

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

October 15, 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, October 15, 2007 at 7:00 P.M.

The following members were present: Mayor Alan Hanks and the following Alderpersons: Lloyd LaCroix, Tom Johnson, Deb Hadcock, Bob Hurlbut, Bill Okrepkie, Malcom Chapman, Ron Weifenbach, Karen Olson, Ron Kroeger, and Sam Kooiker; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

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

### **ADOPTION OF AGENDA**

The following items were added to the agenda:

- Cornerstone Rescue Mission, Alderman Hadcock
- Council Emergency Plan, Alderman Hurlbut
- Acknowledge Ducks Unlimited Raffle

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

### **APPROVE MINUTES**

Okrepkie moved, second by Olson and carried to approve the minutes of October 1, 2007.

### **AWARDS AND RECOGNITIONS**

At this time Mayor Hanks recognized Burgermeister, Ruediger Eisenbrand and Frau Eisenbrand of Apoldo, Germany (Sister City to the City of Rapid City) and presented each with an Honorary Certificate of Citizenship to the City of Rapid City. Burgermeister Eisenbrand extended their appreciation to their host family and indicated that he and his wife have been warmly greeted and welcomed by the citizens of Rapid City.

Mayor Hanks presented the Veteran of the Month for October, 2007 to Tom Brady and recognized his efforts and dedication to the service of his country and community.

### **GENERAL PUBLIC COMMENT**

Bonnie Redden, Rapid City extended an invitation to the Council to be her guests at an upcoming event at the Rushmore Plaza Civic Center Theatre; and requested that the Council attend the event while confined to a wheel chair and to bring an attendant to assist them in addressing their needs. Redden indicated that her intention is to bring attention to the

inaccessibility of the Civic Center for those who have disabilities; and pointed out the lack of adequate seating areas especially for wheel chairs.

**NON-PUBLIC HEARING ITEMS** -- Items 3 - 62

Okrepkie moved, second by Chapman and carried to open public comment on Items 3 – 43. Matt Fridale, Wyss Associates addressed item #7 (PW092507-01), indicating his support of the performing arts facility; and explaining that as a landscape architect, he has had the opportunity to work with ATTA on the Powwow Gardens project. Fridale indicated that the Powwow Gardens is proposed to be moved to a location that may prove to have some problems that can not be resolved and ATTA may reconsider the original site near the Journey Museum. Fridale pointed out that the performing arts center and ATTA are two projects on the same road, towards the same destination, and that is the living arts in Rapid City. Daphne Richards-Cook, Executive Director for ATTA addressed item #7 (PW092507-01), commending the City Council on their approval of \$812,000 from 2012 for the ATTA Powwow Gardens and Market. Richards-Cook indicated that their project will exceed the original project cost estimates. Richards-Cook reminded the members, that at the Council's request, a business plan was submitted and has since been modified to accommodate the different conservative views of the pro forma that were submitted. In reviewing the pro forma, Richards-Cook indicated that there is nothing comparable to find accurate data. When requested, Richards-Cook explained that Wyss Associates was hired to prepare a site study that involved various sites, including the original site. Richards-Cook indicated that ATTA needs an acknowledgement from the City Council so that they can proceed with a capital campaign fund raiser; and asked to meet with the City Council if there is an issue with the business plan and project. Steven Brenden, Rapid City addressed items #8 (PW081407-04), asking the citizens to avail themselves of the City's Pavement Management System; #9 (PW100907-01), encouraging citizens to attend the October 22<sup>nd</sup> and October 29<sup>th</sup> meetings to hear the discussion of tax increment financing; and #25 (LF101007-03), indicating the developers' costs will be limited, but suggesting there will no limits for the taxpayer as it relates to the project costs of Elk Vale Road improvements. Okrepkie moved, second by Johnson and carried to close public comment on Items 3 – 43.

**CONSENT ITEMS** – Items 3 - 43

The following items were removed from the Consent Items:

7. No. PW092507-01 – Acknowledge the report on the Rapid City Performing Arts Design Study
9. No. PW100907-01 - Acknowledge the report on Tax Increment Financing Guidelines regarding public meeting and hearing dates scheduled
17. No. PW100907-08 – Authorize the Mayor and Finance Officer to sign Amendment No. 2 to the Professional Services Agreement between the City of Rapid City and FourFront / enVision Design and HDR Engineering, Inc. for Red Rock Water Storage Reservoir, Project No. W02-1184 / CIP #50284 for an amount not to exceed \$31,470.00

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

***Alcoholic Beverage License Applications Set for Hearing (November 5, 2007)***

3. **Friends of the Rapid City Public Library** for a special Wine License for an event scheduled November 15, 2007 at the Rapid City Public Library, 610 Quincy Street
4. **Rapid City Area Chamber of Commerce** for a special Beer & Wine License for an event scheduled November 15, 2007 at the First Western Bank, 333 West Blvd., Ste. 100
5. Orris Enterprises, Inc. dba **Vino 100**, 520 Seventh Street, Suite 520 for a Retail (On-Off Sale) Malt Beverage License (No Sunday Operation)
6. Carolyn's Casinos, Inc. dba **Carolyn's Too**, 1141 Deadwood Avenue, Suite 2 for a Retail (On-Off Sale) Malt Beverage License with Video Lottery TRANSFER from Kelly's Sports Lounge, Inc. dba Kelly's Sport Lounge, 825 Jackson Blvd.

***Public Works Committee Consent Items***

8. No. PW081407-04 – Acknowledge and accept the report on the Pavement Management System; and request that an alphabetical listing of the streets be included in the information available on the City's website
10. Acknowledge the report on staff discussions regarding parking and access at Star of the West Sports Complex
11. No. PW100907-02 – Approve Change Order No. 2F for Well No. 8 Pump Replacement Project No. W07-1644 / CIP No. 50677 to Weston Engineering, Inc. for an increase of \$815.31
12. No. PW100907-03 – Authorize the Mayor and Finance Officer to sign a Sewer Construction Fee Resolution for the Red Rocks Estates Sanitary Sewer Lift Station

## 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 sewer utility in certain areas; and

WHEREAS, the sewer system has been improved in Red Rock Estates per City Project No. SS01-1086: Red Rock Estates Sanitary Sewer Lift Station as shown on Exhibit A, attached hereto and incorporated hereto; and

WHEREAS, the City installed a sanitary sewer lift station, and the City has paid \$287,506.68 for the lift station; and

WHEREAS, in association with the original sewer construction fee (#3313-0010), \$28,478.84 has been collected to date for the Red Rock Estates Lift Station, City Project No. SS01-1086; and

WHEREAS, the remaining sewer costs associated with the Red Rock Estates Sanitary Sewer Lift Station, City Project No. SS01-1086 should be proportioned according to the benefit each property receives; and

WHEREAS, the remaining costs for the sanitary sewer lift station totaling \$259,027.84 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 the sanitary sewer lift station to service the regional area, and do not necessarily directly abut the constructed sanitary sewer lift station. Thus, these properties may need to extend additional sewer 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 sanitary sewer lift station associated with the Red Rock Estates, City Project No. SS01-1086, 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 construction of the lift station associated with Red Rock Estates Sanitary Sewer Lift Station, City Project No. SS01-1086; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A shall be required to pay its proportional share of the cost of construction of the sanitary sewer lift station associated with Red Rock Estates, City Project No. SS01-1086 prior to being served with City sewer; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A as benefiting property shall pay \$210.33 per acre prior to connection to the City's sewer main; and

BE IT FURTHER RESOLVED that the sewer construction fees collected as established herein shall accrue to the consolidated construction (8914) fund; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the remaining balance of the project costs totaling \$259,027.84 is collected, at which time this Resolution and the utility construction fee shall automatically expire.

BE IT FURTHER RESOLVED, the authorization of this resolution rescinds the current sewer construction fee number 3313-0010.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 13. No. PW100907-04 - Authorize the Mayor and Finance Officer to sign a Water Construction Fee Resolution for Red Rock Estates

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, water main has been extended in the Red Rock area per plans filed with the City under City Files Nos. Dev00-407: Red Rock Estates Phase I, Dev01-456: Red Rock Estates Phase II, Dev05-736: Red Rock Meadows, and W00-1026 Red Rock Water Transmission Extension as shown on Exhibit A, attached hereto and incorporated hereto; and

WHEREAS, the City has requested the developers to install water mains larger than required to provide additional capacity to accommodate future growth, and the City has paid the developers \$603,755.59 for the requested oversizing; and

WHEREAS, in association with the original water construction fee (#3313-0009), \$107,100.00 has been collected to date for the Red Rock area, City File Nos. Dev00-407, Dev01-456, Dev05-736, and W00-1026; and

WHEREAS, the remaining water oversize costs associated with the Red Rock area, City File Nos. Dev00-407, Dev01-456, Dev05-736, and W00-1026 should be proportioned according to the benefit each property receives; and

WHEREAS, the remaining costs for the water main totaling \$496,655.59 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 mains. 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 mains associated with the Red Rock area, City File Nos. Dev00-407, Dev01-456, Dev05-736, and W00-1026, 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 the Red Rock area, City File Nos. Dev00-407, Dev01-456, Dev05-736, and W00-1026; 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 mains associated with the Red Rock area, City File Nos. Dev00-407, Dev01-456, Dev05-736, and W00-1026 prior to being served with City water; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A as benefiting property shall pay \$441.68 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 remaining balance of the project costs totaling \$496,655.59 is collected, at which time this Resolution and the utility construction fee shall automatically expire.

BE IT FURTHER RESOLVED, the authorization of this resolution rescinds the current water construction fee number 3313-0009.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 14. No. PW100907-05 - Authorize the Mayor and Finance Officer to sign a Water Construction Fee Resolution for Minnesota Ridge

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 Minnesota Ridge Subdivision per plans filed with the City under City Development Files No. Dev01-465: Minnesota Ridge Subdivision Phase 1 and Dev02-520: Minnesota Ridge Phase 2 as shown on Exhibit A, attached hereto and incorporated hereto; and

WHEREAS, the City has requested the developer to install a parallel 8” water main to provide additional capacity to accommodate future growth, and the City has paid the developer \$40,033.44 for the requested construction; and

WHEREAS, water costs associated with the Minnesota Ridge Subdivision Phases 1 and 2, City Development File Nos. Dev01-465 and Dev02-520 should be proportioned according to the benefit each property receives; and

WHEREAS, the water costs for the 8” water main totaling \$40,033.44 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 parallel water main to service the regional area, and do not necessarily directly abut the 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 Minnesota Ridge, City Development File Nos. Dev01-465 and Dev02-520, 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 construction of the parallel water main associated with Minnesota Ridge Subdivision Phases 1 and 2, City Development File Nos. Dev01-465 and Dev02-520; 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 Minnesota Ridge Subdivision Phases 1 and 2, City Development File Nos. Dev01-465 and Dev02-520 prior to being served with City water; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A as benefiting property shall pay \$148.97 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 \$40,033.44 is collected, at which time this Resolution and the utility construction fee shall automatically expire.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 15. No. PW100907-06 - Authorize the Mayor and Finance Officer to sign a Sewer Construction Fee Resolution for Sheridan Lake Road Sewer

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 sewer utility in certain areas; and

WHEREAS, a sewer main has been extended along Sheridan Lake Road per plans developed under City Project No. SS00-1007: Sheridan Lake Road Sanitary Trunk Sewer Extension as shown on Exhibit A, attached hereto and incorporated hereto; and

WHEREAS, the City installed a sewer main to provide capacity to accommodate future growth, and the City has paid \$1,075,987.65 for the sewer main; and

WHEREAS, in association with the original sewer construction fee (#3313-0010), \$176,073.65 has been collected to date for the Sheridan Lake Road Sanitary Trunk Sewer Extension, City Project No. SS00-1007; and

WHEREAS, the remaining sewer costs associated with the Sheridan Lake Road Sanitary Trunk Sewer Extension, City Project No. SS00-1007 should be proportioned according to the benefit each property receives; and

WHEREAS, the remaining costs for the sewer main totaling \$899,914.00 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 the trunk sewer extension to service the regional area, and do not necessarily directly abut the newly constructed sewer main. Thus, these properties may need to extend additional sewer 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 sewer main associated with the Sheridan Lake Road Sanitary Trunk Sewer Extension, City Project No. SS00-1007, 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 sewer main associated with Sheridan Lake Road Sanitary Trunk Sewer Extension, City Project No. SS00-1007; 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 sewer main associated with Sheridan Lake Road Sanitary Trunk Sewer Extension, City Project No. SS00-1007 prior to being served with City sewer; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A as benefiting property shall pay \$348.12 per acre prior to connection to the City's sewer main; and

BE IT FURTHER RESOLVED that all sewer construction fees collected as established herein shall accrue to the consolidated construction (0910) fund; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the remaining balance of the project costs totaling \$899,914.00 is collected, at which time this Resolution and the utility construction fee shall automatically expire.

BE IT FURTHER RESOLVED, the authorization of this resolution rescinds the current sewer construction fee # 3313-0010.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 16. No. PW100907-07 – Authorize the Mayor and Finance Officer to sign a Memorandum of Understanding for 2007-2008 Snow Plow Exchange Routes
- 18. No. 07VE030 - Section 31, T2N, R8E – Approve a **Vacation of a portion of an access easement and utility easement** for petitioner Sperlich Consulting, Inc. for A & B Welding Supply Company on Lots 2 and 3 of Tract C, located in the SE1/4 of the SE1/4, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 914 E. Chicago Street and 230 Cherry Avenue

RESOLUTION VACATING A PORTION OF AN  
ACCESS AND UTILITY EASEMENT

WHEREAS it appears that a portion of an access easement and utility easement on Lots 2 and 3 of Tract C, located in the SE1/4 of the SE1/4, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, a, more generally described as being located at 914 E. Chicago Street and 230 Cherry Avenue, is no longer needed for public purposes; and

WHEREAS the owner(s) of the above-described property desire that said portion of the access easement and utility easement be vacated and released.

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

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

Finance Officer

(SEAL)

- 19. No. 07VE031 - Red Rock Estates – Approve with stipulations, a **Vacation of Minor Drainage and Utility Easement** for petitioner Geiger Architecture and Davis Engineering for Jeremy Walla on Lots 3 and 4 of Block 15 of Red Rock Estates Subdivision, located in the NW1/4 NE1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 6438 and 6408 Prestwick Road

RESOLUTION OF VACATION OF  
UTILITY AND MINOR DRAINAGE EASEMENT

WHEREAS it appears that a portion of a minor drainage and utility easement on Lots 3 and 4 of Block 15 of Red Rock Estates Subdivision, located in the NW1/4 NE1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 6438 and 6408 Prestwick Road, is no longer needed for public purposes; and

WHEREAS the owner(s) of the above-described property desire that said portion of the utility and drainage easement be vacated and released.

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

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 20. No. 07TP022 – Approve the 2008 Unified Planning Work Program Draft Report

**Legal & Finance Committee Consent Items**

- 21. Confirm appointment of Sam Kooiker, Deb Hadcock, Tom Johnson, Bill Okrepkie, Ron Kroeger, Mike Derby, Jim Kjerstad, and Tony Dupont to the Annexation Committee.
- 22. Refer South Creek Apartment Drainage Report to the November 27, 2007, Public Works Committee meeting.
- 23. No. LF101007-01 – Acknowledge Capital Improvements Program Committee monthly update for September 2007.
- 24. No. LF101007-02 – Approve 2007 Capital Plan for Streets, Drainage and MIP Projects for September, 2007.

25. No. LF101007-03 – Approve the Elk Vale Road Improvements (north of Interstate 90); funding from the 8910 Program of the FY2007 Streets, Drainage, and MIP Projects; and private donations of \$200,000 from developers Bradsky and Tlustos.
26. No. LF101007-04 – Approve funding from 2007 Sports Facility Partnership Fund for Harney Little League Fence Relocation for \$9,000 and American Legion Post 320 Stadium Upgrade for \$20,838.25.
27. Request staff to prepare some global information addressing right of way issues in the City and bring that information to the November 28, 2007, Legal and Finance Committee meeting.
28. No. LF101007-06 – Approve Travel Request for Steve Allender, command staff, and department representatives to attend annual goals meeting at the Rushmore Plaza Civic Center January 16-18, 2008, in the approximate amount of \$500.
29. Acknowledge the report regarding the emergency replacement of the motor in engine 1.
30. No. LF101007-07 - Authorize Mayor and Finance Officer to sign **Amendment #1 to State of South Dakota Historical Preservation Allocation Award** for Preservation Project SD-07-21 in the amount of \$3,500 for the purchase of educational and promotional materials.
31. No. 07TP023 – Authorize staff to advertise Requests for Proposals for the **2009-2013 Transit Development Plan**; and approve the use of Growth Management Budget Personnel funds to provide the required local match funding.
32. No. 07TP024 – Approve Amendment to the **2007 Unified Planning Work Program**.
33. No. LF101007-08 – Approve Resolution Fixing Time and Place for Hearing on November 5, 2007 for Assessment Roll for Property Cleanup.

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

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

1. The assessment roll for Property Cleanup was filed in the Finance Office on the 15<sup>th</sup> day of October, 2007. The City Council shall meet at the City/School Administration Center in Rapid City, South Dakota, on Monday, November 5, 2007 at 7:00 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.
2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time and place of hearing thereon, that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.
3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 15<sup>th</sup> day of October, 2007.

CITY OF RAPID CITY

ATTEST:  
s/ James F. Preston  
Finance Officer

s/ Alan Hanks, Mayor

(SEAL)

- 34. No. LF101007-09 – Authorize Mayor and Finance Officer to sign Contract for Wellness Screening Services between Rapid City Regional Hospital, Inc. and the City of Rapid City.
- 35. Acknowledge the following volunteers for purposes of workers compensation insurance coverage: Candy Hamilton, Robin Yang, Ruby Yang.
- 36. No. LF101007-10 – Authorize Mayor and Finance Officer to sign Agreement with Wright Express Account Application.
- 37. No. LF101007-11 – Authorize Mayor and Finance Officer to sign Memorandum of Agreement between the City of Rapid City and Kiwanis-Mary Hall Park Committee, Inc.
- 38. No. LF101007-12 – Authorize Mayor and Finance Officer to sign Agreement with Black Hills Power for a PAL Light in Centennial Park.
- 39. No. LF101007-18 – Acknowledge raffle request from Western Dakota Technical Institute
- 40. No. LF101007-19 – Authorize Mayor and Finance Officer to sign Covenant Agreement between City of Rapid City and Nancy I. Bradsky and Mark S. Bradsky.

**Growth Management Department Consent Items**

- 41. No. 07AN005 - A request by Alan Thornburg for a **Petition for Annexation** on Lot 1A and 2A, located in the SE1/4 of NW1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 5406 Old Folsom Road. (PETITION FOR ANNEXATION BE APPROVED CONTINGENT ON ANY PAYMENT DUE TO THE RAPID VALLEY FIRE DISTRICT.)

A RESOLUTION ANNEXING THE WITHIN DESCRIBED TERRITORY

WHEREAS, a petition has been filed with the City, that was signed by not less than three-fourths of the registered voters and by the owners of not less than three-fourths of the value of the territory sought to be annexed; and

WHEREAS, the territory that the petitioners are seeking to have annexed is contiguous to the City of Rapid City; and,

WHEREAS the City Council of the City of Rapid City deems it to be in the best interest of the City that the territory described in the petition be annexed and thereby included within the corporate limits of the City.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City that the following territory, containing 9.0 acres, more or less, is hereby included within the corporate limits of the City and annexed thereto:

Lot 1A and 2A, located in the SE1/4 of NW1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

42. No. 07PL119 - A request by CETEC Engineering Services, Inc. for James Gavach and Kimberly Solomon-Gavach for a **Preliminary Plat** on Lot 1R of Block 1 of Park Hill Subdivision, Lots 1AR and 2AR of Park Meadows Subdivision, located in the NW1/4 SE1/4 and the NE1/4 SE1/4 of Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 of Block 1 of Park Hill Subdivision, Lots 1A and 2A of Block 1 of Park Meadows Subdivision, located in the NW1/4 SE1/4 and the NE1/4 SE1/4 of Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Smith Avenue and E. Oakland Street. (
43. No. 07PL120 - A request by Kadrmas, Lee & Jackson, Suite 500 for a **Layout Plat** on Lot 1 of Lot A of Lot 5R of Meridian Subdivision, located in the SW1/4 of the SE1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Lot A of Lot 5R of Meridian Subdivision, located in the SW1/4 of the SE1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1200 North LaCrosse Street.

#### END OF CONSENT CALENDAR

LaCroix moved, second by Okrepkie to (No. PW092507-01), acknowledge the report on the Rapid City Performing Arts Design Study. Alderman Kooiker offered support in acknowledging the report, but questioned what the City gains from the acknowledgement. Kooiker pointed out that three other entities are vying for a piece of real estate near the Journey, but that there needs to be an understanding that there's still a number of hurtles and floodplain issues that need to be resolved, along with the coordination between the Journey and the Civic Center. Alderman LaCroix expressed the frustration of the ATTA organization explaining that they were seeking acknowledgement of their report; but received direction to approach the boards of the Civic Center and Journey Museum. Motion carried.

LaCroix moved, second by Okrepkie to (No. PW100907-01), acknowledge the report on Tax Increment Financing Guidelines regarding public meeting and hearing dates scheduled. Elkins, responding to Alderman Kooiker's comments, clarified that the meeting on October 22<sup>nd</sup> is an informational meeting of the committee, of which the public is welcomed to attend. The actual public hearing will be on October 29<sup>th</sup> and the committee will take public input. Motion carried.

LaCroix moved, second by Okrepkie to (No. PW100907-08), authorize the Mayor and Finance Officer to sign Amendment No. 2 to the Professional Services Agreement between the City of Rapid City and FourFront / enVision Design and HDR Engineering, Inc. for Red Rock Water Storage Reservoir, Project No. W02-1184 / CIP #50284 for an amount not to exceed \$31,470.00. Responding to concerns from Alderman Hadcock, Jablonski explained that the additional cost is associated with construction contract observation services that average five hours per day; an additional fourteen progress meetings; an issue with a grading plan revision

for the Dathe Property; and additional work on the 11-6-19 review for handicap parking and driveway paving. Jablonski, responding to a question from Alderman Johnson, explained that the reservoir project needed to be coordinated with the Well No. 12 project and the Stoney Creek Booster Station, because without the well the reservoir could not be tested. Upon a roll call vote, the following voted AYE: LaCroix, Johnson, Hurlbut, Okrepkie, Chapman, Olson, and Kroeger; NO: Hadcock, Weifenbach, and Kooiker. Motion carried.

Okrepkie moved, second by Chapman and carried to open public comment on Items 44 – 62. Billy Mitchell, President of the Rapid City Firefighters Union addressed items #48 (LF091207-05) and #49 (LF091207-06), reporting that the Health Committee met to discuss the rates and disclose the reason for the increase; and indicated that he understood the increase. Bob Brandt, Project Manager for Good Guys, LLC addressed items #54 (07EX083) and #55, suggesting that everyone wants to see the downtown area develop into a shopping and entertainment destination. He believed that with some creative thinking by City staff, Council, and developers, some of the vacant lots could be used by businesses that do not need to be located near the malls. Brandt pointed out that a Planned Commercial Development designation is a highly scrutinized zoning classification; and it allows the flexibility of mixing separate lots with lease space, common driveways and parking. He explained that it is expensive to build in the downtown area because concrete and asphalt must be removed to construct foundations and utility lines. He suggested the use of common service lines will minimize cutting and patching streets and connections to utility mains. Brandt indicated that a covenant agreement could be used for shared utility lines and it would be recorded with the County. Brandt indicated that the City Attorney is of the opinion that such an agreement could be used only if two ordinances that prohibit shared service lines crossing lot lines, are repealed. The same requirement could then be included in the Public Works Specification Manual; and these specifications have a provision for exceptions. He clarified that there must be a specific need, conditions are attached, and the Council must approve the exceptions on a case by case basis. He asked that the City Engineer be allowed to decide how to best connect to the mains. Steven Brenden, Rapid City addressed items #54 (07EX083) and #55, asking the Council not to change the ordinances or policies of the City; and encourage the Council to begin enforcing the rules. David Bradsky, Attorney for the Catholic School System and Catholic Diocese addressed item #56 (PW092507-20), indicating their support of the allocation of funds. Although the school system does not have funds for the improvement; Bradsky indicated that they will have the land that they are willing to provide for easements or a reservoir. Ron Kortemeyer, Executive Director for Evangelical Lutheran Good Samaritan Society addressed item #56 (PW092507-20), indicating that they recognize that the extension of the infrastructure has been the City's responsibility; but he reminded the Council that in part of bringing this project forward, they are willingly able to and interested in working with the City on a number of items -- approximately 4,000 feet of 10 inch water main; funding the design for the booster reservoir system in order to keeping the project tracking correctly; and the Benedictine Convent has agreed to donate a reservoir easement. He indicated that they will incur some extra costs due to a proposed design with a curved linear street design for traffic calming as part of a good neighbor effort. Detention ponds are a real important piece in the area, and they are prepared to look at the potential of up to eight acres for the ponds. He indicated that they have agreed to work out a continued agreement for public access. Jerry Brown, Regional Airport Board member and Chairman of the Water Committee addressed item #56 (PW092507-20), indicating his opposition to funding the project when there is a serious lack of adequate water pressure for fire flows at the airport. David Fenske, RDO Equipment Co. addressed item #58 (CC101507-02), indicating his concern over staff's recommendation to reject bids on equipment that he has bid and meets the

specifications of the equipment. Okrepkie moved, second by Olson and carried to close public comment on Items 44 – 62.

### **NON-CONSENT ITEMS** – Items 44 - 62

### **ORDINANCES**

Ordinance No. 5341 (No. 07RZ068), An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by CETEC Engineering Services, Inc. for OS Development for a **Rezoning from No Use District to Low Density Residential II District** on a tract of land located in the S1/2 SE1/4 of Section 22 and the N1/2 NE1/4 of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, being more particularly described as follows: Commencing at the East ¼ Corner of said Section 27, said point being monumented with a rebar below the surface of the asphalt and having two reference monuments consisting of a brass cap and iron pipe, one bears N41°22'55"W 49.48 feet, the second bears N35°10'06"E 42.14 feet; Thence N34°57'40"W 2433.52 feet to the True Point of Beginning; Thence N39°20'03"E 215.75 feet to a point; Thence N45°00'00"E 192.27 feet to the beginning of a curve concave to the northwest and having a radius of 2000.00 feet; Thence along said curve a distance of 450.67 feet to a point; Thence N32°05'22"E 84.51 feet to the beginning of a non-tangent curve concave to the northeast having a radius of 1200.00 feet and a chord bearing of N59°55'26"W; Thence along said curve a distance of 500.56 feet to a point; Thence S42°01'34"W 646.67 feet to the beginning of a curve concave to the southeast and having a radius of 480.00 feet; Thence along said curve a distance of 184.53 feet to a point; Thence S20°00'00"W 105.33 feet to the beginning of a non-tangent curve concave to the southwest having a radius of 1200.00 feet and a chord bearing of S58°54'00"E; Thence along said curve a distance of 464.96 feet to the True Point of Beginning, from which the Center ¼ corner of said Section 27 bears S33°29'08"W a distance of 2270.05 feet, said point being monumented with a rebar and aluminum cap stamped C ¼ LS 6014, located west of the intersection of Reservoir Road and Southside Drive was introduced. Hadcock moved, second by Hurlbut and carried that Ordinance No. 5341 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, November 5, 2007.

Ordinance No. 5342 (No. 07RZ069), 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 General Agriculture District to Light Industrial District** on a portion of the NW1/4 of the NE1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northeasterly corner of Lot 7 of Marlin Industrial Park, common to a point on the southerly edge of right-of-way of Marlin Drive, and the point of beginning; Thence, first course: curving to the left, along the southerly edge of right-of-way of Marlin Drive, on a curve with a radius of 3029.50 feet, a delta angle of 04°14'59", a length of 224.71 feet, a chord bearing of N83°40'14"E, and chord distance of 224.66 feet; Thence, second course: curving to the left, along the southerly edge of right-of-way of Marlin Drive, on a curve with a radius of 3029.50 feet, a delta angle of 03°28'44", a length of 183.94 feet, a chord bearing of N79°50'28"E, and chord distance of 183.91 feet; Thence, third course: N78°01'12"E, along the southerly edge of right-of-way of Marlin drive, a distance of 35.62 feet, to a point on the southwesterly edge of right-of-way, common to Creek Drive and Marlin Drive; Thence, fourth course: S57°55'55"E, along the southwesterly corner of right-of-way, common to Creek Drive and Marlin Drive, a distance of

14.37 feet, to a corner on the southwesterly corner of right-of-way, common to Creek Drive and Marlin Drive; Thence fifth course: curving to the left, along the easterly edge of right-of-way of Creek Drive, on a curve with a radius of 1050.00 feet, a delta angle of  $09^{\circ}12'13''$ , a length of 168.67 feet, a chord bearing of  $S18^{\circ}41'12''E$ , and chord distance of 168.49 feet, to the southwesterly corner of Creek Drive right-of-way; Thence sixth course: curving to the left, on a curve with a radius of 1050.00 feet, a delta angle of  $04^{\circ}59'11''$ , a length of 91.38 feet, a chord bearing of  $S26^{\circ}40'08''E$ , and chord distance of 91.35 feet; Thence seventh course:  $S59^{\circ}21'27''W$ , a distance of 311.70 feet; Thence eighth course:  $S08^{\circ}26'21''E$ , a distance of 234.61 feet, to a point on the section 1/16 line; Thence ninth course:  $N89^{\circ}57'12''W$ , along the section 1/16 line, a distance of 313.29 feet, to the southeasterly corner of said Lot 7; Thence tenth course:  $N00^{\circ}04'38''E$ , along the easterly boundary of said Lot 7, a distance of 574.90 feet, to the northeasterly corner of said Lot 7, common to a point on the southerly edge of Marlin Drive right-of-way, and the point of beginning, located southwest of the intersection of Creek Drive and Marlin Drive was introduced. Hadcock moved, second by Hurlbut and carried to deny without prejudice at the applicant's request.

Ordinance No. 5343 (No. 07RZ070), 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 General Agriculture District to Office Commercial District** on a portion of the NW1/4 of the NE1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the southeasterly corner of right-of-way of Marlin Drive, and the point of beginning; Thence, first course:  $N78^{\circ}03'21''E$ , a distance of 144.56 feet; Thence, second course:  $S26^{\circ}55'33''E$ , a distance of 148.85 feet; Thence, third course:  $S57^{\circ}01'35''W$ , a distance of 309.36 feet; Thence fourth course: curving to the right, on a curve with a radius of 950.00 feet, a delta angle of  $06^{\circ}06'27''$ , a length of 101.27 feet, a chord bearing of  $N27^{\circ}47'45''W$ , and chord distance of 101.22 feet, to the southeasterly corner of Creek Drive right-of-way; Thence fifth course: curving to the right, along the easterly edge of right-of-way of Creek Drive, on a curve with a radius of 950.00 feet, a delta angle of  $08^{\circ}57'56''$ , a length of 148.65 feet, a chord bearing of  $N18^{\circ}46'50''W$ , and chord distance of 148.50 feet, to a corner on the southeasterly corner of right-of-way, common to Creek Drive and Marlin Drive; Thence sixth course:  $N32^{\circ}18'49''E$ , along the southeasterly corner of right-of-way, common to Creek Drive and Marlin Drive, a distance of 13.93 feet, to a corner on the southeasterly corner of right-of-way, common to Creek Drive and Marlin Drive; Thence seventh course:  $N78^{\circ}03'10''E$ , along the southerly edge of right-of-way of Marlin Drive, a distance of 141.32 feet, to southeasterly corner of right-of-way of Marlin Drive, and the point of beginning, located southeast of the intersection of Creek Drive and Marlin Drive was introduced. Hadcock moved, second by Hurlbut and carried to deny without prejudice at the applicant's request.

Ordinance No. 5344 (No. 07RZ071), 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 General Agriculture District to General Commercial District** on a portion of the NW1/4 of the NE1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the southeasterly corner of right-of-way common to Creek Drive and Elk Vale Road, and the point of beginning; Thence, first course: curving to the left, along the southerly edge of right-of-way of Elk Vale Road, on a curve with a radius of 3014.79 feet, a delta angle of  $05^{\circ}37'41''$ , a length of 296.14 feet, a chord bearing of  $N79^{\circ}40'48''E$ , and chord distance of 296.02 feet; Thence, second course:  $S12^{\circ}45'42''E$ , a distance of 232.71 feet; Thence, third course:

S12°45'33"E, a distance of 238.60 feet; Thence, fourth course: curving to the right, on a curve with a radius of 3470.50 feet, a delta angle of 00°49'29", a length of 49.96 feet, a chord bearing of S77°40'01"W, and chord distance of 49.96 feet; Thence fifth course: S78°04'09"W, a distance of 144.68 feet, to the northeasterly corner of right-of-way of Marlin Drive; Thence sixth course: S78°05'50"W, along the northerly edge of right-of-way of Marlin Drive a distance of 141.31 feet, to a corner on the northeasterly corner of right-of-way, common to Creek Drive and Marlin Drive; Thence seventh course: N56°01'32"W, along the northeasterly corner of right-of-way, common to Creek Drive and Marlin Drive, a distance of 13.86 feet, to a corner on the northeasterly corner of right-of-way, common to Creek Drive and Marlin Drive; Thence eighth course: curving to the right, along the easterly edge of right-of-way of Creek Drive, on a curve with a radius of 950.00 feet, a delta angle of 02°58'30", a length of 49.33 feet, a chord bearing of N08°03'02"W, and chord distance of 49.32 feet; Thence ninth course: N06°34'05"W, along the easterly edge of right-of-way of Creek Drive, a distance of 178.48 feet; Thence tenth course: N06°33'37"W, along the easterly edge of right-of-way of Creek Drive, a distance of 244.07 feet, the southeasterly corner of right-of-way common to Creek Drive and Elk Vale Road, and the point of beginning, located northeast of the intersection of Creek Drive and Marlin Drive was introduced. Hadcock moved, second by Olson and carried to deny without prejudice at the applicant's request.

**LEGAL & FINANCE COMMITTEE ITEMS**

The Mayor presented No. LF091207-05, to approve a Resolution to Establish Funding for City of Rapid City Healthcare Plan by Setting Rates for Retiree and COBRA Participants. The following resolution was introduced, read, and Hadcock moved its adoption:

RESOLUTION TO ESTABLISH FUNDING FOR CITY OF RAPID CITY HEALTHCARE PLAN BY SETTING RATES FOR RETIREE AND COBRA PARTICIPANTS

WHEREAS, an analysis of projected claims, stop loss coverage, and administrative fees indicates a need to adjust contribution levels within the Healthcare Plan; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to establish the following monthly contribution rates effective on the dates indicated for retiree and COBRA participants:

Coverage	Current Rates	Effective January 1, 2008
Single	334.00	367.00
Family	1,019.00	1,121.00
Family (5+ members)	1,121.00	1,233.00
Two Party	669.00	734.00
Medicare	295.00	325.00

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

s/ Alan Hanks, Mayor

(SEAL)

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

The Mayor presented No. LF091207-06, to approve a Resolution to Establish Funding for City of Rapid City Healthcare Plan. The following resolution was introduced, read, and Hadcock moved its adoption:

RESOLUTION TO ESTABLISH FUNDING  
FOR CITY OF RAPID CITY HEALTHCARE PLAN

WHEREAS, an analysis of projected claims, stop loss coverage, and administrative fees indicates a need to adjust contribution levels within the Healthcare Plan; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to establish the following monthly contribution rates effective on the dates indicated:

Coverage	Current Rates		Effective January, 2008	
	Total	Individual	Total	Individual's Share
Single	334.00	0.00	367.00	0.00
Family	1,019.00	342.50	1,121.00	377.00
Family (5+ members)	1,121.00	393.50	1,233.00	433.00
Two Party	669.00	167.50	734.00	183.50
Minor Dependent(s) (For two City employees in the same Family unit)	1,091.00	175.50	1,121.00	183.50

BE IT FURTHER RESOLVED that part-time benefited employees shall be required to share a pro-rata amount of the individual and City cost, based on their budgeted percentage of full-time equivalent (FTE); however, part-time benefited employees shall be allowed to decline health plan coverage in lieu of such contributions.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

Finance Officer

(SEAL)

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

Hadcock moved, second by Weifenbach and carried to continue No. LF101007-13, to authorize the Mayor and Finance Officer to sign Amended Agreement between City of Rapid City and Cabela's Retail, Inc. to the November 5, 2007 Council meeting.

Hadcock moved, second by Weifenbach and carried to continue No. LF101007-14, to authorize the Mayor and Finance Officer to sign Developer's Agreement for Tax Increment District No. 64 to the November 5, 2007 Council meeting.

Hadcock moved, second by Weifenbach and carried to continue No. LF101007-15, to authorize the Mayor and Finance Officer to sign Consent to Assignment of Tax Increment Proceeds from Cabela's Retail, Inc. to Rapid City Economic Development Foundation to the November 5, 2007 Council meeting.

The next agenda item for discussion is the report on options for addressing water/sewer issues. City Attorney Green outlined two options for Council consideration – leave the current ordinance in place, or repeal the ordinance and direct that a procedure be included in the Standard Specifications for Public Works Construction. Green was of the opinion that the best option was not to repeal the ordinance. He explained that amending the Standard Specifications for Public Works Construction could include a procedure that would allow for joint maintenance; sewer and water lines crossing individual lot lines; and covenant agreements.

Motion was made by Hadcock, and seconded, to direct staff to prepare an amendment to repeal the ordinance and amend the Standard Specifications for Public Works Construction. Alderman Hadcock indicated her struggle with the decision to change one rule for one building; and pointed out that people will not build in the downtown area because it is not cost effective. She suggested that ordinances need to change to accommodate the difficulties of building in the downtown area. Alderman Weifenbach believed this to be a common sense decision and keeps the Council from breaking the law. Alderman Chapman indicated his agreement with the process, but was not certain he agreed with the proposed change. Proposing several questions to City Attorney Green, Green recommended the City Council continue agenda item #54 for several months until an ordinance amendment is in effect. He also recommended that the City Council not get in the business of accepting dedications of public right-of-way that is not in conformance with the Major Street Plan. He suggested a private agreement may be more suitable for those situations when utilities cross private property. Responding to a question from Alderman Olson, Green explained that once the ordinance is repealed then there is a question of how broadly this will apply. He believed that the way the City Council will address that is through the process that will be set up in the Standard Specifications for Public Works Construction. He indicated that the City Council will have the opportunity to restrict these to situations that are truly extraordinary in some way. Upon a vote being taken on the motion, motion carried.

**PUBLIC WORKS COMMITTEE ITEMS**

The Mayor presented No. 07EX083, an appeal of the denial for an exception to Detail 9-12 of the Standard Specifications for Public Works Construction, 2004 Edition for Proposed Tract 2 of Tuscany Square by Bob Brandt; whereupon LaCroix moved, second by Okrepkie to continued to the January 7, 2008 Council meeting.

Substitute motion was made by Olson and seconded to continue agenda items #54 (07EX083) and #55 - authorization for the Mayor and Finance Officer to sign a Covenant Agreement with Good Guys, LLC to the January 7, 2008 Council meeting. City Attorney Green advised the Council that there will be a different agreement proposed based on the changes. With the consent of the Council, Olson withdrew the substitute motion.

Alderman Kooiker indicated that he supported the previous motion, because he supports cleaning up the ambiguity in terms of future applications. He believed it was important to note that the staff memo or the denial does not specifically mention an ordinance violation. What it does mention is the possible violation of the spirit of the 2005 Resolution relating to replacement of private service lines.

Substitute motion was made by Kooiker, second by LaCroix to approve an exception to Detail 9-12 of the Standard Specifications for Public Works Construction, 2004 Edition for Proposed Tract 2 of Tuscany Square. Alderman Kooiker believed the Council was on solid ground by approving agenda items #54 (07EX083) and #55 - authorization for the Mayor and Finance Officer to sign a Covenant Agreement with Good Guys, LLC for the reason – that the original denial was not based on an ordinance, but a resolution from 2005. Responding to a question from Alderman Chapman, Green indicated that the staff was not in error. The ambiguity in this case arises because the sewer ordinance does not say nearly as explicitly as the water ordinance, that service lines shall not cross lot lines. Green indicated that the Council can approve the exception to the specifications, but that action has no effect because the ordinance prohibits the lines from crossing lot lines. This is a conflict in action. Responding to a question from Alderman Okrepkie, Green advised the Council that it makes more sense to continue the item until the specification change is in place, so that it is abundantly clear that the current property owner and any future property owners will have to comply with that requirement. If the Council does not wait, the property owner will have an argument that they should have been grandfathered. Growth Management Director Elkins advised the Council that this request is being triggered by a plat that is working its way through the process. She indicated that the plat could come forward, surety posted for the required improvement to allow the project to move forward without delay; and if the ordinance is adopted, the surety could be released at that time.

Olson moved, second by Hadcock to call the question. The Chair noted an objection to the question. Upon a roll call vote, the following voted AYE: Johnson, Hadcock, Olson, Kroeger, and LaCroix; NO: Hurlbut, Okrepkie, Chapman, Weifenbach, and Kooiker. Motion failed and discussion continued.

Bob Brandt, responding to a question from Alderman Weifenbach, indicated that the continuation to January, 2008 is acceptable.

With the consent of the Council, Alderman Kooiker withdrew the substitute motion to approve.

Upon a vote being taken on the motion to continue to January 7, 2008, motion carried.

LaCroix moved, second by Weifenbach to continue authorization for the Mayor and Finance Officer to sign a Covenant Agreement with Good Guys, LLC as it relates to water and sewer lines crossing Tract 2 of Tuscany Square located at 333 Omaha Street to the January 7, 2008 Council meeting. Substitute motion was made by Hadcock, second by LaCroix and carried to deny.

The Mayor presented No. PW092507-20, to approve an allocation up to \$1,000,000 from the .16 Utility Fund for the construction of a booster station, 750,000 gallon water reservoir, telemetry, and 12" water main extending from the reservoir to St. Martin's Drive; with the intent that project be considered for incorporation into a bond sale as a potential means of repayment; whereupon LaCroix moved, second by Hadcock to approve. Responding to a question from Alderman Hadcock, Elkins explained that the developer/owner of the property indicated that they will offer that land to the City for the detention facilities that are necessary, rather than the City having to purchase that extra area for the detention cells. She explained that typically there's oversizing that the City would be required to purchase; and they have indicated in the discussions with the TIF Committee that they would be willing to give that to the City. Responding to a concern from Alderman Hadcock, Jerry Foster, FMG, indicated that they are comfortable with their cost estimate but would not guarantee there would not be change orders to the project. Alderman Kroeger reiterated his concerns of using the .16 Fund for the reservoir and bonding as a means of repaying the fund. He reminded the members of the situation in Jackson Springs, and a potential project with unknown costs; and suggested that bonding may be critical to building a new water facility. Responding to questions from Alderman Kroeger, Preston indicated that for every million dollars for a twenty-year bond, the debt service is \$85,000 per year; and the impact on the rate payers for a typical homeowner is an additional fifteen cents per month. Alderman Olson indicated that she was not comfortable in supporting the project when the impact on the airport's water supply is unknown. Alderman Johnson pointed out that a current Public Works Improvements Project list includes a number of reservoirs and sewer and water connections for the City's long term needs. Based on a previous report of bringing the City's water system up to speed, the consultant indicated that it is approximately \$43 Million. As an example, Johnson suggested that if the City bonded for \$50 Million, the average water user would pay \$7.50. Johnson believed that the City should bond enough to fix the City's immediate problem, and bond enough to get those crucial storage facilities constructed; and repay the .16 Fund. He reminded the members that the .16 Fund is a revolving fund and that it should be repaid to the highest degree. Alderman Chapman explained that he made the motion during the meeting of the .16 Fund Committee, with the intention that the project be considered for incorporation into a bond sale; not necessarily saying that it has to be included in a bond issue. Chapman pointed out that every single day there is .16 going into the fund.

Motion was made by Kooiker, second by Hurlbut to temporarily suspend the rules to accept public comment with three minutes per speaker and limiting the comment time to ten minutes. Upon a roll call vote, the following voted AYE: Hurlbut, Okrepkie, Weifenbach, Kroeger, Kooiker, LaCroix, and Johnson; NO: Hadcock, Chapman, and Olson. Motion carried.

Ron Johnson, Kirkwood Homeowners' Association addressed the City Council and urged them to allocate the funds for the reservoir project. Sister Lorane Coffin, Prioress for St. Martin Monastery addressed the City Council explaining that the Benedictine Sisters have been

involved in the Rapid City community since the mid-1920s, with the opening of the St. John's Hospital, a parish school in North Rapid City, and St. Martin's Academy. She asked the Council to support the project.

Chapman moved, second by LaCroix and carried to close public comment.

Ron Kortemeyer, Executive Director for Evangelical Lutheran Good Samaritan Society, responding to questions from Aldermen Kooiker and Weifenbach, indicated that, because they are not allowed to put in skilled nursing facilities, they will offer twin-homes, senior apartments with services, and assisted living; all of which are not considered to be affordable housing.

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

### **BIDS**

The following companies submitted bids for No. CC101507-02, two (2) Fork Lifts for Solid Waste Material Recovery Facility opened October 9, 2007: Siouxland Forklift, Ltd., Riekes Equipment Co., Doosan Infracore Forklifts, Butler Machinery Co, Lift Pro Equipment Co., Inc., and Anderson Forklift, Inc. Staff reviewed the bids and recommends the bid award to Lift Pro Equipment Co., Inc. Johnson moved, second by Okrepkie and carried to approve the bid award for Fork Lifts to the lowest responsible bidder meeting specifications, Lift Pro Equipment Co., Inc. for the low unit prices bid of \$75,155 less \$8,000 for trade-ins, for a total contract amount of \$67,155.

The following companies submitted bids for No. CC101507-02, one (1) Front End Loader for Solid Waste Material Recovery Facility opened October 9, 2007: J. D. Evans, Inc., Sheehan Mack Sales & Equipment, Inc., Butler Machinery Co., RDO Equipment Co., and Diesel Machinery, Inc. Staff reviewed the bids and recommends all bids be rejected and staff authorized to re-advertise for bids; whereupon Johnson moved, second by Olson and carried to approve.

The following companies submitted bids for No. CC101507-02, two (2) Semi Tractors and Two (2) Rolling Floor Trailers for Solid Waste Material Recovery Facility opened October 9, 2007: Sanitation Products, Boyer Trucks (2 bids), and Eddie's Truck Sales, Inc. Staff reviewed the bids and recommends the bid award to Eddie's Truck Sales, Inc. Johnson moved, second by Okrepkie and carried to approve the bid award for Semi Tractors and Rolling Floor Trailers to the lowest responsible bidder meeting specifications, Eddie's Truck Sales, Inc. for the low unit prices bid of \$185,104 (tractors), \$117,948 (trailers) less trade-ins of \$18,000 (tractors) and \$8,000 (trailers) for a total contract amount of \$277,052.

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

Alderman Hadcock reported on a recent event at the Cornerstone Rescue Mission, explaining that it was a day of giving and caring for other people in the community. She pointed out that those individuals in service on that day gave of their time, money, and food to care for other people. She indicated that the Mission is in need of more help and asked for more volunteers. Listing a number of volunteers on that day, Hadcock extended her appreciation for their help.

Alderman Hurlbut brought forward for discussion, a Council Emergency Plan because of the number of Council members that will be attending a conference out-of-state. City Attorney Green advised the Council that by statute the Council President and then the Vice President succeed to the Mayor's position in the absence of the Mayor. As the Council President and Vice President will be attending the seminar, the two Committee Chairs will be the next to succeed to the authority, and the Vice Chairs will follow them. Alderman Kooiker believed that the Council needs to establish guidelines regarding how many members are sent out-of-town, at the same time, for conferences.

Alderman LaCroix reported on the National Summit on Your City's Families Conference, explaining that seven members of the Rapid City's Task Force attended the conference and each member attended as many workshops that time would allow. He indicated that on the last day of the conference, he spoke before all the conference attendees.

Alderman Chapman reported his attendance at the 15<sup>th</sup> Annual Leadership Summit and the title was, "The Art and Practice of Leadership." He reported taking a copy of a video that Black Hills Corporation produced, entitled "Rapid City a Great Place to Live, Work and Play." He showed the video to the Leadership Training Council, and they all got excited about what Rapid City looks like and what it has to offer. He indicated that they are looking forward to coming to Rapid City in June 2008.

Alderman Kooiker believed that the City Council has the right to have as much information as possible on the city/county library contract. Kooiker indicated that he was able to obtain a copy of the letter that was sent from the library to the county; noted that the letter was stamped confidential; and indicated his disagreement. Kooiker believed the negotiations should be open and above-board.

### **PUBLIC HEARING ITEMS** – Items 63 - 103

Okrepkie moved, second by Weifenbach and carried to open the public hearing on Items 63 – 103. Steve Storm, Rapid City addressed item #100 (07FV007), explaining that he removed an old fence and erected a new cedar fence in the same location. He reported receiving a letter from the City indicating that his new fence was located in the site triangle and the right-of-way, and was too tall. Storm indicated that he would address the issue of the site triangle. He pointed out that his fence is in line with all other fences on adjacent properties. Storm indicated that he was notified that no permit is required to build a fence six foot or less. Storm asked for Council consideration on the location and height of his fence.

### **CONTINUED PUBLIC HEARING CONSENT ITEMS** – Items 63 - 93

LaCroix 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 November 5, 2007:***

63. 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.

64. 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.
65. 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.
66. No. 07CA023 - A request by Scull Construction for Whittingham & Lestrangle, LPI for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Park Forest to General Commercial with a Planned Commercial Development** 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.
67. No. 07CA042 - A request by FMG, Inc. for Good Samaritan Society for an **Amendment to the Adopted Comprehensive Plan to revise the Major Street Plan by eliminating collector streets** on Sections 29 and 30, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of S.D. Highway 79 (Sturgis Road) and south of Hidden Valley Road.

68. No. 07PL067 - A request by Scull Construction for Whittingham & Lestrangle, LPI for a **Preliminary Plat** on Tracts 1 thru 3 of Block 1, Lot 1, Lot 3 and Lot 4 of Block 2 of Tower Ridge 2; Tract B Revised, Lot 1 and Lot 2 of Tract AR2 of Needles Subdivision, Lot 1 and Lot 2 of Tract A of Meadow View Subdivision; Promise Road Right-of-Way; Dakota Canyon Road Right-of-Way; all located in the SW1/4 of Section 23 and in the NW1/4 of Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted portion of the SW1/4 of Section 23; the remainder of Lots 2 and 3 of Block 2 and a portion of Silver Nugget Drive Right-of-Way of Aladdin Heights Subdivision; Lots 1 thru 4, a portion of Lots 5 thru 7, Lots 8 thru 12 of Block 1 and Tablerock Road Right-of-Way of Tower Ridge 2 in Section 23; Lot H3 in Section 23 and Lot H4 in Section 26 (Promise Road Right-of-Way); Lot 1 of Shipman Heights Subdivision; a portion of the unplatted portion of the NE1/4 of the NW1/4 of the NW1/4 (NE-NW-NW) of Section 26; Lot H3 of Section 26 and Tucker Street Right-of-way; the unplatted portion of the SE1/4 of the NW1/4 of the NW1/4 (SE-NW-NW) lying east of Highway 16 Right-of-way (the Maze property); Tract AR2 and Tract B of Needles Subdivision, Tract a of Meadow View Subdivision in Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northeast of the intersection of U. S. Highway 16 and Catron Boulevard.
69. No. 07PL083 - A request by Mike Hanson for Tyz Thurston for a **Preliminary Plat** on Lots 13A and 13B of Flannery Subdivision No. 2, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 13 of Flannery Subdivision No. 2, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3825 Corral Drive.
70. No. 07PL090 - A request by TSP Three, Inc. for Century Development Co. for a **Preliminary Plat** on Lots 1 thru 17 of Block 1; Lots 1 thru 19 of Block 2 and Lots 1 thru 16 of Block 3 of La Villa Vista Subdivision, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the north 327.2 feet of the N1/2 of the SE1/4 of Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota; excepting therefrom the W1/2 NW1/4 SE1/4; and excepting therefrom Lot 1 of Lot B of the NE1/4 SE1/4, as shown on the plat filed in Plat Book 3, Page 103; and excepting therefrom North Boulevard Addition; and excepting therefrom Lot RU-302A of the Original Townsite of Rapid City, Pennington County, South Dakota, as shown on the plat filed in Plat Book 14, Page 53; and excepting therefrom Lot RU-302B of the Original Townsite of Rapid City, Pennington County, South Dakota as shown on the plat filed in Plat Book 14, Page 94; and excepting therefrom any streets or highway rights of way, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1400 East Philadelphia Street.
71. No. 07PL097 - A request by Jared Tordsen for Land and Marine Developments, Inc. for a **Preliminary Plat** on Lots 15 thru 21 of Rockin Ranch Estates, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the N1/2 of the NE1/4 of the SE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southwest of the intersection of the existing Hovering Heights Court and Bunker Drive.
72. No. 07PL101 - A request by TSP for Bob Brandt for a **Preliminary Plat** on Tract 1 and Tract 2 of Tuscany Square Subdivision, Section 36, T2N, R7E, BHM, Rapid City,

Pennington County, South Dakota, legally described as Dan's Supermarket Tract Revised, less Lot 1 [also in Block 67] and less Lot H-1 of Block 66 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 333 Omaha Street.

73. No. 07PL107 - A request by FourFront Design, Inc. for Moyle Petroleum Company for a **Preliminary Plat** on Lots 1 and 2 of South Yard Subdivision, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NW1/4 SW1/4, less Lot H5 (formerly lots 8 thru 10 of Swander's Addition), Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of South Dakota Highway 79 and Minnesota Street.
74. No. 07PL108 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lot 4 of Block 1 of Heartland Retail Center, Section 27 and 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the S1/2 of the SW1/4 of Section 27, and a portion of the N1/2 of the NW1/4 of Section 34, located in the S1/2 of the SW1/4, Section 27, and the N1/2 of the NW1/4 of Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north of Cheyenne Boulevard.
75. No. 07PL116 - A request by Sperlich Consulting, Inc. for James Letner for a **Layout Plat** on Lots 1 thru 8 of Market Square Subdivision, located in the SW1/4 of the SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Lot 3 of Tract D, located in the SW1/4 of the SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest corner of the intersection of Creek Drive and East St. Patrick Street.
76. No. 07PL118 - A request by Fisk Land Surveying & Consulting Engineers, Inc. for Pacific Steel and Recycling for a **Preliminary Plat** on a portion of Lot A of Biernbaum Subdivision, located in the NW1/4 SW1/4, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Lot A of Biernbaum Subdivision, located in the NW1/4 SW1/4 of Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, as shown on the plat recorded July 10, 1997 and recorded in Book 28 of Plats on Page 27, more fully described as follows: Beginning at the southwest corner of said Lot A of Biernbaum Subdivision, said corner being marked by a rebar with survey cap "RW FISK 6565"; thence, northerly along the westerly edge of said Lot A of Biernbaum Subdivision and along the easterly edge of Highway 79 right-of-way, N00°01'09"W, a distance of 225.01 feet more or less, to an angle point of said Lot A of Biernbaum Subdivision, said corner being marked by a rebar with survey cap "LS4208" and said corner being coincident with the southwesterly corner of Lot B of Biernbaum Subdivision, as shown on the plat recorded July 10, 1997 and recorded in Book 28 of Plats on Page 27; thence, easterly along the northerly edge of said Lot A of Biernbaum Subdivision and along the southerly edge of Lot B of Biernbaum Subdivision, N89°51'25"E, a distance of 206.31 feet more or less, to a point on the westerly edge of Amended Lot H2 of Lot A of Biernbaum Subdivision, as shown in the plat filed April 8, 2003 and recorded in Book 10 of Highway Plats on Page 111, said point being marked by a rebar with survey cap "LS 6119"; thence, southerly along the westerly edge of said Amended Lot H2 of Lot A of Biernbaum Subdivision, S00°05'02"W, a distance of 225.68 feet more or less, to the south line of said Lot A of Biernbaum Subdivision, also being the

southwest corner of said Amended Lot H2 of Lot A of Biernbaum Subdivision, said corner being marked by a "SDDOT Monument"; thence, westerly along the southerly line of said Lot A of Biernbaum Subdivision, N89°57'30"W, a distance of 205.90 feet more or less, to the point of beginning, located at 4280 South Highway 79.

77. No. 07PL121 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1A, 2A and 2B, Block 2, formerly Lot 1, less Lot H-1 and Lot 2, less Lot H-2 of Block 2, the vacated portion of Rapp Street and the south half of the vacated alley, located in the NE1/4 SW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1, less Lot H-1 and Lot 2, less Lot H-2 of Block 2, located in the NE1/4 SW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of Eglin Street and Rapp Street.
78. No. 07PL122 - A request by Paul Lindstrom for a **Layout Plat** on Lots 2A and 2B of Watersedge Subdivision, located in the NE1/4 SW1/4, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 2 of Watersedge Subdivision, located in the NE1/4 SW1/4, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1810 Rand Road.
79. No. 07RZ043 - Second Reading, Ordinance No. 5305, 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 & Lestrangle, 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.
80. No. 07RZ064 - Second Reading, Ordinance No. 5337, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by FMG, Inc. for Good Samaritan Society for a **Rezoning from General Agriculture to Medium Density Residential** on the SE1/4 SW1/4 and SW1/4 SE1/4 and NE1/4 SE1/4 and NW1/4 SE1/4, and SW1/4 NE1/4 and less Lot A of W1/2 SE1/4, Sections 29, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of S.D. Highway 79 (Sturgis Road) and south of Hidden Valley Road.
81. 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.

82. No. 07SV026 - A request by Scull Construction for Whittingham & Lestrage, LPI for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Catron Boulevard and U. S. Highway 16 as per Chapter 16.16 of the Rapid City Municipal Code** on Tracts 1 thru 3 of Block 1, Lot 1, Lot 3 and Lot 4 of Block 2 of Tower Ridge 2; Tract B Revised, Lot 1 and Lot 2 of Tract AR2 of Needles Subdivision, Lot 1 and Lot 2 of Tract A of Meadow View Subdivision; Promise Road Right-of-Way; Dakota Canyon Road Right-of-Way; all located in the SW1/4 of Section 23 and in the NW1/4 of Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted portion of the SW1/4 of Section 23; the remainder of Lots 2 and 3 of Block 2 and a portion of Silver Nugget Drive Right-of-Way of Aladdin Heights Subdivision; Lots 1 thru 4, a portion of Lots 5 thru 7, Lots 8 thru 12 of Block 1 and Tablerock Road Right-of-Way of Tower Ridge 2 in Section 23; Lot H3 in Section 23 and Lot H4 in Section 26 (Promise Road Right-of-Way); Lot 1 of Shipman Heights Subdivision; a portion of the unplatted portion of the NE1/4 of the NW1/4 of the NW1/4 (NE-NW-NW) of Section 26; Lot H3 of Section 26 and Tucker Street Right-of-Way; the unplatted portion of the SE1/4 of the NW1/4 of the NW1/4 (SE-NW-NW) lying east of Highway 16 Right-of-Way (the Maze property); Tract AR2 and Tract B of Needles Subdivision, Tract A of Meadow View Subdivision in Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northeast of the intersection of U. S. Highway 16 and Catron Boulevard.
83. No. 07SV039 - A request by Sperlich Consulting, Inc. for Ronald Shape for a **Variance to the Subdivision Regulations to waive the requirement to dedicate a planting screen easement, to allow platting half of a right-of-way and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Reservoir Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 6 of Block 1, Lots 1 thru 9 of Block 2, Lots 1 thru 8 of Block 3, Lots 1 thru 19 of Block 4, Lots 1 thru 14 of Block 5, Lots 1 thru 23 of Block 6, Lots 1 thru 15 of Block 7, Lots 1 thru 15 of Block 8, Lots 1 thru 13 of Block 9, Lots 1 thru 12 of Block 10, Homestead Subdivision, located in the SE1/4 of the NE1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the SE1/4 of the NE1/4, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, located at the eastern terminus of Homestead Street and west of Reservoir Road.
84. No. 07SV042 - A request by TSP for Bob Brandt for a **Variance to the Subdivision Regulations to reduce the width of the access easement from 59 feet to 26 feet, to waive the requirement to provide a minimum eight foot wide drainage and utility easement, and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer as per Chapter 16.16 of the Rapid City Municipal Code** on Tract 1 and Tract 2 of Tuscan Square Subdivision, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Dan's Supermarket Tract Revised, less Lot 1 [also in Block 67] and less Lot H-1 of Block 66 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 333 Omaha Street.

85. No. 07SV048 - A request by FourFront Design, Inc. for Moyle Petroleum Company for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, water, sewer, street light conduit and sidewalk on the rearage road and a variance to the Subdivision Regulations to waive the requirement to install curb, gutter, water, sewer, street light conduit and sidewalk on Minnesota Street as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 and 2 of South Yard Subdivision, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NW1/4 SW1/4, less Lot H5 (formerly lots 8 thru 10 of Swander's Addition), Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of South Dakota Highway 79 and Minnesota Street.
86. No. 07SV050 - A request by Sperlich Consulting, Inc. for James Letner for a **Variance to the Subdivision Regulations to waive the requirement to dedicate 10 additional feet of right-of-way and provide a planting screen easement along E. St. Patrick Street; to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, to dedicate 17 feet of right-of-way and provide a planting screen easement along Creek Drive; and to install sidewalk along the south side of E. St. Charles Street as per Chapter 16 of the Rapid City Municipal Code** on Lots 1 thru 8 of Market Square Subdivision, located in the SW1/4 of the SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Lot 3 of Tract D, located in the SW1/4 of the SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest corner of the intersection of Creek Drive and East St. Patrick Street.
87. No. 07SV051 - A request by Fisk Land Surveying & Consulting Engineers, Inc. for Pacific Steel and Recycling for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way** on a portion of Lot A of Biernbaum Subdivision, located in the NW1/4 SW1/4, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Lot A of Biernbaum Subdivision, located in the NW1/4 SW1/4 of Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, as shown on the plat recorded July 10, 1997 and recorded in Book 28 of Plats on Page 27, more fully described as follows: Beginning at the southwest corner of said Lot A of Biernbaum Subdivision, said corner being marked by a rebar with survey cap "RW FISK 6565"; thence, northerly along the westerly edge of said Lot A of Biernbaum Subdivision and along the easterly edge of Highway 79 right-of-way, N00°01'09"W, a distance of 225.01 feet more or less, to an angle point of said Lot A of Biernbaum Subdivision, said corner being marked by a rebar with survey cap "LS4208" and said corner being coincident with the southwesterly corner of Lot B of Biernbaum Subdivision, as shown on the plat recorded July 10, 1997 and recorded in Book 28 of Plats on Page 27; thence, easterly along the northerly edge of said Lot A of Biernbaum Subdivision and along the southerly edge of Lot B of Biernbaum Subdivision, N89°51'25"E, a distance of 206.31 feet more or less, to a point on the westerly edge of Amended Lot H2 of Lot A of Biernbaum Subdivision, as shown in the plat filed April 8, 2003 and recorded in Book 10 of Highway Plats on Page 111, said point being marked by a rebar with survey cap "LS 6119"; thence, southerly along the westerly edge of said Amended Lot H2 of Lot A of Biernbaum Subdivision, S00°05'02"W, a distance of 225.68

feet more or less, to the south line of said Lot A of Biernbaum Subdivision, also being the southwest corner of said Amended Lot H2 of Lot A of Biernbaum Subdivision, said corner being marked by a "SDDOT Monument"; thence, westerly along the southerly line of said Lot A of Biernbaum Subdivision, N89°57'30"W, a distance of 205.90 feet more or less, to the point of beginning, located at 4280 South Highway 79.

88. No. 07SV052 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalk on both sides of street, water, sewer, curb, gutter, street light conduit, pavement and to reduce Right-of-Way width as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1A, 2A and 2B, Block 2, formerly Lot 1, less Lot H-1 and Lot 2, less Lot H-2 of Block 2, the vacated portion of Rapp Street and the south half of the vacated alley, located in the NE1/4 SW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1, less Lot H-1 and Lot 2, less Lot H-2 of Block 2, located in the NE1/4 SW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of Eglin Street and Rapp Street.
89. No. 07SV053 - A request by Paul Lindstrom for a **Variance to the Subdivision Regulations to waive the requirement to install, curb, gutter, and sidewalk as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 2A and 2B of Watersedge Subdivision, located in the NE1/4 SW1/4, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 2 of Watersedge Subdivision, located in the NE1/4 SW1/4, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1810 Rand Road.
90. No. 07VE028 - A request by Renner & Associates for West River Electric Assn. for a **Vacation of Non-Access Easement** on Lot WR of the NE1/4 NE1/4, Section 15 T1N, R8E, BHM, Pennington County, South Dakota, located at 3383 Reservoir Road.
91. No. 07VE029 - A request by Sperlich Consulting, Inc. for Dean Kelly Construction for a **Vacation of Access Easement** on Lot 8R of Flannery Subdivision No. 2, located in the NW1/4 of the NE1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4944 Ireland Place.

***Continue the following items until November 19, 2007:***

92. No. 07RZ065 - Second Reading, Ordinance No. 5338, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Bob Fuchs for a **Rezoning from General Commercial District to Central Business District** on the South 50 feet of Lots 28 thru 32 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 321 7th Street.

***Continue the following items until December 17, 2007:***

93. 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.

## END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Okrepkie moved, second by Chapman and carried to close the public hearing on Items 63 - 103.

**ALCOHOL LICENSES**

Hadcock moved, second by LaCroix and carried to approve Norman J. Gary dba Matador Casino, 2315 Mt. Rushmore Road for a Retail (On-Off Sale) Malt Beverage License with Video Lottery TRANSFER from Laural A. Hawkins dba The Marble Club, 2315 1/2 Mt. Rushmore Road.

Hadcock moved, second by Johnson and carried to continue Laural A. Hawkins dba **RAXX Billiards**, 2310 N. Maple Avenue for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery to the November 5, 2007 Council meeting.

Chapman moved, second by Okrepkie and carried to reconsider Norman J. Gary dba Matador Casino, 2315 Mt. Rushmore Road for a Retail (On-Off Sale) Malt Beverage License with Video Lottery.

Hadcock moved, second by Johnson and carried to continue Norman J. Gary dba **Matador Casino**, 2315 Mt. Rushmore Road for a Retail (On-Off Sale) Malt Beverage License with Video Lottery TRANSFER from Laural A. Hawkins dba The Marble Club, 2315 1/2 Mt. Rushmore Road to the November 5, 2007 Council meeting.

**ASSESSMENT ROLLS**

The Mayor presented No. PW091107-14, a Resolution Levying Assessment for Clark Street Sanitary Sewer Extension Project No. SS05-1480. The following resolution was introduced, read, and Hadcock moved its adoption:

RESOLUTION LEVYING ASSESSMENT FOR  
CLARK STREET SANITARY SEWER EXTENSION  
PROJECT NO. SS05-1480

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

1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by constructing approximately 900 lineal feet of public sanitary sewer main is the amount stated in the proposed assessment roll.
2. The assessment roll for Clark Street Sanitary Sewer Extension Project Number SS05-1480 is hereby approved and assessments thereby specified are levied against each and every lot, piece or parcel of land thereby described.
3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City Finance Office in accordance with the procedure in Section 9-43-43 to 9-43-53 of the South Dakota Compiled

Laws of 1967, as amended, and shall be payable in ten annual installments bearing interest at the rate not to exceed nine percent (9%).

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

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

**NON-CONSENT PUBLIC HEARING ITEMS** – Items 97 – 103

The Mayor presented No. 07CA043, a request by City of Rapid City to consider an application for an **Amendment to the Adopted Comprehensive Plan** to incorporate the City of Rapid City's Parks and Recreation Plan. The following resolution was introduced, read, and LaCroix 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 15<sup>th</sup> day of October, 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 Comprehensive Plan would incorporate the City of Rapid City's Parks and Recreation Plan, 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 Comprehensive Plan be amended to incorporate the City of Rapid City's Parks and Recreation Plan, as attached to the original hereof and that such amendment be filed with the City Finance Office.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

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

The Mayor presented No. 07CA044, a request by Sperlich Consulting, Inc. for Signature Development for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Planned Residential Development with a maximum density of one dwelling unit per acre to a Planned Residential Development with a maximum density of four dwelling units per acre** on a portion of the SW1/4 of the NW1/4 of the SE1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. More fully described as follows: Commencing at the center-west-southeast 1/64 section corner of Section 22, T1N, R7E, BHM, common with the southwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning; Thence, first course: N26°45'22"W, a distance of 393.31 feet; Thence, second course: N61°38'29"E, a distance of 200.00 feet, to the northwesterly corner of Lot 4 of Block 2 of The Villaggio at Golden Eagle common to the southwesterly corner of Lot 5 of Block 2, of The Villaggio at Golden Eagle; Thence, third course: S00°08'13"E, along the westerly boundary of said Lot 4 of Block 2, a distance of 94.58 feet, to the southwest corner of said Lot 4 of Block 2, common with the northwest corner of Lot 3 of Block 2 of The Villaggio at Golden Eagle; Thence, fourth course: S00°08'13"E, along the westerly boundary of said Lot 3 of Block 2, a distance of 95.35 feet, to the southwest corner of said Lot 3 of Block 2, common with the northwest corner of Lot 2 of Block 2 of The Villaggio at Golden Eagle; Thence, fifth course: S00°08'13"E, along the westerly boundary of said Lot 2 of Block 2, a distance of 110.67 feet, to the southwest corner of said Lot 2 of Block 2, common with the northwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle; Thence, sixth course: S00°08'13"E, along the westerly boundary of said Lot 1 of Block 2, a distance of 145.60 feet, to the southwest corner of said Lot 1 of Block 2 of The Villaggio at Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning, located at 5617 Villaggio Lane. The following resolution was introduced, read, and LaCroix 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 15<sup>th</sup> day of October, 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 Comprehensive Plan would change the land use designation from Planned Residential Development with a maximum density of one dwelling unit per acre to a Planned Residential Development with a maximum density of four dwelling units per acre, on a portion of the SW1/4 of the NW1/4 of the SE1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. More fully described as follows: Commencing at

the center-west-southeast 1/64 section corner of Section 22, T1N, R7E, BHM, common with the southwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning; Thence, first course: N26°45'22"W, a distance of 393.31 feet; Thence, second course: N61°38'29"E, a distance of 200.00 feet, to the northwesterly corner of Lot 4 of Block 2 of The Villaggio at Golden Eagle common to the southwesterly corner of Lot 5 of Block 2, of The Villaggio at Golden Eagle; Thence, third course: S00°08'13"E, along the westerly boundary of said Lot 4 of Block 2, a distance of 94.58 feet, to the southwest corner of said Lot 4 of Block 2, common with the northwest corner of Lot 3 of Block 2 of The Villaggio at Golden Eagle; Thence, fourth course: S00°08'13"E, along the westerly boundary of said Lot 3 of Block 2, a distance of 95.35 feet, to the southwest corner of said Lot 3 of Block 2, common with the northwest corner of Lot 2 of Block 2 of The Villaggio at Golden Eagle; Thence, fifth course: S00°08'13"E, along the westerly boundary of said Lot 2 of Block 2, a distance of 110.67 feet, to the southwest corner of said Lot 2 of Block 2, common with the northwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle; Thence, sixth course: S00°08'13"E, along the westerly boundary of said Lot 1 of Block 2, a distance of 145.60 feet, to the southwest corner of said Lot 1 of Block 2 of The Villaggio at Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning; 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 Comprehensive Plan be amended to change the land use designation from Planned Residential Development with a maximum density of one dwelling unit per acre to a Planned Residential Development with a maximum density of four dwelling units per acre, on A portion of the SW1/4 of the NW1/4 of the SE1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. More fully described as follows: Commencing at the center-west-southeast 1/64 section corner of Section 22, T1N, R7E, BHM, common with the southwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning; Thence, first course: N26°45'22"W, a distance of 393.31 feet; Thence, second course: N61°38'29"E, a distance of 200.00 feet, to the northwesterly corner of Lot 4 of Block 2 of The Villaggio at Golden Eagle common to the southwesterly corner of Lot 5 of Block 2, of The Villaggio at Golden Eagle; Thence, third course: S00°08'13"E, along the westerly boundary of said Lot 4 of Block 2, a distance of 94.58 feet, to the southwest corner of said Lot 4 of Block 2, common with the northwest corner of Lot 3 of Block 2 of The Villaggio at Golden Eagle; Thence, fourth course: S00°08'13"E, along the westerly boundary of said Lot 3 of Block 2, a distance of 95.35 feet, to the southwest corner of said Lot 3 of Block 2, common with the northwest corner of Lot 2 of Block 2 of The Villaggio at Golden Eagle; Thence, fifth course: S00°08'13"E, along the westerly boundary of said Lot 2 of Block 2, a distance of 110.67 feet, to the southwest corner of said Lot 2 of Block 2, common with the northwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle; Thence, sixth course: S00°08'13"E, along the westerly boundary of said Lot 1 of Block 2, a distance of 145.60 feet, to the southwest corner of said Lot 1 of Block 2 of The Villaggio at Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning as attached to the original hereof and that such amendment be filed with the City Finance Office.

Dated this 15<sup>th</sup> day of October, 2007.

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

ATTEST:  
s/ James F. Preston  
Finance Officer

(SEAL)

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

The Mayor presented No. 07CA045, a request by Bryan Gonzalez to consider an application for an **Amendment to the Adopted Comprehensive Plan to revise the Major Street Plan** to relocate a collector street and eliminate a collector street on the north 327.2 feet of the N1/2 of the SE1/4 lying west of I90 Right-of-way, excepting therefrom 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, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1400 East Philadelphia Street, more generally described as being located south of Philadelphia Street and west of West Boulevard. The following resolution was introduced, read, and LaCroix 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 15<sup>th</sup> day of October, 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 Comprehensive Plan would revise the Major Street plan by relocating a collector street and eliminating a collector street, on the north 327.2 feet of the N1/2 of the SE1/4 lying west of I90 Right-of-way, excepting therefrom 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, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1400 East Philadelphia Street; 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 Adopted Comprehensive Plan be amended to revise the Major Street plan to relocate a collector street and eliminate a collector street, on the north 327.2 feet of the N1/2 of the SE1/4 lying west of I90 Right-of-way, excepting therefrom 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, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South

Dakota, more generally described as being located at 1400 East Philadelphia Street as attached to the original hereof and that such amendment be filed with the City Finance Office.

Dated this 15<sup>th</sup> day of October, 2007.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

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

The Mayor presented No. 07FV007, a request by Steve Storm to consider an application for a **Fence Height Exception** to allow a six foot high fence in a front yard setback on Lots 21 thru 23 of Block 2 of Millard Subdivision, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 50 College Avenue. LaCroix moved, second by Okrepkie to approve with stipulations, directing the applicant to work with City staff to address that portion of the fence located in the site triangle. City Attorney Green advised that the provision of South Dakota law require that publicly dedicated right-of-way be held in trust for the public benefit. That is not consistent in allowing a private party to erect a structure in the public right-of-way. He advised the Council that it his opinion that they do not have the authority to grant that portion of the request. In addition, he indicated that he had significant concerns about the potential for the City to incur liability, if there is ever an accident and someone runs into the fence or anyone is injured because of the fence. With regard to the comment that there are a number of other fences located in the right-of-way, if they are in the right-of-way, the City should take some action to correct the situation. He indicated that if the Council wants to allow the fence to remain in its present location, he suggested the Council ask the applicant to go through the process to vacate a portion of the right-of-way.

With the consent of the Council, Alderman LaCroix withdrew the motion.

LaCroix moved, second by Johnson to continue No. 07FV007, a request by Steve Storm to consider an application for a Fence Height Exception to allow a six foot high fence in a front yard setback on Lots 21 thru 23 of Block 2 of Millard Subdivision, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 50 College Avenue to the January 7, 2008 Council meeting and directed staff to stay enforcement of the fence violation. Motion carried.

The Mayor presented No. 07VR008, a request by Thomas J. Farrar for a **Vacation of Right-of-way** on Lot H-1 and H-2 of LotB of Lot 1 in the NW1/4 of the SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Century Road and East North Street. LaCroix moved, second by Johnson and carried to deny without prejudice at the applicant's request.

The Mayor presented No. 07RZ066, second reading of Ordinance No. 5339, 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 General Agriculture District to Low Density Residential District** on a portion of the NW1/4 of the NW1/4, Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. More fully described as follows: Commencing at the northwesterly corner of Lot 1 of Block 13 of Red Rock Meadows Subdivision, common to a point on the southerly boundary of Lot 2 of Block 13 of Red Rock Meadows Subdivision, and the point of beginning; Thence, first course: S00°05'13"W, along the westerly boundary of said Lot 1 of Block 13, a distance of 114.01 feet, to the southwestly corner of said Lot 1 of Block 13, common to a point on the northerly edge of right-of-way of Quiment Court; Thence, second course: S00°05'13"W, a distance of 49.00 feet, to the northwesterly corner of Lot 8 of Block 9 of Red Rock Meadows Subdivision, common to a point on the southerly edge of right-of-way of said Quiment Court; Thence, third course: S00°05'13"W, along the westerly boundary of said Lot 8 of Block 9, a distance of 114.00 feet, to the southwestly corner of said Lot 8 of Block 9, common to the northwesterly corner of Lot 7 of Block 9 and the northeasterly corner of Lot 6 of Block 9, of Red Rock Meadows Subdivision; Thence, fourth course: N89°53'59"W, along the northerly boundary of said Lot 6 of Block 9, a distance of 164.43 feet, to the northwesterly corner of said Lot 6 of Block 9; Thence fifth course: S07°04'06"W, along the westerly boundary of said Lot 6 of Block 9, a distance of 36.08 feet, to the westerly corner of said Lot 6 of Block 9, common to the northwesterly corner of Lot 5 of Block 9 of Red Rock Meadows Subdivision; Thence sixth course: S06°56'51"W, along the westerly boundary of said Lot 5 of Block 9, a distance of 188.23 feet, to the southwestly corner of said Lot 5 of Block 9, common to the northwesterly corner of Lot 4 of Block 9 of Red Rock Meadows Subdivision; Thence seventh course: S44°57'38"E, along the southwestly boundary of said Lot 4 of Block 9, a distance of 139.64 feet, to the southerly corner of said Lot 4 of Block 9, common the westerly corner of Lot 2 of Block 9 of Red Rock Meadows Subdivision; Thence eighth course: S44°57'38"E, along the southwestly boundary of said Lot 2 of Block 9, a distance of 30.36 feet, to the northerly corner of Lot 1 of Block 9 of Red Rock Meadows Subdivision, common to a point on the southwestly boundary of said of Lot 2 of Block 9; Thence ninth course: S44°57'13"W, along the northwesterly boundary of said Lot 1 of Block 9, a distance of 113.99 feet, to the westerly corner of said Lot 1, common to a point on the northeasterly edge of right-of-way of Sahalee Court; Thence tenth course: S45°01'19"W, a distance of 49.00 feet, to the northerly corner of Lot 2 of Block 8 of Red Rock Meadows Subdivision, common to a point on the southwestly edge of right of way of said Sahalee Court; Thence eleventh course: S45°01'19"W, along the northwesterly boundary of said Lot 2 of Block 8, a distance of 113.95 feet, to the westerly corner of said Lot 2 of Block 8, common to the northerly corner of Lot 1 of Block 8 of Red Rock Meadows Subdivision; Thence twelfth course: S45°01'19"W, along the northwesterly boundary of said Lot 1 of Block 8, a distance of 113.92 feet, to the westerly corner of said Lot 1 of Block 8, common to a point on the northeasterly edge of right-of-way of Seminole Lane; Thence thirteenth course: S45°00'47"W, a distance of 51.95 feet, to the northerly corner of Lot 2 of Block 7 of Red Rock Meadows Subdivision, common to a point on the southwestly edge of right-of-way of said Seminole Lane; Thence fourteenth course: S45°00'33"W, along the northwesterly boundary of said Lot 2 of Block, 7 a distance of 114.01 feet, to the westerly corner of said Lot 2 of Block 9, common to the northerly corner of Lot 1 of Block 7 and the easterly corner of Lot 3 of Block 7 of Red Rock Meadows Subdivision; Thence fifteenth course: N45°02'25"W, along the northeasterly boundary of said Lot 3 of Block 7, a distance of 85.03 feet, to the northerly corner of said Lot 3 of Block 7, common to the easterly corner of Lot 4 of Block 7 of Red Rock Meadows Subdivision; Thence sixteenth course:

N48°53'54"W, along the northeasterly boundary of said Lot 4 of Block 7, a distance of 94.13 feet, to the northerly corner of said Lot 4 of Block 7, common to the easterly corner of Lot 5 of Block 7 of Red Rock Meadows Subdivision; Thence seventh course: N58°07'08"W, along the northeasterly boundary of said Lot 5 of Block 7, a distance of 95.42 feet, to the northerly corner of said Lot 5 of Block 7, common to the northeasterly corner of Lot 6 of Block 7 of Red Rock Meadows Subdivision; Thence eighteenth course: N67°20'51"W, along the northerly boundary of said Lot 6 of Block 7, a distance of 95.34 feet, to the northwesterly corner of said Lot 6 of Block 7, common to the northeasterly corner of Lot 7 of Block 7 of Red Rock Meadows Subdivision; Thence nineteenth course: N76°39'21"W, along the northerly boundary of said Lot 7 of Block 7, a distance of 95.41 feet, to the northwesterly corner of said Lot 7 of Block 7, common to the northeasterly corner of Lot 8 of Block 7 of Red Rock Meadows Subdivision; Thence twentieth course: N00°35'32"E, a distance of 88.37 feet; Thence twenty-first course: N60°31'13"E, a distance of 187.73 feet; Thence twenty-second course: N55°04'24"E, a distance of 52.27 feet; Thence twenty-third course: N61°16'49"E, a distance of 139.05 feet; Thence twenty-fourth course: N07°39'20"W, a distance of 74.26 feet; Thence twenty-fifth course: N00°04'22"E, a distance of 83.08 feet; Thence twenty-sixth course: N28°49'20"E, a distance of 81.89 feet; Thence twenty-seventh course: N08°37'00"E, a distance of 280.11 feet; Thence twenty-eighth course: S89°55'38"E, a distance of 438.85 feet; Thence twenty-ninth course: S89°52'45"E, a distance of 19.00 feet, to northwesterly corner of said Lot 1 of Block 13, common to a point on the southerly boundary of said Lot 2 of Block 13, and the point of beginning, located at the northern terminus of Sahalee Court. Notice of hearing was published in the Rapid City Journal on October 6, 2007 and October 13, 2007. Ordinance No. 5339 having had the first reading on October 1, 2007, Hadcock moved, second by Olson that the title be read the second time. The following voted AYE: LaCroix, Johnson, Hadcock, Hurlbut, Okrepkie, Chapman, Weifenbach, Olson, Kroeger, and Kooiker; NO: None; whereupon the Mayor declared the motion passed and read the title of ordinance No. 5339 the second time.

The Mayor presented No. 07RZ067, second reading of Ordinance No. 5340, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Sperlich Consulting, Inc. for Signature Development for a **Rezoning from General Agriculture District to Low Density Residential District** on a portion of the SW1/4 of the NW1/4 of the SE1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. More fully described as follows: Commencing at the center-west-southeast 1/64 section corner of Section 22, T1N, R7E, BHM, common with the southwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning; Thence, first course: N26°45'22"W, a distance of 393.31 feet; Thence, second course: N61°38'29"E, a distance of 200.00 feet, to the northwesterly corner of Lot 4 of Block 2 of The Villaggio at Golden Eagle common to the southwesterly corner of Lot 5 of Block 2, of The Villaggio at Golden Eagle; Thence, third course: S00°08'13"E, along the westerly boundary of said Lot 4 of Block 2, a distance of 94.58 feet, to the southwest corner of said Lot 4 of Block 2, common with the northwest corner of Lot 3 of Block 2 of The Villaggio at Golden Eagle; Thence, fourth course: S00°08'13"E, along the westerly boundary of said Lot 3 of Block 2, a distance of 95.35 feet, to the southwest corner of said Lot 3 of Block 2, common with the northwest corner of Lot 2 of Block 2 of The Villaggio at Golden Eagle; Thence, fifth course: S00°08'13"E, along the westerly boundary of said Lot 2 of Block 2, a distance of 110.67 feet, to the southwest corner of said Lot 2 of Block 2, common with the northwest corner of Lot 1 of Block 2 of The Villaggio at Golden Eagle; Thence, sixth course: S00°08'13"E, along the westerly boundary of said Lot 1 of Block 2, a distance of 145.60 feet, to the southwest corner of said Lot 1 of Block 2 of The Villaggio at

Golden Eagle, and common with the northwest corner of the dedicated right-of-way of Golden Eagle Drive, and the Point of Beginning, located at 5617 Villaggio Lane. Notice of hearing was published in the Rapid City Journal on October 6, 2007 and October 13, 2007. Ordinance No. 5340 having had the first reading on October 1, 2007, Hadcock moved, second by Hurlbut that the title be read the second time. The following voted AYE: LaCroix, Johnson, Hadcock, Hurlbut, Okrepkie, Chapman, Weifenbach, Olson, Kroeger, and Kooiker; NO: None; whereupon the Mayor declared the motion passed and read the title of ordinance No. 5340 the second time.

### **BILLS**

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

Payroll Paid Ending 09-30-07, Paid 09-28-07	1,108,497.25
Payroll Paid Ending 09-29-07, Paid 10-05-07	752,110.55
Payroll Paid Ending 09-29-07, Paid 10-05-07	2,348.00
Pioneer Bank, Taxes Paid 09-28-07	273,217.75
Pioneer Bank, Taxes Paid 10-05-07	181,411.72
Pioneer Bank, Taxes Paid 10-05-07	168.82
First Administrators, claims paid 10-02-07	83,233.49
First Administrators, claims paid 10-09-07	3,703.17
1 <sup>st</sup> National Bank in Sioux Falls, SRF loan payment	388,219.18
Black Hills Electric Cooperative, electricity	693.52
Black Hills Power & Light, electricity	35,641.33
Montana Dakota Utilities, gas	160.59
West River Electric Association, electricity	21,485.88
United States Postmaster, annual permit fee	175.00
United States Postmaster, postage	2,700.00
Computer Bill List	<u>2,843,070.87</u>
Subtotal	\$5,696,837.12
Payroll Paid Ending 09-29-07, Paid 10-05-07	2,744.60
Pioneer Bank, Taxes Paid 10-05-07	195.16
City of Rapid City, postage	3.70
City of Rapid City, health insurance	1,178.00
Marlin Leasing, copier lease	21.45
Standard Life, life insurance	<u>7.00</u>
Subtotal	\$5,700,987.03
Weston Engineering, Inc., CO#2F, W07-1644	<u>815.31</u>
Total	\$5,701,502.34

Johnson moved, second by Okrepkie and carried to acknowledge raffle request from Ducks Unlimited.

**EXECUTIVE SESSION** permitted by SDCL 1-25-2

Johnson moved, second by LaCroix to go into Executive Session at 10:13 P.M. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 10:22 P.M. with all members present. No action was taken.

**ADJOURN**

As there was no further business to come before the Council at this time, the meeting adjourned at 10:23 P.M.

ATTEST:

CITY OF RAPID CITY

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

\_\_\_\_\_  
Mayor

(SEAL)