requiring a 25 foot building setback be removed; and

WHEREAS, the Rapid City Planning Commission has reviewed and is recommending approval of the request to vacate the note on the plat; and

WHEREAS, the Rapid City Council held a public hearing on the 18<sup>th</sup> day of June, 2007, to consider the request to vacate the note on the plat along with the recommendation of the Rapid City Planning Commission.

NOW THEREFORE, BE IT RESOLVED by the Rapid City Council that the plat of Lot B of Lot 3 of Dairyland Subdivision located in the SW1/4 SE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, be partially vacated by removing the note on the plat that states:

“Building setbacks: 42 foot front yard along Sedivy Lane; and the 25 foot setback along St. Patrick Street.”

as shown on Exhibit “A” which has been attached hereto and incorporated herein by this reference.

Dated this 18<sup>th</sup> day of June, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

- 26. No. 07VE010 – Approve a request by Fisk Land Surveying & Consulting Engineers, Inc. for Dennis Selting to consider an application for a **Vacation of a Note on a Plat** on Lot C of Lot 3 of Dairyland Subdivision located in the SW1/4 SE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2330 E. St. Patrick Street.

RESOLUTION OF VACATING A  
NOTE ON A PLAT

WHEREAS, the owner of Lot C of Lot 3 of Dairyland Subdivision located in the SW1/4 SE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, has requested that the note on the plat of Lot C of Lot 3 requiring a 25 foot building setback be removed; and

WHEREAS, the Rapid City Planning Commission has reviewed and is recommending approval of the request to vacate the note on the plat; and

WHEREAS, the Rapid City Council held a public hearing on the 18<sup>th</sup> day of June, 2007, to consider the request to vacate the note on the plat along with the recommendation of the Rapid City Planning Commission.

NOW THEREFORE, BE IT RESOLVED by the Rapid City Council that the plat of Lot C of Lot 3 of Dairyland Subdivision located in the SW1/4 SE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, be partially vacated by removing the note on the plat that states:

“Building setbacks: 25 foot front yard along St. Patrick Street and the 25 foot side yard set back.”

as shown on Exhibit "A" which has been attached hereto and incorporated herein by this reference.

Dated this 18<sup>th</sup> day of June, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

27. No. PW061207-14 - Approve a request by Bryan Gonzales for Century Development Company to authorize the **construction of a retaining wall** for road construction purposes in the right-of-way along property legally described as the north 327.2 feet of the N1/2 of the SE1/4 lying west of Interstate 90 Right-of-Way, excepting there from the W1/2 of the NW1/4 of the SE1/4, and less North Boulevard Addition, located in the unplatted (9779); and, the east 670 feet of the south 30 feet of the SW1/4 NE1/4, and SW1/4 NE1/4, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota.

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

28. No. LF050207-34 – Approve appointment of Richard Baumann to the Rapid City Historic Preservation Commission.
29. No. LF061307-01 – Approve appointment of Tom Hennies to the City Platform for Strengthening Families and Improving Outcomes for Children and Youth Task Force.
30. No. LF061307-02 – Approve reappointment of Floodplain Boundary Policy Committee and to add four private citizens with at least one being a person that was here and lived through the events and aftermath of the flood.
31. No. LF061307-22 – Approve appointment of Kathy Didier to the Historic Sign Review Board.
32. No. LF061307-23 – Approve appointment of Andrew Scull, Mike Derby and Frank Etter to the Rapid City Planning Commission.
33. No. LF061307-24 – Approve the appointment of Katie Bray and Jim Shaw to the Journey Museum Board.
34. Acknowledge report regarding the Wellspring facility located on St. James Street.
35. No. LF061307-25 – Approve Travel Request for Deb Hadcock to attend National League of Cities in New Orleans, LA, November 12-17, 2007 in the approximate amount of \$3,360.
36. No. LF061307-26 – Authorize staff to apply for the Land and Water Conservation Funds Grant in the amount of \$100,000 for playground equipment for the Vickie Powers Park.

RESOLUTION OF GOVERNING BODY

WHEREAS, the United States of America and the State of South Dakota have authorized the making of grants from the Land and Water Conservation Fund (LWCF) to public bodies to aid in financing the acquisition and/or construction of specific public outdoor recreation projects;

NOW, THEREFORE BE IT RESOLVED:

1. That Jerry Cole is hereby authorized to execute and file an application on behalf of the City of Rapid City with the National Park Service, U.S. Department of the Interior, through the State of South Dakota, Department of Game, Fish and Parks, Division of Parks and Recreation, for an LWCF grant to aid in financing Vickie Powers Park playground equipment for the City of Rapid City, South Dakota and its Environs.
2. That Jerry Cole, Parks and Recreation Director, is hereby authorized and directed to furnish such information as the above mentioned federal and/or state agencies may reasonably request in connection with the application which is hereby authorized to be filed.
3. That the City of Rapid City shall provide a minimum of 50% of the total cost of the project; and will assume all responsibility in the operation and maintenance of the project upon completion of construction, for the reasonable life expectancy of the facility.
4. That the City of Rapid City shall dedicate for park and recreation purposes in perpetuity, the real property identified in the authorized application.

Dated this 18<sup>th</sup> day of June, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

37. No. LF061307-03 – Approve Travel Request for Douglas Thrash to attend FBI National Academy in Quantico, VA, July 7-September 14, 2007 in the approximate amount of \$1,500.
38. No. LF061307-04 – Approve Event Permit for Kansas City Street Business Group to hold Block Party July 21, 2007.
40. No. LF061307-27 – Authorize staff to apply for Coverdell Forensic Science Grant in the Amount of \$58,000.
41. No. LF061307-28 – Authorize staff to apply for Highway Safety Grant for in-car cameras up to \$100,000.
42. No. LF061307-29 – Authorize the Mayor and Finance Office to sign a Covenant Agreement with Midland Rushmore LLC regarding payment of the proportionate share of lift station upgrade costs.
44. No. LF061307-31 – Approve a no cost time extension with HDR Engineering to extend the Basin Electric Intertie Study Area consulting contract to December 31, 2007.
45. No. LF061307-32 – Authorize Mayor and Finance Officer to sign a Covenant Agreement with Midland Rushmore, LLC regarding the construction of off-site improvements at the intersection of LaCrosse and Rapp Streets.
46. Acknowledge the following volunteers for workmen compensation purposes: Joseph Schaefer, Loren Symonds.

47. No. LF061307-33 – Authorize renewal of health insurance stop loss contract.
48. No. LF061307-05 – Authorize Mayor and Finance Officer to sign Covenant Agreement with Good Guys, LLC, to allow construction of a retail pad within three feet of a previously installed sewer main.
49. No. LF061307-06 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Canyon Lake Senior Citizens Center for an amount not to exceed \$70,000.
50. No. LF061307-07 – Authorize Mayor and Finance Officer to sign the City of Rapid City Indenture of Restrictive Covenants with Canyon Lake Senior Citizens Center.
51. No. LF061307-08 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Western Resources for dis-abled Independence for an amount not to exceed \$28,750.
52. No. LF061307-09 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Oglala Lakota College for an amount not to exceed \$30,000.
53. No. LF061307-10 – Authorize Mayor and Finance Officer to sign the City of Rapid City Indenture of Restrictive Covenants with Oglala Lakota College.
54. No. LF061307-11 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Cornerstone Rescue Mission for an amount not to exceed \$50,000.
55. No. LF061307-12 – Authorize Mayor and Finance Officer to sign the City of Rapid City Indenture of Restrictive Covenants with Cornerstone Rescue Mission.
56. No. LF061307-13 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Wellspring, Inc. for an amount not to exceed \$30,000.
57. No. LF061307-14 – Authorize Mayor and Finance Officer to sign the City of Rapid City Indenture of Restrictive Covenants with Wellspring, Inc.
58. No. LF061307-15 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Dakota Plains Legal Services for an amount not to exceed \$7,250.
59. No. LF061307-16 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Knollwood Heights Elementary PTA for an amount not to exceed \$50,000.
60. No. LF061307-17 – Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding with Lutheran Social Services – Stepping Stones for an amount not to exceed \$59,200.
62. No. LF061307-19 – Approve abatement for Mike Cole, \$932.56.

***Growth Management Department Consent Items***

63. No. 06PL103 - A request by CETEC Engineering, Inc. for Park Hill Development, Inc. for a **Preliminary Plat** on Lots 18 thru 35, Block 2; Lots 14 thru 25, Block 5; and the dedicated public right-of-way, Park Meadows Subdivision, located in the SW1/4 NE1/4, SE1/4 NE1/4, Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the SW1/4 NE1/4, SE1/4 NE1/4, less the Right-of-Way, Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the northern terminus of Smith Avenue. (APPROVE 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, a Variance to the Subdivision Regulations shall be obtained to allow a lot twice as long as it is wide or the plat document shall be revised to comply with the length to width requirement; 3. Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; 4. Prior to submittal of a Final Plat application, the plat document shall be revised to show a non-access easement along the first fifty feet of all corner lots; 5. Prior to submittal of a Final Plat application, drainage easement(s) within the Meade channel shall be obtained and recorded at the Register of Deed's Office; 6. Prior to submittal of a Final Plat application, a different street name for Black Ridge Court shall be submitted to the Emergency Services Communication Center for review and approval. In addition, the plat document shall be revised to show the approved street name; and, 7. 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.)

65. No. 07PL068 - A request by CETEC Engineering Services, Inc. for JR Investments, LLC for a **Preliminary Plat** on Lots 1 and 2 of Block 1 of Walpole Heights Subdivision, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract C Revised of Walpole Heights Subdivision and Lot AB1, all in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2707 Mount Rushmore Road. (APPROVE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: 1. Prior to Preliminary Plat approval by the City Council, plans for Mount Rushmore Road shall be submitted for review and approval or a Variance to the Subdivision Regulations must be obtained. In addition, a non-access easement shall be identified along the eastern lot line, as no access will be allowed onto Mount Rushmore Road ; 2. Prior to Preliminary Plat approval by the City Council, the applicant shall submit a revised plan identifying a 59 foot wide right-of- way with 26 feet of paved surface or a Variance to the Subdivision Regulations must be obtained; 3. Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department; 4. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and, 5. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval.)

#### END OF CONSENT CALENDAR

The Mayor presented No. LF061307-20, to authorize staff to hire two grant funded FTE's and one five-eighths funded FTE as a liaison officer at Central High School. Alderman Hurlbut indicated that his concern is about prioritizing FTE's throughout all City departments through the budget process. Because the School year is in recess, Hurlbut believed this will give the Council time to inquiry this request during the budget process.

Hurlbut moved, second by Hadcock to continue the discussion on the grant funded FTE's and liaison officer for Central High School to the budget process. Responding to questions from the Council and the Chair, Chief Tieszen indicated that he must respond in a timely manner on the grant for the FTE's; and he is currently in the hiring process and must know by the first week in July whether the positions are available so that he might offer them to successful candidates, as

they will need to attend the academy. He indicated that this hiring opportunity will go away. Preston and Tieszen indicated that funding could be identified in the current budget for the Central High School liaison officer. Preston pointed out that approving the grant FTE's will not have an effect on the 2008 and 2009 budgets. Tieszen explained that the City Council, in a previous action several months ago, authorized the Police Department to apply for a grant for the FTE's. He continued explaining that the money is for federal fiscal year beginning October 2008. He indicated that if the Council does not approve the grant, he will so inform the State. He indicated that he was not certain whether the grant would remain available to the City or be given to another recipient. Tieszen explained that the grant requirements indicated that the two grant FTE's be dedicated, during the grant period, to DUI enforcement. He explained that DUI enforcement is a point of emphasis with the Department.

Substitute motion was made by Olson, second by LaCroix to authorize staff to hire two grant funded FTE's and one five-eighths funded FTE as a liaison officer at Central High School. Alderman Hurlbut pointed out that the reality is that once the FTE's are hired, it is difficult to make those positions go away. They will be absorbed into the budget. He indicated that there are other pressing needs in other City departments.

Second substitute motion was made by Chapman, second by Hurlbut to the divide the issue and to authorize staff to hire two grant funded FTE's. At this time, Alderman Hurlbut withdrew his second. Second substitute motion was seconded by Olson. In response to a question from Alderman Olson, Preston explained that FTE is the abbreviation of Full Time Equivalent, and is an employee who works 2080 hours per year. Responding to a question from the Chair, Preston explained that this grant has no expectation of the City to retain the FTE's beyond the grant period. He indicated that the Council could, at a later date, discuss whether to retain the two positions when considering the budget. Alderman Hadcock reminded the members that funding is available in the current budget for the liaison officer; and that the Council authorized staff to seek the grant for a period of two years. Hadcock pointed out that the Council will have the opportunity to discuss the proposed positions during budget discussions after the year 2009. Alderman Johnson suggested the Council need not approve the acceptance of grant because it authorized staff to apply for the grant.

Upon a roll call vote on the second substitute motion to approve the two grant funded FTE's, the following voted AYE: Kroeger and Chapman; NO: Johnson, LaCroix, Okrepkie, Hurlbut, Hadcock, and Olson. Second substitute motion failed.

Second substitute motion was made by Johnson, second by Hurlbut to approve one five-eighths funded FTE as a liaison officer at Central High School; and to send the two grant funded FTE's through the budget process.

Upon a roll call vote on the second substitute, the following voted AYE: Johnson, LaCroix, Okrepkie, and Hurlbut; NO: Chapman, Hadcock, Olson, and Kroeger. Upon a tie vote Alderman Kooiker voted AYE. The Chair declared the second substitute motion failed because a motion to spend money requires six affirmative votes.

Motion was made by Okrepkie, second by Johnson to divide the question. Alderman Kooiker called for a point of order, explaining that Council Procedures 5-11 indicates that any member may call for a division of question; but the presiding officer shall divide the question. Kooiker

pointed out that a motion is not necessary. The Chair ruled the motion out of order as the question had been divided and failed.

Disagreeing the City Attorney's position on the question, Alderman Johnson appealed the decision. Recognizing the appeal, the Chair called for a vote of the Council. The following voted AYE: Johnson, Okrepkie, Hurlbut, and Kooiker; NO: Chapman, LaCroix, Hadcock, Olson, and Kroeger. The Chair declared that the appeal failed 4 – 5; and the Chair's decision to declare the motion for division out of order is upheld.

In response to a question from Alderman Chapman, Preston explained that if the City proposed to keep the two grant funded FTE's after 2009, a request must be presented to the Council indicating that the General Fund is the funding source for the two positions.

Upon a roll call vote on the substitute motion to authorize staff to hire two grant funded FTE's and one five-eighths funded FTE as a liaison officer at Central High School, the following voted AYE: LaCroix, Hadcock, Olson, Kroeger, and Chapman; NO: Johnson, Okrepkie, Hurlbut, and Kooiker. The Chair declared the substitute motion failed because there are no six affirmative votes.

Okrepkie moved, second by Johnson to reconsider the decision on the five-eighths funded FTE as a liaison officer at Central High School question. Motion carried.

Upon a vote being taken on the second substitute motion to approve one five-eighths funded FTE as a liaison officer at Central High School, motion carried.

Olson moved, second by Kroeger to reconsider the decision to authorize staff to hire two grant funded FTE's. Motion carried.

Johnson moved, second by Hurlbut to continue the two grant funded FTE's to the budget discussion. Upon a roll call vote, the following voted AYE: Okrepkie, Hurlbut, Kooiker, and Johnson; NO: LaCroix, Hadcock, Okrepkie, Kroeger, and Chapman. Motion failed.

Alderman Kooiker read the following excerpt from Police Chief Tieszen' letter to the Council; "If necessary as a compromise, you may consider authorizing the hire contingent upon your analysis of the entire budget and an agreement to reduce our staffing through attrition if other request receive a higher priority."

Kroeger moved, second by Kooiker to reconsider the decision to authorize staff to hire two grant funded FTE's. Upon a roll call vote, the following voted AYE: Okrepkie, Hurlbut, Hadcock, Olson, Kroeger, Kooiker, Chapman, and LaCroix; NO: Johnson. Motion carried.

Amendment to the second substitute motion to authorize staff to hire two grant funded FTE's was offered by Kooiker, second by Chapman, contingent upon the analysis of the entire budget and an agreement to reduce staffing through attrition if no other requests receive a higher priority.

Chief Tieszen indicated that essentially that we are on track, except that he proposed to do it by attrition, which would mean that he would not fire those people. He indicated that he would hate to bring somebody on, on the contingent that it does not work out in Council and they might be

fired in a month or two. However, he would be willing to, through normal attrition, go back to the FTE count they had prior to the action.

Upon a roll call vote on the motion as amended, the following voted AYE: Hadcock, Olson, Kroeger, Kooiker, Chapman, Johnson, LaCroix, and Okrepkie; NO: Hurlbut. Motion carried.

Chapman moved, second Olson and carried to reconsider Items #42 -- No. LF061307-29 -- Authorize the Mayor and Finance Office to sign a Covenant Agreement with Midland Rushmore LLC regarding payment of the proportionate share of lift station upgrade costs; and #45 -- No. LF061307-32 -- Authorize Mayor and Finance Officer to sign a Covenant Agreement with Midland Rushmore, LLC regarding the construction of off-site improvements at the intersection of LaCrosse and Rapp Streets.

Johnson moved, second by Kroeger to (No. LF061307-29), authorize the Mayor and Finance Office to sign a Covenant Agreement with Midland Rushmore LLC regarding payment of the proportionate share of lift station upgrade costs; and to (No. LF061307-32), authorize Mayor and Finance Officer to sign a Covenant Agreement with Midland Rushmore, LLC regarding the construction of off-site improvements at the intersection of LaCrosse and Rapp Streets. Motion carried with Chapman abstaining.

Hadcock moved, second by Olson to (No. LF061307-30), authorize the Mayor and Finance Office to sign a Covenant Agreement with Midland Rushmore, LLC, securing the payment of future off-site improvements to serve Rushmore Crossing; and striking Paragraph #4 from the agreement. Motion carried with Chapman abstaining.

Kroeger moved, second by Chapman and carried to (No. LF061307-18), approve Consolidated Annual Performance and Evaluation Report (CAPER – Fiscal Year 2006) and to authorize Mayor to sign SF 424 form.

The Mayor presented No. 07PL054, a request by Cody Schad for a **Layout Plat** on Lots 1, 2, 3 and 4 of Quartz Canyon Subdivision, Section 7, T1S, R7E, BHM, Pennington County, South Dakota, legally described as Government Lot 1, and Lot A of Lot 2 of SW/14 NW/14, and Government Lot 2 less Lot A, all of Section 7, T1S, R7E, BHM, and Government Lot 6 of Section 6, T1S, R7E, BHM, Pennington County, South Dakota, located near the Strato Bowl. Okrepkie moved, second by LaCroix and carried to approve the Layout Plat with revised legal description of Lots 1, 2 and 3, Quartz Canyon Subdivision, Section 7, T1S, R7E, BHM, Pennington County, South Dakota, with the following revised stipulations: 1. Upon submittal of a Preliminary Plat application, water system plans prepared by a Registered Professional Engineer that demonstrate adequate fire and domestic flows shall be submitted for review and approval. If adequate fire flows cannot be met then the plat shall be revised to include a note stating that all habitable structures shall be sprinklered; 2. Upon submittal of a Preliminary Plat application a grading and erosion plan shall be submitted for review and approval; or a Variance to the Subdivision Regulations shall be obtained. 3. Upon submittal of a Preliminary Plat application a Wildfire Mitigation Plan shall be submitted for review and approval; 4. Upon submittal of a Preliminary Plat application a drainage plan identifying that any discharge meets pre-development flow rates, or on-site detention shall be submitted for review and approval, in addition drainage flow throughout the subdivision shall be shown; 5. Upon submittal of a Preliminary Plat application the plat document shall be revised to show all access, drainage and utility easements as needed; 6. Upon submittal of a Preliminary Plat application the applicant is

required to submit plans prepared by a Professional Engineer or a Professional Licensed Septic Installer showing septic tank capacity, locations, information on soil type, percolation tests demonstrating that the soils are suitable for on-site wastewater treatment systems, and drain fields locations. In addition a note shall be placed on the Preliminary Plat document indicating that at the time that a building permit is applied for that a reserve drain field location shall be identified and held in reserve; 7. Upon submittal of a Preliminary Plat application, road construction plans for the access easement(s) shall be submitted for review and approval. In particular, the construction plans shall show the streets located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer with on-street parking or the street shall be located in a minimum 45 foot wide right-of-way and constructed with a minimum 20 foot wide paved surface, curb, gutter, street light conduit, water and sewer with no on-street parking or a Variance to the Subdivision Regulations shall be obtained. If on-street parking is not provided, the developer shall provide visitor parking at the rate of one paved parking stall per dwelling located within three hundred feet of the residence and the street must be posted with no parking signs or an Exception to the Street Design Criteria Manual shall be obtained. In addition, a fire apparatus turnaround shall be provided at the end of each access easement in excess of 150 feet in length; 8. Upon submittal of a Preliminary Plat application road construction plans for the section line highway located on the western boundary shall be submitted for review and approval. In particular, the section line highway shall be located within 49 feet of right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water, sewer or Variance to the Subdivision Regulations shall be obtained; 9. Upon submittal of a Preliminary Plat application a geotechnical report including pavement design shall be submitted for review and approval, or a Variance to the Subdivision Regulations shall be obtained. 10. Upon submittal of a Preliminary Plat application the applicant shall obtain an exception to allow a 860 foot cul-de-sac in lieu of a maximum 500 foot long cul-de-sac with intermediate turnarounds every 600 feet, or the plat document shall be revised to comply with the Street Design Criteria Manual; 11. Prior to submittal of a Preliminary Plat application a Variance from the Pennington County Zoning Board of Adjustment shall be obtained to reduce the minimum required 40 acre lot size requirement of the General Agriculture District or the property shall be rezoned to allow the proposed lots or the plat shall be revised to comply with the minimum lot size of the General Agriculture District; 12. Upon submittal of a Preliminary Plat application, a cost estimate of the subdivision improvements shall be submitted for review and approval; 13. Upon submittal of a Final Plat application the applicant shall submit proof of the legal entity which will provide for the mechanism for street maintenance and snow removal if the proposed streets are to be private. 14. Upon submittal of a Final Plat application, the applicant shall provide proof of the legal entity which will provide the mechanism for maintenance of the community water facility for review and approval; 15. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and, 16. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

LaCroix moved, second by Chapman and carried to open public comment on Items 66 – 82. Steven Brenden, Rapid City addressed the ordinance items asking that links be provided. Jim Phoenix, Rapid City addressed Item #76 (PW061207-50) indicating concern with the project increase. Johnson moved, second by Okrepkie and carried to close public comment on Items 66 – 82.

**NON-CONSENT ITEMS** – Items 66 - 82

**ORDINANCES**

Ordinance No. 5305 (No. 07RZ043), An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by Scull Construction for Whittingham & LeStrange, LPI for a **Rezoning from Park Forest District to General Commercial District** on a parcel of land located in the NE1/4 SW1/4 in Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, described as follows: commencing at the rear lot corner common to Lots 3 and 4 of Block 1 of Tower Ridge 2 Subdivision, rebar with a survey cap stamped LS 6117, Thence S25°59'34"E a distance of 55.29' to the point of beginning; Thence First Course: along a line with a bearing of N00°00'38"E and a distance of 355.70; Thence Second Course: along a line with a bearing of S10°41'47"E and a distance of 590.96 feet; to an intersection with the northerly line of Lot 5 of Block 1 of Tower Ridge 2 Subdivision; Thence Third Course: along said Lot 5 and the northerly line of Lot 4 of Block 1 of Tower Ridge 2 Subdivision with a bearing of N25°59'34"W and a distance of 250.40 feet to the Point of Beginning, located northeast of Table Rock Road was introduced. Okrepkie moved, second by LaCroix and carried that Ordinance No. 5305 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 2, 2007.

Ordinance No. 5606 (No. 07RZ044), An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by enVision Design Inc. for Plum Creek Development, LLC for a **Rezoning from General Agriculture District to General Commercial District** on a Tract of land located in the SW1/4, Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: beginning at the southwest corner of said SW1/4 of Section 16, monumented with a "Brass Cap"; Thence N00°02'47"W along the west line of said SW1/4 of Section 16, a distance of 659.14 feet; Thence N43°11'32"E a distance of 908.40 feet to the south line of the N1/2 of SW1/4; Thence N89°56'28"E along said south line a distance of 701.09 feet to the east line of the SW1/4 of the SW1/4 of said Section 16; Thence S00°01'14"E along said east line a distance of 1321.57 feet to the south line of said SW1/4; Thence S89°58'32"W along said south line a distance of 1322.78 feet to the point of beginning, containing an area of 35 acres more or less, located southeast of the intersection of Willowbend Road and Elk Vale Road was introduced. Okrepkie moved, second by LaCroix and carried that Ordinance No. 5306 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 2, 2007.

Ordinance No. 5307 (No. 07RZ045), An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by enVision Design Inc. for Plum Creek Development, LLC for a **Rezoning from Low Density Residential II District to General Commercial District** on a Tract of land located in the SW1/4 of Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. More particularly described as follows: Commencing at the southwest corner of said SW1/4 of Section 16, monumented with a "Brass Cap"; Thence N89°58'32"E along the south line of said SW1/4 of Section 16, a distance of 1,322.78 feet to the east line of the SW1/4 of said SW1/4; the true point of beginning; Thence N00°01'14"W along said east line a distance of 435.13 feet; thence S45°34'07"E a distance of 416.97 feet to a point on a curve from which the radius of said curve bears N44°25'54"E a distance of 500.00 feet; Thence south easterly along the arc of said curve to the left having a radius of 500.00 feet, a central angle of 44°27'22" for a distance of 387.95

feet to said south line of the SW1/4; Thence departing said curve S89°58'32"W along said south line a distance of 647.84 feet to the true point of beginning, containing an area of 2 acres more or less, located southeast of the intersection of Willowbend Road and Elk Vale Road was introduced. Okrepkie moved, second by LaCroix and carried that Ordinance No. 5307 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 2, 2007.

Ordinance No. 5308 (No. 07RZ046), An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by enVision Design Inc. for Plum Creek Development, LLC for a **Rezoning from Low Density Residential II to Medium Density Residential** on a Tract of land located in the SW1/4 of Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. More particularly described as follows: beginning at the south one-quarter corner of said Section 16, monumented with a "Brass Cap"; Thence S89°58'32"W along the south line of said SW1/4 of Section 16 a distance of 674.94 feet to a point on a curve from which the radius of said curve bears N00°01'28"W a distance of 500.00 feet; Thence north westerly along the arc of said curve to the right having a radius of 500.00 feet, a central angle of 44°27'22" for a distance of 387.95 feet; Thence departing said curve north 45°34'07" west a distance of 416.97 feet to the east line of the southwest one-quarter of said SW1/4; Thence N00°01'14"W along said east line a distance of 886.44 feet to the south line of the N1/2 of said SW1/4; Thence S89°56'28"W along said south line a distance of 658.08 feet; Thence N37°01'09"E a distance of 332.57 feet; Thence N35°19'22"E a distance of 88.82 feet; Thence S60°47'57"E a distance of 131.75 feet; Thence N56°10'10"E a distance of 406.42 feet; Thence N89°53'34"E a distance of 147.45 feet; Thence S00°06'26"E a distance of 176.99 feet; Thence N89°53'34"E a distance of 52.00 feet; Thence S00°06'26"E a distance of 263.59 feet; Thence S05°40'23"W a distance of 40.49 feet; Thence S11°27'13"W a distance of 200.28 feet; Thence S01°00'22"W a distance of 153.84 feet; Thence N90°00'00"E a distance of 139.82 feet; Thence S00°08'39"E a distance of 488.33 feet; Thence N89°52'38"E a distance of 140.00 feet; Thence S00°07'22"E a distance of 64.71 feet to a point on a curve from which the radius of said curve bears N89°52'38"E a distance of 201.00 feet; Thence south easterly along the arc of said curve to the left having a radius of 201.00 feet, a central angle of 90°00'00" for a distance of 315.73 feet; Thence departing said curve N89°52'38"E a distance of 640.71 feet; Thence S00°00'00"W a distance of 237.79 feet to the point of beginning, containing an area of 20 acres more or less, located southeast of the intersection of Willowbend Road and Elk Vale Road was introduced. Okrepkie moved, second by Olson and carried that Ordinance No. 5308 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 2, 2007.

Ordinance No. 5309 (No. 07RZ048), An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to Light Industrial District** on Lots A, AB and C, less Lots H1 and H2, located in the NW1/4 NW1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of S.D. Highway 79 and south of Elk Vale Road was introduced. Okrepkie moved, second by Olson and carried that Ordinance No. 5309 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 2, 2007.

At 11:30 P.M. Kooiker left the meeting.

Ordinance No. 5310 (No. 07RZ049), An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to General Agriculture District** on all of the N1/2 NE1/4 and the N1/2 NW1/4, less Lot 1 of Marlin Industrial Park and Lots A, AB and C, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, Lot H1 of the E1/2 NE1/4 located in the NE1/4 NE1/4, Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, all of the Section Line Right-of-Way located in the NE1/4 NE1/4, Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of S.D. Highway 79 and south of Elk Vale Road was introduced. Okrepkie moved, second by LaCroix and carried that Ordinance No. 5310 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 2, 2007.

Ordinance No. 5304 (No. LF061307-21), to Add Telephone Notification for Special Council Meetings by Amending Section 2.08.020 of the Rapid City Municipal Code was introduced. Okrepkie moved, second by LaCroix and carried that Ordinance No. 5304 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 2, 2007.

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

Okrepkie moved, second LaCroix to (No. LF053007-04), approve an Event Permit for Rapid City Rally Task Force to designate Fifth Street through West Boulevard and Rapid Street through Kansas City Street as four hour parking August 6-10, 2007. Motion carried.

### **PUBLIC WORKS COMMITTEE ITEMS**

Kroeger moved, second by Hurlbut to continue (No. PW052907-14), a request from CSU Properties, LLC to allow a structure within the public right-of-way to the July 2, 2007 Council meeting. Motion carried.

Kroeger moved, second by LaCroix to (No. PW061207-15), approve a Covenant Agreement between the City of Rapid City and Rapid Center, LLC regarding payment of the proportionate share of North Elk Vale Lift Station upgrade costs. Motion carried with Hadcock voting NO.

Kroeger moved, second by Okrepkie to (No. PW061207-05), approve Change Order No. 1 for Dahl Arts Center Remodel and Addition Project No. IDP04-1367 to J. Scull Construction Services for an increase of \$91,000.00. Motion carried.

Kroeger moved, second by LaCroix to (No. PW061207-14), authorize staff to seek proposals for engineering services for Elk Vale Road Sanitary Trunk Sewer Extension Project No. SS07-1658 / CIP #50658. Motion carried with Hadcock voting NO.

### **BIDS**

The following companies submitted bids for No. CC061807-02, Evergreen Drive Water Main Reconstruction Project No. W07-1645 / CIP No. 50678 opened June 12, 2007: Highmark, Inc., Mainline Contracting, Inc., Hills Materials Co., and Quinn Construction Inc. Staff reviewed the bids and recommends the bid award to Mainline Contracting, Inc. Olson moved, second by LaCroix and carried to approve the bid award for Evergreen Drive Water Main Reconstruction

Project No. W07-1645 to the lowest responsible bidder meeting specifications, Mainline Contracting, Inc., for the low unit prices bid for a total contract amount of \$234,975.10.

The following companies submitted bids for No. CC061807-02, 2007 Street Rehabilitation Project - Various Locations Project No. ST07-1651 / CIP No. 50549 opened June 12, 2007: Simon Contractors of SD, Inc. and Hills Materials Co. Staff reviewed the bids and recommends the bid award to Hills Materials Co. Okrepkie moved, Second by LaCroix and carried to approve the bid award for 2007 Street Rehabilitation Project No. ST07-1651 to the lowest responsible bidder meeting specifications. Hills Materials Co., for the low unit prices bid for a total contract amount of \$193,851.80.

The following companies submitted bids for No. CC061807-02, 2007 Neighborhood Street Rehabilitation Project No. ST07-1652 / CIP No. 50636 opened June 12, 2007: J & J Asphalt Co., Hills Materials Co., and Simon Contractors of SD, Inc. Staff reviewed the bids and recommends the bid award to J & J Asphalt Co. Kroeger moved, second by Chapman and carried to approve the bid award for 2007 Neighborhood Street Rehabilitation Project No. ST07-1652 to the lowest responsible bidder meeting specifications, J & J Asphalt Co, for the low unit prices bid for a total contract amount of \$302,082.50.

The following companies submitted bids for No. CC061807-02, Vehicle Exhaust Capture System for Fire Station 1 opened June 12, 2007: TNC Industries, Inc., Air Vacuum Corporation, Sabo Electric, Inc., and Freeman's Electric Service, Inc. Staff reviewed the bids and recommends the bid award to Air Vacuum Corporation. Olson moved, second by Okrepkie and carried to approve bid award for Vehicle Exhaust Capture System to the lowest responsible bidder meeting specifications, Air Vacuum Corporation, for the low unit prices bid for a total contract amount of \$40,894.16.

The following companies submitted bids for No. CC061807-02, Firefighter Turnout Gear opened June 12, 2007: FireGuard of Omaha, NE; M & T Fire & Safety of Volga, SD; Quest Protective Clothing of Walsenburg, CO; Black Hills Fiberglass & Plastics of Rapid City, SD; ED M FELD Equipment Co. of Carroll, IA; Heiman Fire Equipment of Gettysburg, SD; and Metro Fire of Ham Lake, MN. Staff reviewed the bids and recommends the bid award as follows: Pants & Coats to Metro Fire in the amount of \$135,078.60; whereupon Okrepkie moved, second by LaCroix and carried to approve. Helmets to FireGuard in the amount of \$12,138.00; whereupon Kroeger moved, second by Chapman and carried to approve. Boots to ED M FELD Equipment Co. in the amount of \$9,078.00; whereupon Kroeger moved, second by Olson and carried to approve. Hoods to ED M FELD Equipment Co. in the amount of \$1,479.00; whereupon Olson moved, second by Chapman and carried to approve. Gloves to ED M FELD Equipment Co. in the amount of \$4,794.00; whereupon Olson moved, second by Hurlbut and carried to approve.

### **MAYOR'S ITEMS**

Upon a request from Mayor Shaw to approve the re-appointment of John Brewer to the Rapid City Planning Commission for a Three-Year term beginning July 1, 2007; Hadcock moved, second by Okrepkie to approve. Motion carried.

### **COUNCIL ITEMS & LIAISON REPORTS**

Alderman LaCroix addressed the North Rapid mural, extending his appreciation to Jeff Colberson and Bobbie Greenway on their efforts to touchup the mural, and the monetary donation from a local businessman that funded the efforts.

Alderman Olson pointed out to the Council and the public the very beautiful landscaping that exists in the City, thanks to the work of Jerry Cole and Lon Van Deusen and the staff in the Parks Department.

### **STAFF ITEMS**

Public Works Director Jablonski requested emergency authorization to proceed with the repair of the sanitary landfill scraper at a cost of \$34,066 from Butler Caterpillar; and to rent a scraper, to include fuel and operator, from Butler Caterpillar at \$110.00 per hour; and to rent a dozer from Butler Caterpillar, for a minimum of one week at \$7,200 per month and a \$1,800 mobilization fee; whereupon Olson moved, second by Okrepkie to approve. Motion carried.

Finance Officer Preston asked to set a special Council meeting on Thursday, June 28, 2007 at 12:30 P.M. for the purpose of canvassing the votes from the Secondary (Run-off) Municipal Election of June 26, 2007; whereupon Okrepkie moved, second by Olson to approve. Motion carried.

### **PUBLIC HEARING ITEMS** – Items 83 - 146

Okrepkie moved, second by Olson and carried to open the public hearing on Items 83 – 146. Jim Phoenix, Rapid City addressed Items #90 (07CA008); #92 (07PL015) asking for a map of the boundaries as described; #99 (07SV001); #102 ((07SV022); #108 (07UR005); #136 (07FV003) suggesting that reducing the street width size hampers emergency vehicle response. Steven Brenden, Rapid City addressed Items #78 (CC061807-02); #144 (07RZ032); #145 (07RZ04); and #145 (07RZ040) suggesting that it would be nice for the public to know what is being planned for areas that are requesting the rezones. Duane Pankratz, Rapid City addressed Item #107 (07UR005) asking for approval of an off-premise billboard. He indicated that on a split decision, the request for a conditional use permit was denied. He explained that his proposed billboard meets all the criteria and replaces a billboard that was in the same location. Hani Shafai, Dream Design International addressed Items #107 (07UR005) indicating that downtown businesses can benefit from this advertising devise at this location.

### **CONTINUED PUBLIC HEARING CONSENT ITEMS** – Items 83 - 111

The following items were removed from the Continued Public Hearing Consent Items:

91. No. 07PL006 - A request by Centerline, Inc. for Broadmoor Homeowners' Association for a Preliminary Plat
93. No. 07PL026 - A request by Dream Design International, Inc. for a Preliminary Plat
107. No. 07UR005 - An appeal of the Planning Commission's decision on a request by Unique Signs for Dwayne Pankratz for a Conditional Use Permit to allow an off-premise billboard sign in a General Commercial District

Olson moved, second by Hurlbut and carried to approve the following items as they appear on the Continued Public Hearing Consent Items.

***Continue the following items until July 2, 2007:***

83. No. 06PL090 - A request by Dream Design International for a **Preliminary Plat** on Lots 1 thru 5 of Block 1, Lots 1 thru 10 of Block 2, Lots 1 thru 4 of Block 3, Lots 1 and 26 of Block 6, Lot 1 of Block 7, Lots 1 and 36 thru 41 of Block 8, Lots 1 thru 11 of Block 9, Lots 1 thru 13 of Block 10, Lots 1 thru 30 of Block 11 and Lot A and Lots 1 thru 23 of Block 12 and Dedicated Right-of-Way, Elks Meadows Subdivision, located in the E1/2 NE1/4, Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the E1/2 NE1/4, Section 21, T1N, R8E, BHM, Pennington County, South Dakota, located east of the intersection of Elk Vale Road and Old Folsom Road.
84. No. 06PL108 - A request by DGM Development for a **Preliminary Plat** on Lots 1 thru 190, Madison's Subdivision, located in the SE1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 10 and 11, Madison's Subdivision, located in the SE1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4325 and 4385 Haines Avenue.
85. No. 06PL133 - A request by Sperlich Consulting, Inc. for Doeck, LLC for a **Preliminary Plat** on Lots 16 thru 23, Block 1; Lots 1 thru 5, Block 3; Lots 1 thru 10, Block 4; Lots 1 thru 16, Block 5; Lots 1 thru 6, Block 6; and drainage Lot 1, Brookfield Subdivision, formerly a portion of the NE1/4 SE1/4, Section 13, located in the NE1/4 SE1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 SE1/4, Section 13, located in the NE1/4 SE1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northern terminus of Three Rivers Drive.
86. No. 06PL178 - A request by Boschee Engineering for OTS, Inc. for a **Preliminary Plat** on Lots 1 thru 8 of Block 1, lots 1 thru 8 of Block 2, Lots 1 thru 17 of Block 3, and lots 1 thru 9 of Block 4, Catron Crossing Subdivision located in the SW1/4 SW1/4, W1/2 SE1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the SW1/4 SW1/4 W1/2 SE1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southern terminus of Bendt Drive.
87. No. 06PL189 - A request by Michael Hanson for John & Meredith Humke for a **Preliminary Plat** on Lots 24A and 24B of Block 3 of Stoney Creek Subdivision, formerly Lot 24 of Block 3 of Stoney Creek Subdivision, located in the NE1/4 of the SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 24 of Block 3 of Stoney Creek Subdivision, located in the NE1/4 of the SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Nugget Gulch Drive and Harvard Avenue.
88. 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.

89. No. 06VR009 - A request by Dream Design International, Inc. for a **Vacation of Right-of-Way** on Lot 2, O'Meara Addition and Lot B of the SW1/4, Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to Tower Road at the intersection of Skyline Ranch Road and Tower Road.
90. No. 07CA008 - A request by Dream Design International, Inc. for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Agriculture to General Commercial** on Lot 1 of Marlin Industrial Park, located in the NW1/4 NE1/4 of Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southwest of the intersection of Elk Vale Road and Creek Drive.
92. No. 07PL015 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1 thru 21 of Block 1, Lots 1 thru 4 of Block 2, Lots 1 thru 5 of Block 3, Lots 1 thru 3 of Block 4, Lots 1 and 2 of Block 5, and Lots 1 thru 6 of Block 6 and Utility Lot 1 of Copperfield Vistas Subdivision, all located in the SE1/4 of the NW1/4 and the NE1/4 of the SW1/4 of Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a tract of land located in the SE1/4 of the NW1/4 and the NE1/4 of the SW1/4, Section 4, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Beginning at the northeast corner of Lot 28 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, said corner being marked by a rebar with survey cap "LS 6251"; thence, westerly along the north line of said Lot 28 in Block 1 of Copperfield Subdivision, S89°59'08"W, a distance of 109.97 feet, more or less, to the northwest corner of said Lot 28, said corner being marked by a 5/8 inch rebar; thence, southwesterly along the northerly edge of Copperfield Drive right-of-way, S71°30'56"W, a distance of 63.29 feet, more or less to the northeast corner of Lot 1 in Block 7 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, said corner being marked by a 5/8 inch rebar; thence, northwesterly along the north line of said Lot 1 in Block 7 of Copperfield Subdivision, N88°29'49"W, a distance of 83.02 feet, more or less; thence, continuing northwesterly along the north line of said Lot 1 in Block 7 of Copperfield Subdivision, N88°29'49"W, a distance of 15.67 feet, more or less, to the northwest corner of said Lot 1, said corner being coincident with the northeast corner of Lot 3 in Block 7 of Copperfield Subdivision as shown on the plat recorded in Book 22 of Plats on Page 195, and said corner being marked by a rebar with survey cap; thence, northwesterly along the north line of said Lot 3 in Block 7 of Copperfield Subdivision, N88°42'16"W, a distance of 51.73 feet, more or less, to the northwest corner of said Lot 3, said point being coincident with the northeast corner of Lot 4 in Block 7 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, and said corner being marked by a rebar with survey cap "LS 2652"; thence, northwesterly along the north line of said Lot 4 in Block 7

of Copperfield Subdivision, N88°18'11"W, a distance of 76.36 feet, more or less, to the northwest corner of said Lot 4, said point being coincident with the northeast corner of Lot 5 in Block 7 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, said corner being marked by a 5/8 inch rebar; thence, northwesterly along the north line of said Lot 5 in Block 7 of Copperfield Subdivision, N71°45'04"W, a distance of 68.75 feet, more or less; thence, N15°55'14"E, a distance of 104.91 feet, more or less; thence, N74°04'46"W, a distance of 45.00 feet, more or less; thence, N15°55'14"E, a distance of 160.58 feet, more or less; thence, S76°13'24"E, a distance of 120.24 feet, more or less; thence, S78°04'22"E, a distance of 59.02 feet, more or less; thence, N13°46'36"E, a distance of 98.10 feet, more or less; thence, N76°13'24"W, a distance of 13.77 feet, more or less; thence, N13°46'36"E, a distance of 52.00 feet, more or less; thence, S76°13'24"E, a distance of 5.67 feet, more or less; thence, N13°46'36"E, a distance of 80.12 feet, more or less; thence, N00°35'05"E, a distance of 68.76 feet, more or less; thence, N00°00'00"W, a distance of 83.80 feet, more or less; thence, S90°00'00"W, a distance of 0.65 feet, more or less; thence, N00°00'00"W, a distance of 52.00 feet, more or less; thence, N90°00'00"E, a distance of 18.65 feet, more or less; thence, N00°00'00"W, a distance of 200.26 feet, more or less; thence, S90°00'00"W, a distance of 20.17 feet, more or less; thence, N00°00'00"W, a distance of 52.00 feet, more or less; thence, N90°00'00"E, a distance of 2.17 feet, more or less; thence, N00°00'00"W, a distance of 455.50 feet, more or less; thence, curving to southwest to the left on a curve with a radius of 562.00 feet, a delta of 01°25'51", an arc length of 14.03 feet, and a chord bearing of S78°05'02"W and chord distance of 14.03 feet; thence, N12°37'53"W, a distance of 76.00 feet, more or less; thence, curving to the northeast to the right on a curve with a radius of 638.00 feet, a delta of 10°54'37", an arc length of 121.49 feet, and a chord bearing of N82°49'25"E and chord distance of 121.30 feet; thence, N44°21'49"E, a distance of 14.30 feet, more or less; thence, N00°00'00"W, a distance of 15.20 feet, more or less; thence, N90°00'00"E, a distance of 52.00 feet, more or less; thence, S00°00'00"E, a distance of 15.13 feet, more or less; thence, S45°00'00"E, a distance of 14.14 feet, more or less; thence, N90°00'00"E, a distance of 142.69 feet, more or less, to a point on the north/south 1/4 section line of Section 4, T1N, R8E, BHM, Pennington County, South Dakota; thence, southerly along said 1/4 section line, S00°05'16"E, a distance of 941.09 feet, more or less, to a point marked by an iron pin; thence, continuing southerly along said 1/4 section line, S00°05'03"E, a distance of 517.62 feet, more or less, to a point located on said 1/4 section line being marked by a rebar with survey cap "LS 6251"; thence, continuing southerly along said 1/4 section line, S00°03'43"E, a distance of 781.29 feet, more or less; thence, S89°47'47"W, a distance of 303.32 feet, more or less to a point along the easterly line of Lot 17 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 21; thence, northwesterly along the east line of said Lot 17 in Block 1 of Copperfield Subdivision, N22°39'36"W, a distance of 46.14 feet, more or less, to the northeast corner of said Lot 17, said corner being coincident with the southeast corner of Lot 18 in Block 1 of Copperfield Subdivision as shown on the plat recorded in Book 22 of Plats on Page 21; thence, northwesterly along the east line of said Lot 18 in Block 1 of Copperfield Subdivision, N01°44'10"W, a distance of 58.19 feet, more or less, to the northeast corner of said Lot 18, said corner being coincident with the southeast corner of Lot 19 in Block 1 of Copperfield Subdivision as shown on the plat recorded in Book 22 of Plats on Page 21, said corner being marked with a rebar and survey cap "LS 2652"; thence, northeasterly along the east line of said Lot 19 in Block 1 of Copperfield Subdivision, N26°46'20"E, a distance of 44.28 feet, more or less, to the northeast corner of said Lot 19, said corner

being coincident with the southeast corner of Lot 20 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 21, said corner being marked by a rebar with survey cap "LS 2652"; thence, northeasterly along the east line of Lots 20 through 24 inclusive of Block 1 of Copperfield Subdivision, as shown on the plats recorded in Book 22 of Plats on Page 21 and in Book 22 of Plats on Page 195, N27°11'29"E, a distance of 364.58 feet, more or less to the northeast corner of said Lot 24 in Block 1 of Copperfield Subdivision, said corner being coincident with the southeast corner of Lot 25 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 21; thence, northeasterly along the east line of said Lot 25 in Block 1 of Copperfield Subdivision, N19°26'44"E, a distance of 83.01 feet, more or less, to the northeast corner of Said Lot 25, said corner being coincident with the southeast corner of Lot 26 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195; thence, northeasterly along the east lines of Lots 26, 27 and 28 of Block One of Copperfield Subdivision, N02°40'24"E, a distance of 239.67 feet, more or less to the point of beginning, located east of Valley Drive and west of Concourse Drive.

94. No. 07PL029 - A request by D. C. Scott Co. Land Surveyors for Wesleyan Church for a **Preliminary Plat** on Lot 1 of Word of Hope Subdivision, located in the NE1/4 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NE1/4 SE1/4, lying southeast of Elk Vale Road, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on the west side of Jolly Lane, at the north end between Jolly Lane cul-de-sac and curve in Elk Vale Road.
95. No. 07PL034 - A request by Ron Davis for Davis Engineering, Inc. for a **Preliminary Plat** on Lots 8 thru 12 of Block 5; Lot 11 of Block 6; Lots 1 thru 3 of Block 7; and Lot 2 of Block 8 of Murphy Ranch Estates Subdivision, located on the NE1/4 of the NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of the unplatted balance of Tract F on the NE1/4 of the NW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located east of Reservoir Road and south of Longview Road.
96. No. 07PL062 - A request by Boschee Engineering for Scott and Janice Zandstra for a **Preliminary Plat** on Lot 1 of Block 1 of Paradise Pines Subdivision, located in the SW1/4 of the SE1/4, Section 7; and the NW1/4 of the NE1/4, Section 18, T1S, R7E, BHM, Pennington County, South Dakota, legally described as Lot 2E, less Right-of-way of the SW1/4 of the SE1/4, Section 7, T1S, R7E, BHM; and a portion of the NW1/4 of the NE1/4, Section 18, T1S, R7E, BHM, Pennington County, South Dakota, located southwest of the intersection of Wilderness Canyon Road and U.S. Highway 16.
97. No. 07RZ012 – Second Reading, Ordinance No. 5267, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by Dream Design International, Inc. for a **Rezoning from No Use District to General Commercial District** on Lot 1 of Marlin Industrial Park, located in the NW1/4 NE1/4 of Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southwest of the intersection of Elk Vale Road and Creek Drive.

98. No. 07RZ042 - Second Reading, Ordinance No. 5303, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to Low Density Residential District** on Lot 1 of Mailloux Subdivision, located in the SE1/4 SW1/4, Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1030 Country Road.
99. No. 07SV001 - A request by Sperlich Consulting, Inc. for Doeck, LLC for a **Variance to the Subdivision regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway as per Chapter 16.16 of the Rapid City Municipal Code** on a portion of the NE1/4 of the SE1/4, Section 13, T2N, R7E, BHM, and a portion of Tract 5 of Sletten Addition, located in the NW1/4 of the SW1/4, Section 18, T2N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the easterly 1/4 Corner of Section 13, T2N, R7E, common with the westerly 1/4 corner of Section 18, T2N, R8E, and common with the northwesterly corner of Tract 5 of Sletten Addition, and the Point of Beginning; Thence, first course: S89°38'53"E, along the northerly boundary of said Tract 5 of Sletten Addition, a distance of 33.00 feet, to a point on the easterly edge of the statutory section line right-of-way in said Section 18; Thence, second course: S00°07'25"W, along the easterly edge of said statutory section line right-of-way, a distance of 1090.65 feet, to a point of curve of Lot H-1 of Tract 5 of Sletten Addition; Thence, third course: northwesterly, curving along the northeasterly edge of the right-of-way of said Lot H-1 of Tract 5 of Sletten Addition, curving to the left on a curve with a radius of 285.79 feet, a delta angle of 27°48'23", an arc length of 138.70 feet, a chord bearing of N13°46'46"W, and a chord distance of 137.34 feet, to the northwesterly corner of said Lot H-1 of Tract 5 of Sletten Addition, and a point of compound curvature; Thence, fourth course: northwesterly, curving to the left on a curve with a radius of 253.40 feet, a delta angle of 14°54'34", an arc length of 65.94 feet, a chord bearing of N30°00'02"W, and a chord distance of 65.75 feet, to a point on the westerly edge of the statutory section line right-of-way in said Section 13; Thence, fifth course: N00°07'25"E, along the westerly edge of said statutory section line right-of-way, a distance of 900.49 feet, to a point on the Center 1/4 line of said Section 13; Thence, sixth course: N89°56'42"E, along said Center 1/4 line of said Section 13, a distance of 33.00 feet, to the easterly 1/4 Corner of Section 13, T2N, R7E, common with the westerly 1/4 Corner of Section 18, T2N, R8E, and common with the northwesterly corner of Tract 5 of Sletten Addition, and the Point of Beginning, located at the northern terminus of Cobalt Drive.
100. No. 07SV005 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to provide easements across lots or centered on rear or side lot lines for utilities and drainage as per Chapter 16.12.200.A of the Rapid City Municipal Code** on Lots 1 thru 21 of Block 1, Lots 1 thru 4 of Block 2, Lots 1 thru 5 of Block 3, Lots 1 thru 3 of Block 4, Lots 1 and 2 of Block 5, and Lots 1 thru 6 of Block 6 and Utility Lot 1 of Copperfield Vistas Subdivision, all located in the SE1/4 of the NW1/4 and the NE1/4 of the SW1/4 of Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a tract of land located in the SE1/4 of the NW1/4 and the NE1/4 of the SW1/4, Section 4, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Beginning at the northeast corner of Lot 28 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, said corner being marked by a rebar with

survey cap "LS 6251"; thence, westerly along the north line of said Lot 28 in Block 1 of Copperfield Subdivision, S89°59'08"W, a distance of 109.97 feet, more or less, to the northwest corner of said Lot 28, said corner being marked by a 5/8 inch rebar; thence, southwesterly along the northerly edge of Copperfield Drive right-of-way, S71°30'56"W, a distance of 63.29 feet, more or less to the northeast corner of Lot 1 in Block 7 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, said corner being marked by a 5/8 inch rebar; thence, northwesterly along the north line of said Lot 1 in Block 7 of Copperfield Subdivision, N88°29'49"W, a distance of 83.02 feet, more or less; thence, continuing northwesterly along the north line of said Lot 1 in Block 7 of Copperfield Subdivision, N88°29'49"W, a distance of 15.67 feet, more or less, to the northwest corner of said Lot 1, said corner being coincident with the northeast corner of Lot 3 in Block 7 of Copperfield Subdivision as shown on the plat recorded in Book 22 of Plats on Page 195, and said corner being marked by a rebar with survey cap; thence, northwesterly along the north line of said Lot 3 in Block 7 of Copperfield Subdivision, N88°42'16"W, a distance of 51.73 feet, more or less, to the northwest corner of said Lot 3, said point being coincident with the northeast corner of Lot 4 in Block 7 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, and said corner being marked by a rebar with survey cap "LS 2652"; thence, northwesterly along the north line of said Lot 4 in Block 7 of Copperfield Subdivision, N88°18'11"W, a distance of 76.36 feet, more or less, to the northwest corner of said Lot 4, said point being coincident with the northeast corner of Lot 5 in Block 7 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195, said corner being marked by a 5/8 inch rebar; thence, northwesterly along the north line of said Lot 5 in Block 7 of Copperfield Subdivision, N71°45'04"W, a distance of 68.75 feet, more or less; thence, N15°55'14"E, a distance of 104.91 feet, more or less; thence, N74°04'46"W, a distance of 45.00 feet, more or less; thence, N15°55'14"E, a distance of 160.58 feet, more or less; thence, S76°13'24"E, a distance of 120.24 feet, more or less; thence, S78°04'22"E, a distance of 59.02 feet, more or less; thence, N13°46'36"E, a distance of 98.10 feet, more or less; thence, N76°13'24"W, a distance of 13.77 feet, more or less; thence, N13°46'36"E, a distance of 52.00 feet, more or less; thence, S76°13'24"E, a distance of 5.67 feet, more or less; thence, N13°46'36"E, a distance of 80.12 feet, more or less; thence, N00°35'05"E, a distance of 68.76 feet, more or less; thence, N00°00'00"W, a distance of 83.80 feet, more or less; thence, S90°00'00"W, a distance of 0.65 feet, more or less; thence, N00°00'00"W, a distance of 52.00 feet, more or less; thence, N90°00'00"E, a distance of 18.65 feet, more or less; thence, N00°00'00"W, a distance of 200.26 feet, more or less; thence, S90°00'00"W, a distance of 20.17 feet, more or less; thence, N00°00'00"W, a distance of 52.00 feet, more or less; thence, N90°00'00"E, a distance of 2.17 feet, more or less; thence, N00°00'00"W, a distance of 455.50 feet, more or less; thence, curving to southwest to the left on a curve with a radius of 562.00 feet, a delta of 01°25'51", an arc length of 14.03 feet, and a chord bearing of S78°05'02"W and chord distance of 14.03 feet; thence, N12°37'53"W, a distance of 76.00 feet, more or less; thence, curving to the northeast to the right on a curve with a radius of 638.00 feet, a delta of 10°54'37", an arc length of 121.49 feet, and a chord bearing of N82°49'25"E and chord distance of 121.30 feet; thence, N44°21'49"E, a distance of 14.30 feet, more or less; thence, N00°00'00"W, a distance of 15.20 feet, more or less; thence, N90°00'00"E, a distance of 52.00 feet, more or less; thence, S00°00'00"E, a distance of 15.13 feet, more or less; thence, S45°00'00"E, a distance of 14.14 feet, more or less; thence, N90°00'00"E, a distance of 142.69 feet, more or less, to a point on the north/south 1/4 section line of Section 4, T1N, R8E, BHM, Pennington County, South

Dakota; thence, southerly along said 1/4 section line, S00°05'16"E, a distance of 941.09 feet, more or less, to a point marked by an iron pin; thence, continuing southerly along said 1/4 section line, S00°05'03"E, a distance of 517.62 feet, more or less, to a point located on said 1/4 section line being marked by a rebar with survey cap "LS 6251"; thence, continuing southerly along said 1/4 section line, S00°03'43"E, a distance of 781.29 feet, more or less; thence, S89°47'47"W, a distance of 303.32 feet, more or less to a point along the easterly line of Lot 17 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 21; thence, northwesterly along the east line of said Lot 17 in Block 1 of Copperfield Subdivision, N22°39'36"W, a distance of 46.14 feet, more or less, to the northeast corner of said Lot 17, said corner being coincident with the southeast corner of Lot 18 in Block 1 of Copperfield Subdivision as shown on the plat recorded in Book 22 of Plats on Page 21; thence, northwesterly along the east line of said Lot 18 in Block 1 of Copperfield Subdivision, N01°44'10"W, a distance of 58.19 feet, more or less, to the northeast corner of said Lot 18, said corner being coincident with the southeast corner of Lot 19 in Block 1 of Copperfield Subdivision as shown on the plat recorded in Book 22 of Plats on Page 21, said corner being marked with a rebar and survey cap "LS 2652"; thence, northeasterly along the east line of said Lot 19 in Block 1 of Copperfield Subdivision, N26°46'20"E, a distance of 44.28 feet, more or less, to the northeast corner of said Lot 19, said corner being coincident with the southeast corner of Lot 20 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 21, said corner being marked by a rebar with survey cap "LS 2652"; thence, northeasterly along the east line of Lots 20 through 24 inclusive of Block 1 of Copperfield Subdivision, as shown on the plats recorded in Book 22 of Plats on Page 21 and in Book 22 of Plats on Page 195, N27°11'29"E, a distance of 364.58 feet, more or less to the northeast corner of said Lot 24 in Block 1 of Copperfield Subdivision, said corner being coincident with the southeast corner of Lot 25 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 21; thence, northeasterly along the east line of said Lot 25 in Block 1 of Copperfield Subdivision, N19°26'44"E, a distance of 83.01 feet, more or less, to the northeast corner of Said Lot 25, said corner being coincident with the southeast corner of Lot 26 in Block 1 of Copperfield Subdivision, as shown on the plat recorded in Book 22 of Plats on Page 195; thence, northeasterly along the east lines of Lots 26, 27 and 28 of Block One of Copperfield Subdivision, N02°40'24"E, a distance of 239.67 feet, more or less to the point of beginning, located east of Valley Drive and west of Concourse Drive.

101. No. 07SV010 - A request by D. C. Scott Co. Land Surveyors for Wesleyan Church for a **Variance to the Subdivision Regulations to waive the requirement to develop section line right-of-way on an extension of Jolly Lane, dedicate additional public right-of-way on an extension of Jolly Lane, or install sidewalk on Jolly Lane; and to waive the requirements to install curb, gutter, sidewalk, sewer, water, or planting screen easement on Elk Vale Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 of Word of Hope Subdivision, located in the NE1/4 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NE1/4 SE1/4, lying southeast of Elk Vale Road, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on the west side of Jolly Lane, at the north end between Jolly Lane cul-de-sac and curve in Elk Vale Road.

102. No. 07SV022 - A request by Fisk Land Surveying & Consulting Engineers, Inc. for Alan A. Neiger for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, and to reduce the pavement width from 26 feet to 21 feet as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 Revised and Lot of Block 5 of Highland Park Subdivision, located in the NE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 of Block 5 (less Lot H1) and the balance of Block 5 of Highland Park Subdivision, located in the NE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southwest of the intersection of Highland Park Drive and Mount Rushmore Road.
103. No. 07SV024 - A request by Centerline, Inc. for Action Development, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit and to reduce the right-of-way width as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1, 2 and 3 of Century 21 Subdivision, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract 1 of Century 21 Subdivision, less Lot H1, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of E. North Street and the proposed E. Anamosa Street.
104. No. 07SV025 - A request by Sperlich Consulting, Inc. for Signature Development for a **Variance to the Subdivision Regulations to waive the requirement to provide a sidewalk along both sides of Montebello Court as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 14 thru 17 of Block 1 of the Villaggio at Golden Eagle Subdivision, located in the E1/2 of the NW1/4 of the SE1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northern terminus of Golden Eagle Drive.
105. No. 07SV028 - A request by Dream Design, Inc. for Word of Hope Wesleyan Church for a **Variance to the Subdivision Regulations to waive the requirement to increase the pavement width along Jolly Lane as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 of Word of Hope Subdivision, located in the NE1/4 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NE1/4 SE1/4, lying southeast of Elk Vale Road, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northeast of the intersection of Jubilee Lane and Elk Vale Road.
106. No. 07SV029 - 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, water and sewer and to reduce the width of access easements, to waive the requirement to install sidewalk along both sides of E. Mall Drive, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along Offutt Street and Beale Street, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along I90, and to waive the requirement to provide an eight foot wide utility easement on the interior side of the east lot line of Lots 2 and 3 and a portion of the south lot line of Lot 3 as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1, 2 and 3 of Forefather Flats Subdivision, located in the SW1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as that part

of the SW1/4 north of I-90 including Lot 3 of Starlite Subdivision, less GLM Subdivision No. 2, all located in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Dyess Avenue and north of I-90.

108. No. 07VR001 - A request by Boschee Engineering for OTS, Inc. for a **Vacation of Section Line Highway** on a parcel of land located in the SW1/4 of Section 22, T1N, R7E, and the NW1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of Sheridan Lake Road and Wildwood Drive.
109. No. 07VR004 - A request by Richard E. Huffman for a **Vacation of Right-of-Way** adjacent to Lots 1 thru 32 of Block 5 of Simmons Addition, plus 1/2 vacated Elm Street, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 101 and 141 E. Omaha Street and 320 Maple Avenue.
110. No. 07VR005 - A request by Dream Design International, Inc. for a **Vacation of Right-of-way** on the portion of the unplatted balance lying between Lancer Drive and Elk Vale Road of the SE1/4 less Lot H1, less Lots H3 and H4 of the W1/2 SE1/4 and less Lots H3, H4 and H5 of the E1/2 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of Lancer Drive and Elk Vale Road.

***Continue the following items until September 4, 2007:***

111. No. 05VR014 - A request by Sperlich Consulting, Inc. for Doeck, LLC for a **Vacation of Section Line Highway** on that portion of the statutory Section Line Right-of-Way lying in the NE1/4, SE1/4, Section 13, T2N, R7E, and that portion of the statutory Section Line Right-of-Way, lying in Tract 5, Sletten Addition, located in the NW1/4, SW1/4, Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest corner of the north to east curve of West Nike Road.

**END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS**

The Mayor presented No. 07PL006, a request by Centerline, Inc. for Broadmoor Homeowners' Association for a **Preliminary Plat** on Lots 39 and 40 of Broadmoor Subdivision Phase 1, formerly a portion of Lot B of Broadmoor Subdivision Phase 1 located in Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot A less Lot H1 and Lot B less Lot 12 revised thru 14 revised and Lot C Revised and Lot D of Broadmoor Subdivision Phase 1, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northeast of the intersection of Sheridan Lake Road and Sunset Vista Road. Johnson moved, second by Okrepkie and carried to approve the Preliminary Plat with the following revised stipulations: 1. Prior to Preliminary Plat approval by City Council, the applicant shall address all red line comments on the submitted construction plans; 2. Upon Final Plat application, the applicant shall submit recordable easement documents for all access and utility easements; 3. Prior to Preliminary Plat approval by City Council, the applicant shall submit road construction plans showing Broadmoor Circle to be constructed in a minimum 49 foot right-of-way, and constructed with a minimum 24 foot wide paved service with curb, gutter, sidewalk, street light conduit, water, and sewer for review and approval, or a Variance from the Subdivision Regulations must be obtained; 4. Upon submittal of the Final Plat, surety for any required subdivision improvements that have not been completed shall be posted and the

subdivision inspection fees shall be paid; 5 Prior to Preliminary Plat approval by City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; 6. Prior to Preliminary Plat approval by City Council, a proposed grading/erosion control plan shall be submitted for review and approval; 7. Prior to Preliminary Plat approval by City Council, the applicant shall submit drainage calculations, show existing storm sewer in the vicinity of Lot 40, and show all private utilities on the site plan maintaining a 5 foot separation from sewer and water; 8. Prior to approval by City Council, the applicant shall obtain an exception to allow for six lots to be accessed by a private street in lieu of four lots, or Broadmoor Circle shall be dedicated as public right-of-way; 9. Prior to approval by City Council, the applicant shall provide documentation showing authorization to represent the Broadmoor's Homeowners Association; and 10. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

The Mayor presented No. 07PL026, a request by Dream Design International, Inc. for a **Preliminary Plat** on Lot 6A and Lot 6B of Block 19 of Red Rock Estates, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Block 19 of Red Rock Estates, located in the SE1/4 NE1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located on Ainsdale Court. Johnson moved, second by Okrepkie and carried to approve Preliminary Plat with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, road construction plans for the access easement shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 20 foot wide paved surface or a Variance to the Subdivision Regulations shall be obtained; 2. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show Lot 6A as a flagpole lot or a Major Amendment to the Planned Residential Development shall be obtained waiving the requirement that Lot 6A abut a street right-of-way; 3. Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; 4. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and, 5. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

The Mayor presented No. 07UR005, an appeal of the Planning Commission's decision on a request by Unique Signs for Dwayne Pankratz for a **Conditional Use Permit to allow an off-premise billboard sign in a General Commercial District** on a portion of the unplatted balance lying between Lancer Drive and Elk Vale Road of the SE1/4, less Lot H1, Less Lots H3 and H4 of the W1/2 SE1/4 and less Lots H3, H4 and H5 of the E1/2 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1751 Elkvale Road. Elkins indicated that the Planning Commission acted to deny and the decision is appealed. She indicated that their discussion was that they did not feel it was appropriate to see additional billboard locations along this entry way into the community. She reported that there was extensive discussion about that and the concern with additional billboard locations. Responding to a question from the Chair, Elkins indicated that there was a sign removed but there is not a direct replacement on this site. There was one removed some time ago. Alderman Hurlbut indicated that one of the problems is the distinction between off-premise verses on-premise. He pointed out that if the applicant wants to advertise his own business, a new set of rules applies to the availability of having the sign in the proposed location. Elkins indicated that the proposed sign is purely an off-premise sign and will not be located at the applicant's place of business. She also indicated that the sign is a conforming sign and a conditional use permit is required.

Alderman Olson reported that the concern of the Planning Commission was about the beautiful vista in this area. Olson believed the denial is appropriate, and reminded the members that this is an off-premise sign. Alderman Johnson commented that the City has adopted some stringent guidelines on placing billboards. Elkins indicated that when the billboard regulations were revised and updated to include the smaller standards for sizes, the billboard credits, and the like; part of the amendment was to require the conditional use permit. The committee felt that not all sites that would meet the minimum standards should be allowed. Because this is an entry way, the Planning Commission felt this site was not. The conditional use permit is to allow objective review of a particular site and whether or not it is appropriate for a billboard.

Hurlbut moved, second by Hadcock to continue a request by Unique Signs for Dwayne Pankratz for a conditional use permit to allow an off-premise billboard to the July 2, 2007 Council meeting. Motion carried with Olson voting NO.

Kroeger moved, second by Olson and carried to close the public hearing on Items 83 – 146.

### **CONSENT PUBLIC HEARING ITEMS** – Item 112 - 135

The following items were removed from the Consent Public Hearing Items:

114. World Class Golf, Inc. dba **World Class Golf**, 5622 Sheridan Lake Road, Suite 105 for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery

Chapman moved, second by Olson and carried to approve the following items as they appear on the Consent Public Hearing Items.

### **ALCOHOL LICENSES**

- 112. Coco Palace, LLC dba **Coco Palace**, 1900 N. Maple Avenue for a Retail (On Sale) Wine License
- 113. Coco Palace, LLC dba **Coco Palace**, 1900 N. Maple Avenue for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
- 115. Century Motels, Inc. dba **Howard Johnson**, 950 North Street for a Retail (On Sale) Liquor License TRANSFER from M G Oil Company dba **East St. Patrick Casino**, 1026 E. St. Patrick Street
- 116. Doyle Estes, High Plains Securities, Inc. dba **High Plains Securities**, 4030 Cheyenne Blvd. for an (IN-ACTIVE) Retail (On-Off Sale) Malt Beverage License with Video Lottery TRANSFER from SKS Productions dba **Venue Eight**, 504 Mt. Rushmore Road
- 117. Big D Oil Company dba **Big D Oil #8**, 2303 Jackson Blvd. for a Package (Off Sale) Malt Beverage License TRANSFER from James Barry Stoick dba Stoicks, 2303 Jackson Blvd.
- 118. Fat Boy's, Inc. dba **Firehouse Brewing Co.**, 610 Main Street for a Package (Off Sale) Liquor License

### **2007 – 2008 RETAIL (ON-OFF SALE) MALT BEVERAGE WITH VIDEO LOTTERY**

- 119. Doyle Estes, High Plains Securities, Inc. dba **High Plains Securities**, 4030 Cheyenne Blvd. for an (IN-ACTIVE) Retail (On-Off Sale) Malt Beverage License with Video Lottery
- 120. Dave M. & Linda K. Handley dba **Hot Spot Casino**, 420 E. St. Patrick Street, Suite 107 for a Retail (On-Off Sale) Malt Beverage License with Video Lottery
- 121. Nifty Fifties, Inc. dba **Parkway Restaurant**, 312 East Blvd. North for a Retail (On-Off Sale) Malt Beverage License with Video Lottery

122. Doyle Estes, High Plains Securities, Inc. dba **High Plains Securities**, 4030 Cheyenne Blvd. for a Retail (On-Off Sale) Malt Beverage License with Video Lottery

2007 – 2008 RETAIL (ON-OFF SALE) MALT BEVERAGE NO VIDEO LOTTERY

123. Asian Garden, Inc. dba **Asian Garden**, 740 Mt. View Road for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
124. S & Y, Inc. dba **Golden Phoenix Restaurant**, 2421 W. Main Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
125. Chrisbro, LLC dba **Hampton Inn**, 1720 Rapp Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
126. Li Zhu Zhu dba **Hong Kong Buffet**, 927 East North Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
127. Khoury's Mediterranean Cuisine, Inc. dba **Khoury's Mediterranean Cuisine**, 2520 W. Main Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
128. Los Espinos, LLC dba **LaCosta Mexican Restaurant**, 603 Omaha Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
129. NPC International, Inc. dba **Pizza Hut #2776**, 2604 W. Main Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
130. NPC International, Inc. dba **Pizza Hut #2777**, 2005 Mt. Rushmore Road for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
131. At Tatiana's, Inc. dba **At Tatiana's The Russian Restaurant**, 1118 East North Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery

2007 – 2008 PACKAGE (OFF-SALE) MALT BEVERAGE

132. Albertson's LLC dba **Albertson's Food Center #845**, 855 Omaha Street for a Package (Off Sale) Malt Beverage License
133. Cigarette Chain, Inc. dba **Cigarette Chain**, 1903 N. Maple Avenue for a Package (Off Sale) Malt Beverage License
134. Wal-Mart Stores, Inc. dba **Wal-Mart Supercenter #1604**, 1200 N. LaCrosse Street for a Package (Off Sale) Malt Beverage License
135. Carol Enterprises dba **Don's Valley Express**, 4030 Cheyenne Blvd. for a Package (Off Sale) Malt Beverage License

Olson moved, second by Johnson and carried to continue World Class Golf, Inc. dba **World Class Golf**, 5622 Sheridan Lake Road, Suite 105 for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery to the July 2, 2007 Council meeting.

**NON-CONSENT PUBLIC HEARING ITEMS** – Items 136 – 146

The Mayor presented No. 07FV003, a request by Dream Design International, Inc. to consider an application for a **Fence Height Exception** to allow a six foot high chain link fence in lieu of a four foot high fence on Lots 1, 2 and 3 of Forefather Flats Subdivision, located in the SW1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a parcel of land located in the SW1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota more particularly described as follows: Commencing at the center one-quarter corner of said Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota thence S54°36'14"W 858.71' to a point on the southerly right-of-way line of East Mall Drive, said point being the Point of Beginning; Thence following the southerly right-of-way line of East Mall Drive N89°53'22"E a distance of 315.35'; Thence departing said southerly right-of-way

line of East Mall Drive S00°00'00"E a distance of 29.38'; Thence with a curve turning to the left with an arc length of 25.01', with a radius of 118.00', with a chord bearing of S06°04'18"E, with a chord length of 24.96'; Thence S12°08'36"E a distance of 60.47'; Thence with a curve turning to the right with an arc length of 25.01', with a radius of 118.00', with a chord bearing of S06°04'18"E, with a chord length of 24.96'; Thence S00°00'00"E a distance of 44.47'; Thence S90°00'00"W a distance of 333.35'; Thence N00°00'00"E a distance of 182.00'; to the aforesaid southerly right-of-way line of East Mall Drive to the Point of Beginning, having an area of 59,268 square feet, 1.36 acres, and, a parcel of land located in the SW1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota more particularly described as follows: Commencing at the center one-quarter (C1/4) corner of said Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota thence S37°45'00"W 628.29' to a point on the southerly right-of-way line of East Mall Drive, said point being the Point of Beginning; Thence following the said southerly right-of-way line of East Mall Drive N89°53'22"E a distance of 385.03' to a point on the south quarter line of the aforesaid Section 28; Thence departing said southerly right-of-way line of East Mall Drive and following said south quarter line of Section 28 S00°02'40"E a distance of 183.35'; Thence departing the said south quarter line of the Section 28 S90°00'00"W a distance of 367.18'; Thence N00°00'00"E a distance of 44.47'; Thence with a curve turning to the left with an arc length of 25.01', with a radius of 118.00', with a chord bearing of N06°04'18"W, with a chord length of 24.96'; Thence N12°08'36"W a distance of 60.47'; Thence with a curve turning to the right with an arc length of 25.01', with a radius of 118.00', with a chord bearing of N06°04'18"W, with a chord length of 24.96'; Thence N00°00'00"E a distance of 29.38' to the said southerly right-of-way line of East Mall Drive and the Point of Beginning, having an area of 68,687 square feet, 1.58 acres, and, a parcel of land located in the SW1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota more particularly described as follows: Commencing at the center one-quarter (C1/4) corner of said Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota thence S00°02'40"E 679.39' to a point on the south quarter line of aforesaid Section 28, said point being the Point of Beginning; Thence following said south quarter line of Section 28 S00°02'40"E a distance of 741.31' to the northerly right-of-way line of Offutt Street; Thence following said northerly right-of-way line of Offutt Street N89°50'04"W a distance of 580.15'; Thence departing said northerly right-of-way line of Offutt Street N00°00'05"E a distance of 739.63'; Thence N90°00'00"E a distance of 579.55' to the aforesaid south quarter line of Section 28 and the Point of Beginning, having an area of 429,361 square feet, 9.86 acres, more generally described as being located east of Dyess Avenue and north of Interstate 90. Kroeger moved, second by Olson and carried to approve the fence height exception with the following stipulations: 1. The fence shall be constructed as a six foot high black or brown chain link fence without slats; 2. A building permit for the fence shall be obtained prior to construction; and, 3. As a part of a Final Commercial Development Plan, a landscaping plan, with mature landscaping, shall be submitted for review and approval to provide a buffer reducing the headlight glare between the traffic within the development and Interstate 90.

The Mayor presented No. 07CA022, a request by City of Rapid City for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Agriculture to General Commercial** on that portion of the dedicated right-of-way for South Valley Drive adjacent to the westerly boundary of Lot 1 of Lot D and Lot D to the SW corner of Section 4, located in the SW1/4 SW1/4, Section 4, All located in T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southeast corner of the intersection of South Valley Drive and S. D. East Highway 44. The resolution was introduced, read, and Kroeger 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 18<sup>th</sup> day of June, 2007, 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 Adopted Comprehensive Plan to change the land use designation from General Agriculture to General Commercial, on that portion of the dedicated right-of-way for South Valley Drive adjacent to the westerly boundary of Lot 1 of Lot D and Lot D to the SW corner of Section 4, located in the SW1/4 SW1/4, Section 4, All located in T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and

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

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the Amendment to the Adopted Comprehensive Plan to change the land use designation from General Agriculture to General Commercial, on that portion of the dedicated right-of-way for South Valley Drive adjacent to the westerly boundary of Lot 1 of Lot D and Lot D to the SW corner of Section 4, located in the SW1/4 SW1/4, Section 4, All located in T1N, R8E, BHM, Rapid City, Pennington County, South Dakota as attached to the original hereof and that such amendment be filed with the City Finance Office.

Dated this 18<sup>th</sup> day of June, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

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

The Mayor presented No. 06SV069, a request by Fisk Land Surveying for Judy Lien for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalks, curb, gutter, street light conduit, sewer and water main along Mall Drive and N. Maple Avenue and to reduce the pavement width from 40 feet to 26 feet along Mall Drive as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 2, 3 and 4 of LJS Subdivision, formerly a portion of the unplatted balance of the NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota,

located along Maple Avenue and Mall Drive. Kroeger moved, second by Johnson and carried to deny without prejudice at the applicant's request.

The Mayor presented No. 07SV016, a request by David Kallemeyn for Irvin W. and Illa M. Cannon for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, pavement, street light conduit, water and sewer along Easy Street and to waive the requirement to install sidewalk along Corral Drive as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 24A and 24B of the NE1/4 of the NE1/4 of Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 24 of the NE1/4 of the NE1/4 of Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3375 Corral Drive. Kroeger moved, second by Olson and carried to acknowledge the applicant's request to withdraw the Variance.

The Mayor presented No. 07SV020, a request by Cody Schad for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, pavement, sidewalk, street light conduit, water and sewer as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1, 2, 3 and 4 of Quartz Canyon Subdivision, Section 7, T1S, R7E, BHM, Pennington County, South Dakota, legally described as Government Lot 1, and Lot A of Lot 2 of SW/14 NW/14, and Government Lot 2 less Lot A, all of Section 7, T1S, R7E, BHM, and Government Lot 6 of Section 6, T1S, R7E, BHM, Pennington County, South Dakota, located near the Strato Bowl. Kroeger moved, second by Johnson and carried to approve the Variance.

Kroeger moved, second by Johnson 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, sewer and sidewalk along Mount Rushmore Road as it abuts Tract C Revised of Walpole Heights Subdivision and Lot AB1, all in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2707 Mount Rushmore Road. (07SV027)

The Mayor presented No. 07SV027, a request by CETEC Engineering Services, Inc. for JR Investments, LLC for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sewer and sidewalk on Mount Rushmore Road; request to reduce the required pavement width in the motel access easement from 26 feet to 24 feet and to reduce the access easement width from 59 feet to 49 feet as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 and 2 of Block 1 of Walpole Heights Subdivision, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract C Revised of Walpole Heights Subdivision and Lot AB1, all in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2707 Mount Rushmore Road. Kroeger moved, second by Johnson and carried to approve the Variance with the following stipulation: Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements along Mount Rushmore Road.

The Mayor presented No. 07VR003, a request by Dream Design International, Inc. for a **Vacation of Right-of-Way** on the Lot H-1 located in the S1/2 N1/2 SE1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located south of I-90 and west of East North Street. The following resolution was introduced, read, and Kroeger moved its adoption:

RESOLUTION OF VACATION  
OF PUBLIC RIGHT-OF-WAY

WHEREAS it appears that the Lot H-1 located in the S1/2 N1/2 SE1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Interstate 90 and west of East North 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.

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

Dated this 18<sup>th</sup> day of June, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

(SEAL)

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

The Mayor presented No. 07RZ032, second reading of Ordinance No. 5286, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to Light Industrial District** on all of the dedicated right-of-way adjacent to the easterly boundary of Tract C of the SE1/4 SE1/4, Lot H of Tract A and Lot N of Tract A of Schlottman Addition, to the centerline of East Saint Andrew Street located in the SE1/4 SE1/4 Section 5; and, all of the dedicated right-of-way adjacent to the westerly boundary of Lot 1 of Lot D and Lot D to the centerline of East Saint Andrew Street, located in the SW1/4 SW1/4, Section 4, all located in T1N, R8E, BHM, Rapid City, South Dakota, located on South Valley Drive south of South Dakota Highway 44. Notice of hearing was published in the Rapid City Journal on May 12, 2007 and May 19, 2007. Ordinance No. 5286 having had the first reading on May 7, 2007; Okrepkie moved, second by LaCroix that the title be read the second time with a revised legal description. The following voted AYE: Olson, Kroeger, Chapman, Johnson, LaCroix, Okrepkie, Hurlbut, and Hadcock; NO: None; whereupon the Mayor declared the motion passed and read the title of Ordinance No. 5286 the second time.

The Mayor presented No. 07RZ040, second reading of Ordinance No. 5301, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to General Commercial District** on that portion of the dedicated right-of-way for South Valley Drive adjacent to the westerly boundary of Lot 1 of Lot D and Lot D to the SW corner of Section

4, located in the SW1/4 SW1/4, Section 4, All located in T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the southeast corner of the intersection of South Valley Drive and S. D. East Highway 44. Notice of hearing was published in the Rapid City Journal on June 9, 2007 and June 16 2007. Ordinance No. 5301 having had the first reading on June 4, 2007; Okrepkie moved, second by Hurlbut that the title be read the second time. The following voted AYE: Olson, Kroeger, Chapman, Johnson, LaCroix, Okrepkie, Hurlbut, and Hadcock; NO: None; whereupon the Mayor declared the motion passed and read the title of Ordinance No. 5301 the second time.

The Mayor presented No. 07RZ041, second reading of Ordinance No. 5302, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning The Within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to General Commercial District** on the eastern 33 feet of Section 5 beginning at the SE corner of Section 5 extending 450 feet northerly, located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on a portion of South Valley Drive south of S. D. Highway 44. Notice of hearing was published in the Rapid City Journal on June 9, 2007 and June 16 2007. Ordinance No. 5302 having had the first reading on June 4, 2007; Okrepkie moved, second by LaCroix that the title be read the second time. The following voted AYE: Olson, Kroeger, Chapman, Johnson, LaCroix, Okrepkie, Hurlbut, and Hadcock; NO: None; whereupon the Mayor declared the motion passed and read the title of Ordinance No. 5302 the second time.

**BILLS**

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

South Dakota Retirement System, retirement	343,270.62
South Dakota Retirement System, retirement	416.34
First Administrators, claims paid 06-06-07	115,283.35
Berkley Risk Administrators, claims paid 06-06-07	105,458.80
Black Hills Power & Light, electricity	11,886.66
Montana Dakota Utilities, gas	1,202.85
West River Electric Association, electricity	14,332.62
Computer Bill List	<u>3,734,444.73</u>
Subtotal	\$4,326,295.97

South Dakota Retirement System, retirement	310.16
Charles Braunersrither, volunteer stipend	150.00
City of Rapid City, postage	3.46
City of Rapid City, health insurance	1,178.00
Conoco Phillips, gasoline	168.90
Dakota Business Center, copier maintenance	8.47
Prairiewave Communications, telephone	34.91
Simpson's Printing, newsletter printing	103.82
Standard Life, life insurance	<u>7.00</u>
Subtotal	\$4,328,260.69

**CITY COUNCIL**

**JUNE 18, 2007**

Brown Traffic Products, SIG06-1617, CO 02F  
McCarthy Properties, LLC, sewer backup claim  
Total

17,270.75  
20,466.00  
\$4,365,997.44

**ADJOURN**

As there was no further business to come before the Council at this time, the meeting adjourned at 12:30 A.M.

ATTEST:

CITY OF RAPID CITY

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

\_\_\_\_\_  
Mayor

(SEAL)