

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

September 17, 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, September 17, 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, Assistant Fire Chief Tim Kobes, Assistant Fire Chief Bill Knight, Police Caption Ed Hofkamp, and Administrative Coordinator Jackie Gerry.

ADOPTION OF AGENDA

The following items were added to the agenda:

- Draft letter to the Department of Public Safety as it relates to the Safe Streets Grant to ask for a rollover extension of that grant for 2007-2008, Alderman Chapman
- Gift by Modern Woodman to the Parks Department, Alderman Olson
- Trolley report, Alderman Hadcock
- Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of pavement, curb, gutter, sewer, street light conduit and sidewalk along Palmer road as it abuts Tract A of Palmer Subdivision and the SW1/4 of the NW1/4, located in the SW1/4 of the NW1/4, SE1/4 of the NW1/4, and the NE1/4 of the SW1/4, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota (07SV046)
- Authorize Mayor and Finance Officer to sign a settle agreement
- Consider Bill List for September 17, 2007 after the Executive Session

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

APPROVE MINUTES

Johnson moved, second by Hadcock and carried to approve the minutes of September 4, 2007.

AWARDS AND RECOGNITIONS

Mayor Hanks presented the Veteran for the Month of August, 2007 to Velda Brandt and Veteran for the Month of September, 2007 to Marvin Czerwonka and recognized their efforts and dedication to the service of their country and community.

Mayor Hanks presented Certificates of Recognition to John Wagner, Superintendent of the Water Division, acknowledged his 35 years of dedicated service to Rapid City; Dan Ladenburger

and acknowledged his 20 years of service to the Rapid City Fire Department; and Rick Lehmann and acknowledged his 20 years of service to the Rapid City Fire Department.

GENERAL PUBLIC COMMENT

Billy Mitchell, President of the Rapid City Firefighters Union extended his appreciation to the Council in approving six new paramedics for the Fire Department; and indicated that the department is in the process of recruiting for these positions and will begin training by October 1st. He indicated that the department will use these people to the best of their ability to continue to provide the best services to the citizens of Rapid City.

Peter Wernicke, Rapid City addressed the Cabela's issue and spoke to the comments made by Council and indicated his objection to the constant refrain that this is the way business is conducted. He indicated that he believed the Council forgot about ethics and morality and objected to Council's lack of leadership on the issue. He suggested the issue is confusing for the public as there is no certainty about the numbers because there are no facts and figures.

Steven Brenden, Rapid City addressed the Cabela's issue and indicate there are no facts and figures coming from the Council; suggested that the City is not allowing business to follow its natural course; and indicated the land will be more valuable when growth is allowed to happen on its own.

NON-PUBLIC HEARING ITEMS -- Items 3 - 59

Chapman moved, second by Olson and carried to open public comment on Items 3 – 47. Steven Brenden, Rapid City addressed item #30 (07TI018) indicating his objection to revising the project plan and increasing the cost to the City. Billy Mitchell, President of the Rapid City Firefighters and new member of the Health Care Committee addressed item #33 (LF091207-06) indicating his concern over a ten percent increase in health care rates that he considers excessive and pointed out that the reserve is \$2 Million. Mitchell indicated the union members would endorse a five percent increase to make certain that the City stays ahead of increasing health care costs. He asked the Council to refer this issue to the committee for more discussion. Chapman moved, second by Hadcock and carried to close public comment on Items 3 – 47.

CONSENT ITEMS – Items 3 - 47

The following items were removed from the Consent Items:

32. No. LF091207-05 – Approve Resolution to Establish Funding for City of Rapid City Healthcare Plan by Setting Rates for Retiree and COBRA Participants.

33. No. LF091207-06 – Approve Resolution to Establish Funding for City of Rapid City Healthcare Plan.

43. No. LF091207-17 - Approve Amended Travel Request for Barbara Garcia to attend National Summit on Your City's Families in San Antonio, TX, September 29-October 3, 2007, in the approximate amount of \$496.25.

44. No. LF091207-18 - Approve Amended Travel Request for Lloyd LaCroix to Attend National Summit on Your City's Families in San Antonio, TX, September 29-October 3, 2007, in the approximate amount of \$496.25.

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

Alcoholic Beverage License Applications Set for Hearing (October 1, 2007)

3. Wal-East Development, Inc. dba **Jackpot Casino II**, 685 LaCrosse Street, Suite C for a Retail (On-Off Sale) Malt Beverage License with Video Lottery TRANSFER from Hotel Management Co., Inc. dba Hotel Alex Johnson, 523 Sixth Street
4. Hotel Management Co., Inc. dba **Hotel Alex Johnson**, 523 Sixth Street for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
5. Lural A. Hawkins dba **RAXX Billiards**, 2310 N. Maple Avenue for a Retail (On-Off Sale) Malt Beverage License NO Video Lottery
6. **Rapid City Area Chamber of Commerce** for a special Beer & Wine License for an event scheduled October 9, 2007 at Dakota Radiology, 2929 Fifth Street, Suite 100
7. **Rapid City Area Chamber of Commerce** for a special Beer & Wine License for an event scheduled October 25, 2007 at Black Hills Homebuilders Association, 3121 West Chicago Street
8. **Rapid City Area Chamber of Commerce** for a special Beer & Wine License for an event scheduled November 13, 2007 at Knights LLC, 910 Fifth Street

Public Works Committee Consent Items

9. No. PW091107-01 – Approve a request from Dream Design International, Inc. for authorization to prepare an H-Lot in Lots 1 and 2 of Forefather Flats Subdivision located in the SW1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota on behalf of the City of Rapid City and authorize acceptance of deeds.
10. No. PW091107-02 – Approve a request for a One-Year Time Extension for approved Plat Vista Lake No. 2 Subdivision 03PL063, DEV03-608.
11. No. PW081407-02 – Acknowledge report on Construction (Connection) Fees; and refer the Construction (Connection) Fees to the Council Development Committee
12. No. PW091107-03 - Acknowledge report on the status of Sewer Utility Fund
13. No. PW091107-04 – Approve Change Order No. 2 for Well 12 and Stoney Creek Booster Station Project No. W03-953 / CIP No. 50318 to Heavy Constructors, Inc. dba Gustafson Builders, Inc. for an increase of \$2,385.27.
14. No. PW091107-05 - Approve Change Order No. 2 for North Deadwood Avenue Sanitary Sewer Expansion Project No. SSW02-1258 / CIP No. 50315 to Quinn Construction, Inc. for an increase of \$2,150.00.
15. No. PW091107-06 - Approve Change Order No. 2 for Canyon Lake Drive and Soo San Drive 14" Water Main Lime Creek Element 382 Project No. W06-1562 / CIP No. 50598 to Mainline Contracting, Inc. for an increase of \$3,181.86.
16. No. PW091107-07 - Approve Change Order No. 3 for Well 12 and Stoney Creek Booster Station Project No. W03-953 /CIP No. 50318 to Heavy Constructors, Inc. dba Gustafson Builders, Inc. for an increase of \$37,584.34.
17. No. PW091107-08 - Approve Change Order No. 1 for Well No. 8 Pump Replacement Project No. W07-1644 / CIP No. 50677 to Weston Engineering, Inc. for a decrease of \$1,780.00.

- 18. No. PW091107-09 – Authorize staff to advertise for bids for Two (2) Fork Lifts for the Material Recovery Facility
- 19. No. PW091107-10 - Authorize staff to advertise for bids for One (1) Loader for the Material Recovery Facility
- 20. No. PW091107-11 - Authorize staff to advertise for bids for Two (2) Semi Tractors for the Material Recovery Facility
- 21. No. PW091107-12 - Authorize staff to advertise for bids for Two (2) Trailers for the Material Recovery Facility
- 22. No. PW091107-13 – Authorize the Mayor and Finance Officer to sign Easement Agreement No. USAF-ACC-FXBM-9-07-617 with Department of the Air Force Air Combat Command Ellsworth Air Force Base, South Dakota (EAFB) to cross a waterline easement.
- 23. No. PW091107-14 – Approve a Resolution fixing time and place for hearing on Assessment Roll for Clark Street Sanitary Sewer Extension Project No. SS05-1480 for October 15, 2007.

RESOLUTION FIXING TIME AND PLACE FOR HEARING ON
ASSESSMENT ROLL 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 assessment roll for Clark Street Sanitary Sewer Extension Project No. SS05-1480 was submitted to the Finance Office on the 17th day of September, 2007. The City Council shall meet at the City/School Administration Center in Rapid City, South Dakota, on Monday, October 15, 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 17th day of September, 2007.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

24. No. PW091107-16 – Approve Change Order No. 001 for College Park Improvements to Gametime – Premier Recreation Products for an increase of \$6,350.00.
25. No. PW091107-17 – Approve Change Order No. 002 for Scott Mallow Park Improvements to Gametime – Premier Recreation Products for an increase of \$3,545.00.

Legal & Finance Committee Consent Items

26. Request staff to bring forward to the September 25, 2007 Public Works Committee meeting, the policy in place for payment of sewer backup charges and recommendations to make that process easier.
27. No. LF091207-16 - Approve appointment of Kevin Thom as the Community Resource Director.
28. No. LF091207-03 – Approve Event Permit for National Multiple Sclerosis Society-North Central States Chapter to hold event on September 22-23, 2007.
29. No. LF091207-15 – Authorize the Mayor and Finance Officer to sign a Contract with the Department of Environment and Natural Resources for the Air Quality Program.
30. No. 07TI018 – Approve a request by Sperlich Consulting, Inc. for Signature Development and the City of Rapid City to consider an application for a **Revised Project Plan for Tax Increment District No. 61** - Villaggio on Lot 1, Stoney Creek South #2 Subdivision; Unplatted portion of E1/2 NW1/4 SE1/4; NE1/4 SW1/4 SE1/4 and Golden Eagle Drive located in the NE1/4 SW1/4 SE1/4 including Lots H3 and H4; Lot H1 in the SE1/4 SW1/4 SE1/4; Lot H2 in the SW1/4; Lot H2 in the SW1/4 NW1/4 SE1/4 and the NW1/4 SW1/4 SE1/4; W1/2 NW1/4 SE1/4 less Springbrook Acres Subdivision and Less Lot H2; NW1/4 SW1/4 SE1/4 less Lot H2; S495 feet of NE1/4 SE1/4 less Lot 1; SE1/4 SE1/4; Lot 1, Bendert Subdivision; all located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; and, Lots 4 and 5, Owen Hibbard Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located between Sheridan Lake Road and South Highway 16 and adjacent to Catron Boulevard.

RESOLUTION APPROVING THE REVISED PROJECT PLAN FOR TAX INCREMENT DISTRICT NUMBER SIXTY ONE AS SUBMITTED BY THE RAPID CITY PLANNING COMMISSION

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

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

WHEREAS there has been established Tax Increment District Number Sixty One; and

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

WHEREAS the Revised Project Plan submitted helps make this development feasible by assisting with Vineyard Lane and Golden Eagle Drive and infrastructure improvements to serve the Villaggio at Golden Eagle and other adjacent areas of development; and

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

WHEREAS there has been developed a Revised Project Plan for this Tax Increment District which proposes these improvements; and

WHEREAS the Council has considered the Revised Project Plan submitted by the Planning Commission and determined that the Revised Project Plan for Tax Increment District Sixty One is economically feasible; and

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

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the Tax Increment District Revised Project Plan for Tax Increment District Number Sixty One be and hereby is approved as submitted by the Rapid City Planning Commission.

Dated this 17th day of September, 2007.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 31. No. LF091207-04 – Approve Travel Request for Tracy Davis, Jim Preston, Connie Ewing, Pauline Sumption, Cathy Druckrey, and Curt Bechtel to attend the South Dakota Municipal League Annual Conference October 2 through October 5, 2007 in Aberdeen, SD, in the approximate amount of \$1,831 plus registration of \$350 that was included on the Travel Request prepared by the Mayor's Office (grand total - \$2,181.00).
- 34. No. LF091207-07 – Approve Resolution to Establish the Non-Union Position of Landscape Architect.

RESOLUTION TO ESTABLISH THE NON-UNION POSITION
OF LANDSCAPE ARCHITECT

WHEREAS, a job evaluation on the position of Landscape Architect has been conducted utilizing the Factor Evaluation System methodology used to establish the position within the city's compensation plan; and

WHEREAS, the evaluation established that the duties and responsibilities of the Landscape Architect justify placing the classification within Grade 19 of the Non-Union pay scale;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the Non-Union Pay Plan by adding the below position classification description at the grade recommended in the job evaluation.

Job Title	Grade	Salary
Landscape Architect	19	\$42,370 to \$64,480/yr.

Dated this 17th day of September, 2007.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 35. No. LF091207-08 – Approve Resolution to Amend the AFSCME Union Compensation Wage Plan to Establish the Position of Office Helper.

RESOLUTION TO AMEND THE AFSCME UNION COMPENSATION WAGE PLAN TO ESTABLISH THE POSITION OF OFFICE HELPER

WHEREAS, a job evaluation has been conducted utilizing the Factor Evaluation System methodology to establish the city’s compensation plan; and,

WHEREAS, the evaluation established that the duties and responsibilities of the following position justify placing the classification within the named Grade of the AFSCME Union pay scale;

Job Title	Grade	Wage
Office Helper	8	\$11.77/hr. to \$17.92/hr.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the AFSCME Union Pay Plan by adding the above position classification description at the grade recommended in the job evaluation.

Dated this 17th day of September, 2007.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 36. No. LF091207-09 – Approve Resolution to Establish Additional Staffing in the Finance Department.

RESOLUTION TO ESTABLISH ADDITIONAL STAFFING IN THE FINANCE DEPARTMENT

WHEREAS, the Finance Officer has indicated that additional staffing will be necessary to provide the necessary services in the Finance Department; and

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City Council to authorize an increase of one half-time equivalent (0.5 FTE).

Dated this 17th day of September, 2007.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 37. Acknowledge the following volunteers for purposes of workers compensation insurance coverage: Lauren Rehrauer and Anahad Bohren.
- 38. No. LF091207-10 – Authorize Mayor and Finance Officer to sign Assignment Agreement between the City of Rapid City, BankWest, and Skyline Pines East, L.L.L.P.
- 39. No. LF091207-11 – Authorize Mayor and Finance Officer to sign Amendment to the Contract for Private Development Tax Increment District Number Fifty between Founder’s Park, LLC and the City of Rapid City.
- 40. No. LF091207-12 – Authorize Mayor and Finance Officer to sign Amendment to Assignment Agreement between Founder’s Park, LLC, First Western Bank, and the City of Rapid City.
- 41. No. LF091207-13 – Authorize Mayor and Finance Officer to sign Contract for Private Development Tax Increment District Number Fifty between Capital Development, Inc. and the City of Rapid City.
- 42. No. LF091207-14 – Authorize Mayor and Finance Officer to sign Assignment Agreement between the City of Rapid City, First National Bank South Dakota, and Capital Development, Inc.
- 45. Approve the following licenses: Mechanical Contractor: Eric Nelson, Westech Mechanical Inc.; Mechanical Installer: Samuel Ferrazzano and Michael Palfy III; Mechanical Apprentice: Lee Vaun Smart, Troy Skyberg, Wes Jobgen, Kevin Young, Paul Dittler, and Dennis Ream; Electrical Journeyman: Steve Lindgren, Shane Ellerton, Pat Cerney, Ron Richards, Jacques Lussier, and John Lees.

Growth Management Department Consent Items

- 46. No. 07PL062 - A request by Boschee Engineering for Scott and Janice Zandstra for a **Preliminary Plat** on Lot 1 of Block 1 of Paradise Pines Subdivision, located in the SW1/4 of the SE1/4, Section 7; and the NW1/4 of the NE1/4, Section 18, T1S, R7E, BHM, Pennington County, South Dakota, legally described as Lot 2E, less Right-of-way of the SW1/4 of the SE1/4, Section 7, T1S, R7E, BHM; and a portion of the NW1/4 of the NE1/4, Section 18, T1S, R7E, BHM, Pennington County, South Dakota, located southwest of the intersection of Wilderness Canyon Road and U.S. Highway 16. (APPROVE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: Prior to submittal of a Final Plat the applicant shall submit for review and approval an alternate name for the access easement with the Emergency Services Communication Center. In addition, the plat document shall be revised to identify the approved alternate name.)

47. No. 07PL105 - A request by Shannon Schad for a **Preliminary Plat** on Lots 1R2, 2R2 and 3R in Block 2 of Skyview North Subdivision, located in the NE1/4 of the SE1/4, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1R, 2R and 3 in Block 2 of Skyview North Subdivision, located in the NE1/4 of the SE1/4, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2038, 2050 and 2064 Harney Drive. (ACKNOWLEDGE THE APPLICANT'S WITHDRAWAL OF THE PRELIMINARY PLAT APPLICATION.)

END OF CONSENT CALENDAR

Hadcock moved, second by Johnson to (No. LF091207-05), approve a Resolution to Establish Funding for City of Rapid City Healthcare Plan by Setting Rates for Retiree and COBRA Participants. City Attorney Green advised the members of the Council that they do not have the ability to alter the recommendation from the Health Care Committee. He explained that by way of the union contracts, the Council has agreed with the members of the union to allow the Health Care Committee to set the rate for the annual premium, as long as the increase falls between five percent and fourteen percent. He indicated that once the Health Care Committee meets and sets the rate; neither the union nor the City Council can change the recommendation. He outlined the Health Care Committee membership as members of City management, non-union personnel, and representatives from each of the City's unions. Because the City's health care plan had a reserve balance of \$1.5 Million 2004, Preston explained there was no increase in the premium. After this timeframe, the reserve balance ran low and the Council increased the contributions that the taxpayers and rate payers paid and also increased what the employees paid. Preston indicated that the Council agreed to contribute \$300,000 over a five-year period to the health care fund to build the reserve balance to \$1.5 Million. For this contribution, the employees' co-pay was adjusted to 70 / 30; 25 percent for pharmacy, which was not applied to the deductible; and an added Twenty Dollar office visit; all of which was to get the health care plan back on a solid financial ground. He explained that the Council and the unions agreed to give the Health Care Committee authority to set the rates between five percent and fourteen percent. As a voting member on the committee, Preston indicated that he looked at the medical Consumer Price Index (CPI), which is 9.2 percent. He explained that as medical costs go up, the committee needs to keep up with the CPI or they will find themselves in the same position as they were in 2004. Preston indicated there was a vote and the majority of the Health Care Committee present did vote to keep a financially sound health care plan.

Indicating he wanted further discussion on this issue, a substitute motion was made by Hurlbut, second by Okrepkie to continue the Resolution to Establish Funding for City of Rapid City Healthcare Plan by Setting Rates for Retiree and COBRA Participants to the October 1, 2007 Council meeting.

Second substitute motion was made by Chapman, second by Hurlbut to continue a Resolution to Establish Funding for City of Rapid City Healthcare Plan by Setting Rates for Retiree and COBRA Participants to the October 15, 2007 Council meeting. Alderman Chapman indicated that it was his hope that the Health Care Committee will meet in the interim. City Attorney Green advised the Council that it would be inappropriate for the Council to direct the Health Care Committee to meet. The Health Care Committee has all the authority it needs to set the rate, and it has already acted to do that, with the majority of the members present. Upon a vote being taken, motion carried.

Hadcock moved, second by Chapman to continue the Resolution to Establish Funding for City of Rapid City Healthcare Plan by Setting Rates for Retiree and COBRA Participants to the October 15, 2007 Council meeting. Motion carried.

Hadcock moved, second by Chapman to (No. LF091207-17), approve an Amended Travel Request for Barbara Garcia to attend National Summit on Your City's Families in San Antonio, TX, September 29-October 3, 2007, in the approximate amount of \$496.25.

Substitute motion was made by Johnson, second by Hadcock to (No. LF091207-17), approve an Amended Travel Request for Barbara Garcia to attend National Summit on Your City's Families in San Antonio, TX, September 29-October 3, 2007, in the approximate amount of \$526.25; and to (No. LF091207-18), approve an Amended Travel Request for Lloyd LaCroix to Attend National Summit on Your City's Families in San Antonio, TX, September 29-October 3, 2007, in the approximate amount of \$526.25. Motion carried.

Olson moved, second by Hadcock and carried to open public comment on Items 48 – 59. Janet Smith, Rapid City addressed item #51 (07OA007) indicating concern over safety and health issues of vaccinated and non-vaccinated animals mixing; cleaning and sanitizing kennels between uses to prevent disease transmission; controls on how long the animals may be quartered; water and shelter needs of the animals; after-hour restrictions for kenneling; and abandoned and escaped animals. Bob Brandt, as Project Manager representing Century Builders and Good Guys addressed item #53 asking for approval for the Mayor and Finance Officer to sign an application to begin the process of vacating right-of-way; and #56 (07EX083) and #57 indicating that there are two issues relating to Tuscany Square; the extension of the water and sewer mains on Third Street, and allowing the developer to use the existing water and sewer mains, although they will cross over a lot line in the parking lot. Brandt explained that the original plan included a restaurant pad in the parking lot, but they are having no success in attracting a restaurant for this area. He indicated they were approached by a bank about putting in a full-service 6,000 SF building in the parking lot, but they are adamant about purchasing this area. Brandt explained that the Public Works' major master plan depicts the water main on Third Street connecting the water mains between Omaha Street and Saint Joseph Street. He indicated that if the water main is constructed now, there is no certainty that the main will be adequate in ten years. He pointed out that a new water main on Third Street will not serve any new businesses, but merely connect existing mains some time in the future. Brandt suggested a better plan is for the developer to sign a Waiver of Right to Protest so that if the water main is constructed in the future, the costs could be assessed to the property. He also explained that the Fire Department has not objection to the new fire hydrant installed by the developer. Brandt explained that the developer is not increasing the density over the allowance of the Planned Commercial Development; and has not asked for tax increment financing or public financing to develop and remodel an existing structure. Brandt explained that the City Attorney is of the opinion that the agreement the developer is willing to sign is not valid. Steven Brenden, Rapid City addressed item #52 (LF091207-01a) indicating that the City's water needs have not been adequately been addressed in north Rapid; #53 indicating the street width should be the same from beginning to end and the vacation of right-of-way should be denied; #54 (LF091207-02) indicating that the annexation is an attempt to grab tax dollars; and #56 (07EX083) asking the Council to uphold the denial for an exception to the standard specifications. Olson moved, second by LaCroix and carried to close public comment on Items 48 – 49.

NON-CONSENT ITEMS – Items 48 - 59**ORDINANCES**

Ordinance No. 5335 (No. 07OA008), to Refer to Planned Industrial Development (PID) Rather than Planned Light Industrial Development (PLID), to Address the Uses Permitted in the Planned Industrial Development, the Landscaping Requirements, Setback and Lot Coverage Requirements by Amending Section 17.50.105 of the Rapid City Municipal Code was introduced. Hadcock moved, second by LaCroix and carried that Ordinance No. 5335 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 1, 2007.

Ordinance No. 5336 (No. 07OA008b), Adding Planned Industrial Developments as a Conditional Use by Amending Section 17.24.030 of the Rapid City Municipal Code was introduced. Hadcock moved, second by LaCroix and carried that Ordinance No. 5336 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 1, 2007.

Ordinance No. 5337 (No. 07RZ064), 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 was introduced. Hadcock moved, second by Olson and carried that Ordinance No. 5337 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 1, 2007.

Ordinance No. 5327 (No. 07OA007), to Allow Transitory Non-Overnight Accessory Dog Kennels and Horse Corrals in Planned Developments by Amending Chapter 17.18.030 of the Rapid City Municipal Code having passed first reading on September 4, 2007, Hadcock moved, second by LaCroix that the title be read the second time. Elkins, responding to a question from Alderman Kooiker, indicated that this request comes forward from the developer of the Cabela's project. The Planning Commission recommended approval of the change, and it is narrowly drafted to include only Planned Commercial Developments; not just Conditional Use Permits, but only in a Planned Commercial Development where the staff has the greatest level of review. She indicated that the humane society has not been asked to review the ordinance. 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 Ordinance No. 5327 was declared duly passed upon its second reading.

LEGAL & FINANCE COMMITTEE ITEMS

Hadcock moved, second by Okrepkie to (No. LF091207-01a), authorize the Mayor and Finance Officer to sign Covenant Agreement for Water Service with Elk Vale Business Park, LLC. Jablonski, responding to a question from Alderman Weifenbach, indicated that the amount of water that the City can provide is adequate, but marginal. Once the City provides more than 1,000 GPM (gallons per minute), the City will experience a negative pressure in an area that is 3,400 feet south of Cheyenne Blvd. He indicated that the City intends to have a reservoir in

place by October 2008 and that deficiency will go away. Jablonski indicated that if there is substantial growth, the City will not be in a position to provide fire protection to the area. Responding to a question from Alderman Kooiker, it was indicated the developer will pay the rate of 150 percent for water and the City of Box Elder will provide sewer service. Alderman Olson indicated her support of the agreement recognizing this as a unique situation, but hoped there would be a cooperative point of view between the two communities. Elkins explained that anyone, adjacent to the City Limits, asking for the City's water service is encouraged to annex in order to receive the service. She explained that in this case, because it's in another municipality, there is no potential for annexation. Alderman Kroeger stated that there have been a number of discussions with Box Elder, the developer, and City staff about a joint venture. He suggested that those interested persons who want to buy a home in this development will have to agree that their water rate will be 150 percent of the normal billing rate. He pointed out that the rate will go up to 300 percent or 400 percent after year six and this potential increase will make certain that some infrastructure will be built to provide water service to the development. Doyle Estes, responding to questions from Alderman Kooiker, indicated that he, as the developer, will administer the water billing and the City of Box Elder has established a \$5.5 Million Tax Increment District for which this area will benefit. Estes, responding to a question from Alderman Chapman, indicated that if the Council votes in the affirmative, he will present the issue at the next meeting of the Box Elder City Council. He also indicated that the residents of this development will be required to follow the Water Conservation Measure of Rapid City. Responding to a comment from Alderman Kroeger, Jablonski indicated that if Rapid Valley reduces their demand on the City's water, there will be an increase in water available to the City's airport and areas north of SD Hwy 44.

Hurlbut moved, second by Hadcock to call the question. Motion carried with Kooiker voting NO.

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

Hadcock moved, second by Olson and carried to authorize the Mayor and Finance Officer to sign Vacation of Right of Way Application for Philadelphia Street.

Hadcock moved, second by Okrepkie to (No. LF091207-02), approve the recommendation that discussion commence regarding annexation of commercial-retail businesses along South Dakota Highway 44. Alderman Johnson indicated there should be meaningful discussion at the Legal & Finance Committee sometime in the future. Alderman Olson hoped for a more global discussion that identifies and reiterates the philosophy of this Council regarding inclusion of additional land with the corporate limits of Rapid City. Alderman Kooiker asked how the City will make a case for voluntary or involuntary annexation without the offer or promise of providing services. Alderman Hadcock suggested the City needs to develop a plan to annex areas into the City. Alderman Johnson responding to a question from Alderman Chapman, indicated the appropriate time to frame the discussion of annexation is at the Legal & Finance Committee; and the City Council as a whole will define what areas should be addressed. Upon a vote being taken on the motion to approve, motion carried with Kooiker voting NO.

PUBLIC WORKS COMMITTEE ITEMS

LaCroix moved, second by Okrepkie and carried to approve a request from Jay Fox, Fischer Furniture, to erect tent in the public right-of-way at 1710 West Main Street beginning September 25 until October 6, 2007; and require that the City of Rapid City be named as additional insured.

LaCroix moved, second by Hadcock to approve No. 07EX083, a request from Bob Brandt for an exception to Detail 9-12 of the Standard Specifications for Public Works Construction, 2004 Edition for Proposed Tract 2 of Tuscany Square; and the Development Appeals Review Board (DARB) recommendation that there be a satisfactory covenant agreement signed and recorded with the Pennington County Register of Deeds; and to authorize 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. At the request of Alderman Johnson, Development Services Coordinator Dominicak explained that this was a Planned Commercial Development with one lot with existing water and sewer service lines; and later subdivided with an additional lot being plotted out as Tract 2. He explained that subdividing this lot met different criteria applied to the project. He indicated that Tuscany Square water and sewer service can extend from the mains on Omaha Street, as can Tract 2. He explained that the new application indicates Tract 2 will be served from Third Street, but the service line crosses Tract 1 and by regulations this is not allowed. Dominicak reminded the Council of its action in 2004, of a resolution being adopted to make corrections of private lines and service lines that were crossing private lots, both for residential and commercial lots. He indicated that the resolution states that the City would participate in a 40 / 60 split in the costs to correct these situations. Alderman Johnson suggested this exception is a potential liability to the community and if the City enters into an agreement that is unlawful, it can not be enforced. City Attorney Green advised the Council that the covenant agreement is void at the outset because it has as its purpose the avoidance of a City ordinance and that is a violation of the law. Green advised the Council to change the ordinance rather than sign an agreement that violates the law. Alderman Hadcock indicated her interest in allowing the sewer service line to cross lots and asking the applicant to sign a waiver of right to protest. Alderman Hurlbut offered support to require the applicant to pay upfront for the water main extension that will be needed in the next 10-15 years and to amend the ordinance.

Substitute motion was made by Kooiker, second by Hurlbut to continue this item for thirty days and request the City Attorney to bring forward appropriate ordinance amendments at the September 26, 2007 Legal & Finance Committee meeting. Green advised that the Council's rules in this case are clear and there is no ability to offer a waiver in this instance. Elkins, responding to a question from Alderman Hadcock, indicated the Council could approve a waiver for the improvements to the water main, but the City could not do an assessed project of the sewer line that crosses lot lines. Responding to a question from Alderman Hadcock, Green advised that to the extent that the applicant has applied for a subdivision variance, and the waiver of right to protest is a part of the subdivision variance which would only apply to the water main in Third Street, that would be appropriate. The ordinances that are in play deal with how sewer lines are connected and how lots are required to connect.

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

Green explained that the waiver of right to protest is used in conjunction with subdivision variances; and suggested the applicant will need to apply for a variance on the requirement to extend the utilities in Third Street; and Council can approve that variance using the waiver of right to protest to insure that the improvements can be required if they are needed in the future.

Hurlbut moved, second by Johnson to divide the question. Motion carried with one NO vote.

Chapman moved, second by Johnson to continue No. 07EX083, a request from Bob Brandt for an exception to Detail 9-12 of the Standard Specifications for Public Works Construction, 2004 Edition for Proposed Tract 2 of Tuscany Square to the October 15, 2007 Council meeting. Motion carried with Okrepkie voting NO.

Chapman moved, second by Johnson to continue authorization for the Mayor and Finance Officer to sign a Covenant Agreement with Good Guys, LLC to the October 1, 2007 Council meeting. Motion carried.

BIDS

The following companies submitted bids for No. CC091707-02, Structure Repair - Meadowbrook Golf Course Project No. PR07-1674 opened September 11, 2007: Heavy Constructors, Inc., J. V. Bailey Co., Inc., and Corr Construction Services, Inc. Staff reviewed the bids and recommends the bids be referred to the September 26, 2007 Legal & Finance Committee meeting; whereupon LaCroix moved, second by Chapman and carried to approve.

The following companies submitted bids for No. CC091707-02, Automated Fuel Card System opened September 11, 2007: M G. Oil Co., FleetCor Technologies, and Wright Express Financial Services Corp. Staff reviewed the bids and recommends the bids be rejected; and authorize staff to enter into negotiations for an automated fuel card system; whereupon LaCroix moved, second by Johnson and carried to approve.

COUNCIL ITEMS & LIAISON REPORTS

Alderman Chapman asked the Public Works Department to draft a letter to the Department of Public Safety requesting that the grant received by Rapid City be rolled over to next year; whereupon a motion was made and seconded to approve. Motion carried.

Alderman Olson noted that Modern Woodman of Rapid City gifted the Parks Department with \$700 to purchase trees for various parks.

Alderman Hadcock extended her appreciation to the various sponsors of the Trolleys and reported there are ten advertising spots available for next year. She reported that the Trolley rides ended and special public-purpose events will be under discussion for September to May.

PUBLIC HEARING ITEMS – Items 60 - 110

Olson moved, second by Johnson and carried to open the public hearing on Items 60 – 100. Jeff Bendt, President for Stoney Creek Development Corporation addressed item #107 (07PD057) indicating his intend to put a nice metal wrap around his sign post and the color is expect to match the building color.

CONTINUED PUBLIC HEARING CONSENT ITEMS – Items 60 - 103

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

78. No. 07PL106 - A request by Renner & Associates for Stephen E. Hilton for a **Preliminary Plat** on Hilton Tract of Palmer Subdivision, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract A of Palmer Subdivision and the SW1/4 of the NW1/4 of Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, located at 22550 Potter Road.

92. No. 07SV046 - A request by Renner & Associates for Stephen E. Hilton for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, pavement, sewer, water, street light conduit and sidewalk as per Chapter 16.16 of the Rapid City Municipal Code** on Hilton Tract of Palmer Subdivision, located in the SW1/4 of the NW1/4, SE1/4 of the NW1/4, and the NE1/4 of the SW1/4, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract A of Palmer Subdivision and the SW1/4 of the NW1/4, located in the SW1/4 of the NW1/4, SE1/4 of the NW1/4, and the NE1/4 of the SW1/4, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, located at 22550 Potter Road.

92A. Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of pavement, curb, gutter, sewer, street light conduit and sidewalk along Palmer Road as it abuts Tract A of Palmer Subdivision and the SW1/4 of the NW1/4, located in the SW1/4 of the NW1/4, SE1/4 of the NW1/4, and the NE1/4 of the SW1/4, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota (07SV046)

Hadcock 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 October 1, 2007:

60. 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.

61. No. 06PL178 - A request by Boschee Engineering for OTS, Inc. for a **Preliminary Plat** on Lots 1 thru 8 of Block 1, lots 1 thru 8 of Block 2, Lots 1 thru 17 of Block 3, and lots 1 thru 9 of Block 4, Catron Crossing Subdivision located in the SW1/4 SW1/4, W1/2 SE1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the SW1/4 SW1/4 W1/2 SE1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southern terminus of Bendt Drive.

62. 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.

63. 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.
64. No. 07CA032 - A request by CETEC Engineering Services, Inc. for OS Development for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Agriculture to Low Density Residential** on a tract of land located in the S1/2 NE1/4, SE1/4 of Section 22 and the NE1/4 of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the East 1/4 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 N87°48'47"W 33.00 feet along the South line of the NE1/4 of said Section 27 to the True Point of Beginning, said point being monumented with a rebar and plastic cap stamped LS 6014; Thence N87°48'47"W 2615.84 feet along the South line of the NE1/4 of Section 27 to the Center 1/4 Corner of said section, said point being monumented with a rebar and aluminum cap stamped C 1/4 LS 6014; Thence N01°59'29"E 2618.24 feet along the West line of the NE1/4 of Section 27 to the North 1/4 Corner of Section 27, said point being monumented with a brass cap and iron pipe; Thence N02°02'30"E 2672.71 feet along the West line of the SE1/4 of said Section 22 to the Center 1/4 Corner, said point being monumented with a rebar and aluminum cap stamped C 1/4 LS 6014; Thence N02°02'19"E 228.09 feet along the West line of the S1/2 NE1/4 of Section 22 to a point; Thence N88°48'27"E 1290.24 feet to the beginning point of a non-tangent curve concave to the northeast having a radius of 800.00 feet and a chord bearing of S23°50'50"E; Thence along said curve a distance of 514.07 feet; Thence S42°15'21"E 321.74 feet to the beginning of a curve concave to the southwest having a radius of 1006.00 feet; Thence along said curve a distance of 685.41 feet; Thence S87°56'04"E 84.31 feet to the northwest corner of the Bradeen Subdivision, said point being monumented with an iron rod; Thence S02°05'22"W 986.21 feet along the West line of the Bradeen Subdivision to the southwest corner of the Bradeen Subdivision, said point being monumented with a rebar and plastic cap, stamped LS 6014; Thence N87°56'54"W 84.32 feet to the beginning point of a non-tangent curve concave to the northwest having a radius of 1006.00 feet and a chord bearing of S19°44'46"W; Thence along said curve a distance of 433.45 feet; Thence S32°05'22"W 250.68 feet to the beginning point of a non-tangent curve concave to the northeast having a radius of 1200.00 feet and a chord bearing of S80°10'07"E;

Thence along said curve a distance of 349.46 feet to a point on the North line of the NE1/4 of said Section 27; Thence S88°27'49"E 515.34 feet along said line to a point from which the Northeast Corner of Section 27 bears S88°27'49"E 33.00 feet, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence S02°00'19"W 2647.94 feet to the True Point of Beginning, less a tract of land, designated as Tract B, located in the NW1/4 NE1/4 of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the East 1/4 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 186.87 feet to the beginning of a non-tangent curve concave to the northeast having a radius of 800.00 feet and a chord bearing of N31°18'22"W; Thence along said curve a distance of 553.18 feet; Thence S42°01'34"W 152.10 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; 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 1/4 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 1/4 LS 6014, located west of the intersection of Reservoir Road and Southside Drive.

65. No. 07CA035 - A request by CETEC Engineering Services, Inc. for OS Development for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Agriculture to Neighborhood Commercial with a Planned Commercial Development** on a tract of land located in the SE1/4 SE1/4 of Section 22, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the Southeast Corner of said Section 22, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence N88°27'49"W 33.00 feet along the South line of the SE1/4 SE1/4 of said Section 22 to the True Point of Beginning; Thence N88°27'49"W 336.56 feet along the South line of the SE1/4 SE1/4; Thence N02°02'59"E 672.03 to a point along the South line of the Bradeen Subdivision; Thence S87°56'54"E 337.08 along said South line to the southeast corner of the Bradeen Subdivision, said point being monumented with an iron rod; Thence S02°05'45"W 669.00 feet to the Point of Beginning, from which the South 1/4 corner of said Section 22 bears N88°27'49"W a distance of 2616.56 feet, said point being monumented with a brass cap and iron pipe, located west of the intersection of Reservoir Road and Southside Drive.
66. No. 07CA037 - A request by CETEC Engineering Services, Inc. for OS Development for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Agriculture to Medium Density Residential with a Planned Residential Development** on a tract of land located in the NE1/4 SE1/4, SE1/4 NE1/4 of Section 22, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the Southeast Corner of said Section 22, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence N00°55'18"E 1655.11 feet

along the East line of the SE1/4 of said Section 22 to the True Point of Beginning lying on the North line of the Bradeen Subdivision; Thence N87°56'04"W 517.56 feet along the North line to the northwest corner of said Subdivision; Thence N87°56'04"W 84.31 feet to the beginning of a non-tangent curve concave to the southwest having a radius of 1006.00 feet and a chord bearing of N22°44'15"W; Thence along said curve a distance of 685.41 feet; Thence N42°15'21"W 321.74 feet to the beginning of a curve concave to the northeast and having a radius of 800.00 feet; Thence along said curve a distance of 514.07 feet; Thence N88°48'27"E 1331.68 feet to a point; Thence S02°04'04"W 1370.56 feet to the True Point of Beginning, located west of the intersection of Reservoir Road and Southside Drive.

67. No. 07CA038 - A request by CETEC Engineering Services, Inc. for OS Development for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Agriculture to Medium Density Residential with a Planned Residential Development** on a tract of land located in the SE1/4 SE1/4 of Section 22, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the Southeast Corner of said Section 22, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence N88°27'49"W 369.56 feet along the South line of the SE1/4 SE1/4 of said Section 22 to the True Point of Beginning; Thence N88°27'49"W 178.78 feet along said South line to the beginning of a curve concave to the northeast and having a radius of 1200.00 feet; Thence along said curve a distance of 349.48 feet; Thence N32°05'22"E 250.68 feet to the beginning of a curve concave to the northwest and having a radius of 1006.00 feet; Thence along said curve a distance of 433.45 feet; Thence S87°56'54"E 84.32 feet to the southwest corner of the Bradeen Subdivision, said point being monumented with a rebar and plastic cap stamped LS 6014; Thence S87°56'54"E 181.28 feet along the South line of said Subdivision; Thence S02°02'59"W 672.03 feet to the True Point of Beginning, from which the South 1/4 corner of said Section 22 bears N88°27'49"W a distance of 2280.00 feet, said point being monumented with a brass cap and iron pipe, located west of the intersection of Reservoir Road and Southside Drive.
68. No. 07CA039 - A request by CETEC Engineering Services, Inc. for OS Development for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Agriculture to Low Density Residential II** on a tract of land located in the NW1/4 NE1/4 of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the East 1/4 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 1/4 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 1/4 LS 6014, located west of the intersection of Reservoir Road and Southside Drive.

69. No. 07CA040 - A request by Sperlich Consulting, Inc. for Williams & Associates Architecture, Inc. for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Medium Density Residential to Office Commercial** on Lot 33R of Block 18 of Robbinsdale Addition No. 10, located in the SE1/4 NW1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest corner of the intersection of Anamaria Drive and Fifth Street.
70. No. 07PL029 - A request by D. C. Scott Co. Land Surveyors for Wesleyan Church for a **Preliminary Plat** on Lot 1 of Word of Hope Subdivision, located in the NE1/4 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the NE1/4 SE1/4, lying southeast of Elk Vale Road, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on the west side of Jolly Lane, at the north end between Jolly Lane cul-de-sac and curve in Elk Vale Road.
71. No. 07PL079 - A request by Fisk Land Surveying & Consulting Engineers for Joe L. Ratigan for a **Preliminary Plat** on Lots 1 and 2 of Ratigan Subdivision, located in the NE1/4 NE1/4 NE1/4 and SE1/4 NE1/4 NE1/4 of Section 14, T1N, R6E, BHM, Pennington County, South Dakota, legally described as the NE1/4 NE1/4 NE1/4 and SE1/4 NE1/4 NE1/4 of Section 14, T1N, R6E, BHM, Pennington County, South Dakota, located at 8115 West Highway 44.
72. No. 07PL081 - A request by Centerline, Inc. for Action Development, Inc. for a **Preliminary Plat** on Lot 1 of Anamosa Crossing Subdivision, located in the NW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract 1 of Century 21 Subdivision, located in the NW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of E. North Street and proposed E. Anamosa Street.
73. 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.
74. 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.

75. 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.
76. No. 07PL100 - A request by Sperlich Consulting for Schriener Investments, LLC for a **Preliminary Plat** on Lots 1 thru 6 of Block 1, Lots 1 thru 5 of Block 2 and Lot 1 of Block 3 of Medicine Ridge Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the NE1/4 of the NE1/4 and the SE1/4 of the NE1/4, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the western terminus of Stumer Road and north of Enchantment Road.
77. 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 the 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.
79. 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.
80. 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.
81. No. 07RZ050 – Second Reading, Ordinance No. 5312, 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 Neighborhood Commercial District to General Commercial District** on the west 250

feet of Lot 2 of Hansen Heights, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 320 East St. Patrick.

82. No. 07RZ052 – Second Reading, Ordinance No. 5316, 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 District** on a tract of land located in the S1/2 NE1/4, SE1/4 of Section 22 and the NE1/4 of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the East 1/4 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 N87°48'47"W 33.00 feet along the South line of the NE1/4 of said Section 27 to the True Point of Beginning, said point being monumented with a rebar and plastic cap stamped LS 6014; Thence N87°48'47"W 2615.84 feet along the South line of the NE1/4 of Section 27 to the Center 1/4 Corner of said section, said point being monumented with a rebar and aluminum cap stamped C 1/4 LS 6014; Thence N01°59'29"E 2618.24 feet along the West line of the NE1/4 of Section 27 to the North 1/4 Corner of Section 27, said point being monumented with a brass cap and iron pipe; Thence N02°02'30"E 2672.71 feet along the West line of the SE1/4 of said Section 22 to the Center 1/4 Corner, said point being monumented with a rebar and aluminum cap stamped C 1/4 LS 6014; Thence N02°02'19"E 228.09 feet along the West line of the S1/2 NE1/4 of Section 22 to a point; Thence N88°48'27"E 1290.24 feet to the beginning point of a non-tangent curve concave to the northeast having a radius of 800.00 feet and a chord bearing of S23°50'50"E; Thence along said curve a distance of 514.07 feet; Thence S42°15'21"E 321.74 feet to the beginning of a curve concave to the southwest having a radius of 1006.00 feet; Thence along said curve a distance of 685.41 feet; Thence S87°56'04"E 84.31 feet to the northwest corner of the Bradeen Subdivision, said point being monumented with an iron rod; Thence S02°05'22"W 986.21 feet along the West line of the Bradeen Subdivision to the southwest corner of the Bradeen Subdivision, said point being monumented with a rebar and plastic cap, stamped LS 6014; Thence N87°56'54"W 84.32 feet to the beginning point of a non-tangent curve concave to the northwest having a radius of 1006.00 feet and a chord bearing of S19°44'46"W; Thence along said curve a distance of 433.45 feet; Thence S32°05'22"W 250.68 feet to the beginning point of a non-tangent curve concave to the northeast having a radius of 1200.00 feet and a chord bearing of S80°10'07"E; Thence along said curve a distance of 349.46 feet to a point on the North line of the NE1/4 of said Section 27; Thence S88°27'49"E 515.34 feet along said line to a point from which the Northeast Corner of Section 27 bears S88°27'49"E 33.00 feet, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence S02°00'19"W 2647.94 feet to the True Point of Beginning, less a tract of land, designated as Tract B, located in the NW1/4 NE1/4 of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the East 1/4 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 186.87 feet to the beginning of a non-tangent curve concave to the northeast having a radius of

800.00 feet and a chord bearing of N31°18'22"W; Thence along said curve a distance of 553.18 feet; Thence S42°01'34"W 152.10 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; 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 1/4 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 1/4 LS 6014, located west of the intersection of Reservoir Road and Southside Drive.

83. No. 07RZ055 – Second Reading, Ordinance No. 5319, 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 Neighborhood Commercial District** on a tract of land located in the SE1/4 SE1/4 of Section 22, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the Southeast Corner of said Section 22, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence N88°27'49"W 33.00 feet along the South line of the SE1/4 SE1/4 of said Section 22 to the True Point of Beginning; Thence N88°27'49"W 336.56 feet along the South line of the SE1/4 SE1/4; Thence N02°02'59"E 672.03 to a point along the South line of the Bradeen Subdivision; Thence S87°56'54"E 337.08 along said South line to the southeast corner of the Bradeen Subdivision, said point being monumented with an iron rod; Thence S02°05'45"W 669.00 feet to the Point of Beginning, from which the South 1/4 corner of said Section 22 bears N88°27'49"W a distance of 2616.56 feet, said point being monumented with a brass cap and iron pipe, located west of the intersection of Reservoir Road and Southside Drive.
84. No. 07RZ059 – Second Reading, Ordinance No. 5329, 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 Medium Density Residential District** on a tract of land located in the NE1/4 SE1/4, SE1/4 NE1/4 of Section 22, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the Southeast Corner of said Section 22, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence N00°55'18"E 1655.11 feet along the East line of the SE1/4 of said Section 22 to the True Point of Beginning lying on the North line of the Bradeen Subdivision; Thence N87°56'04"W 517.56 feet along the North line to the northwest corner of said Subdivision; Thence N87°56'04"W 84.31 feet to the beginning of a non-tangent curve concave to the southwest having a radius of 1006.00 feet and a chord bearing of N22°44'15"W; Thence along said curve a distance of 685.41 feet; Thence N42°15'21"W 321.74 feet to the beginning of a curve concave to the northeast and having a radius of 800.00 feet; Thence along said curve a distance of 514.07 feet; Thence N88°48'27"E 1331.68 feet to a point; Thence S02°04'04"W 1370.56 feet to the True Point of Beginning, located west of the intersection of Reservoir Road and Southside Drive.

85. No. 07RZ060 – Second Reading, Ordinance No. 5330, 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 to Medium Density Residential** on a tract of land located in the SE1/4 SE1/4 of Section 22, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the Southeast Corner of said Section 22, said point being monumented with an iron rod and aluminum cap stamped with the section numbers below the surface of the asphalt; Thence N88°27'49"W 369.56 feet along the South line of the SE1/4 SE1/4 of said Section 22 to the True Point of Beginning; Thence N88°27'49"W 178.78 feet along said South line to the beginning of a curve concave to the northeast and having a radius of 1200.00 feet; Thence along said curve a distance of 349.48 feet; Thence N32°05'22"E 250.68 feet to the beginning of a curve concave to the northwest and having a radius of 1006.00 feet; Thence along said curve a distance of 433.45 feet; Thence S87°56'54"E 84.32 feet to the southwest corner of the Bradeen Subdivision, said point being monumented with a rebar and plastic cap stamped LS 6014; Thence S87°56'54"E 181.28 feet along the South line of said Subdivision; Thence S02°02'59"W 672.03 feet to the True Point of Beginning, from which the South 1/4 corner of said Section 22 bears N88°27'49"W a distance of 2280.00 feet, said point being monumented with a brass cap and iron pipe, located west of the intersection of Reservoir Road and Southside Drive.
86. No. 07RZ061 – Second Reading, Ordinance No. 5331, 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 NW1/4 NE1/4 of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the East 1/4 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 1/4 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 1/4 LS 6014, located west of the intersection of Reservoir Road and Southside Drive.
87. No. 07RZ063 – Second Reading, Ordinance No. 5333, 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 Williams & Associates

Architecture, Inc. for a **Rezoning from Medium Density Residential District to Office Commercial District** on Lot 33R of Block 18 of Robbinsdale Addition No. 10, located in the SE1/4 NW1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest corner of the intersection of Anamaria Drive and Fifth Street.

88. 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.
89. No. 07SV040 - A request by Fisk Land Surveying for Joe Ratigan for a **Variance to the Subdivision Regulations to waive the requirement that no new half-streets shall be permitted as per Chapter 16.12.050 of the Rapid City Municipal Code along the adjacent section line highways** on Lots 1 and 2 of Ratigan Subdivision, located in the NE1/4 NE1/4 NE1/4 and the SE1/4 NE1/4 NE1/4 of Section 14, T1N, R6E, BHM, Pennington County, South Dakota, legally described as the NE1/4 NE1/4 NE1/4 and the SE1/4 NE1/4 NE1/4 of Section 14, T1N, R6E, BHM, Pennington County, South Dakota, located at 8115 West Highway 44.
90. 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 the 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.
91. No. 07SV044 - A request by Bryan Gonzales for Century Development Co. for a **Variance to the Subdivision Regulations to reduce the right-of-way requirement from 68 feet to 54.6 feet for a 481 foot portion of the proposed extension of Philadelphia Street** on Lots 1 thru 28 of Block 1 and Lots 1 thru 24 of Block 2 of LaVilla Vista Subdivision and dedicated Right-of-Way, located in 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.

93. 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.
94. No. 07VR001 - A request by Boschee Engineering for OTS, Inc. for a **Vacation of Section Line Highway** on a parcel of land located in the SW1/4 of Section 22, T1N, R7E, and the NW1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of Sheridan Lake Road and Wildwood Drive.
95. 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.
96. No. 07VR009 - A request by Dream Design International, Inc. for a **Vacation of Section Line Highway** on the unplatted portion of the NE1/4 SE1/4, lying southeast of Elk Vale Road, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on the west side of Jolly Lane at the north end between Jolly Lane cul-de-sac and curve in Elk Vale Road.

Continue the following items until October 15, 2007:

97. 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.

98. 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.
99. 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.
100. No. 07SV026 - A request by Scull Construction for Whittingham & Lestrangle, 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.

101. 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.

Continue the following items until December 17, 2007:

102. No. 07RZ058 – Second Reading, Ordinance No. 5328, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Don Jiracek for a **Rezoning from Medium Density Residential District to General Commercial District** on Lots 1 thru 2 of Block 2 of North Boulevard Addition, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 409 West Boulevard.

Continue the following items until February 18, 2008:

103. No. 06PL090 - A request by Dream Design International for a **Preliminary Plat** on Lots 1 thru 5 of Block 1, Lots 1 thru 10 of Block 2, Lots 1 thru 4 of Block 3, Lots 1 and 26 of Block 6, Lot 1 of Block 7, Lots 1 and 36 thru 41 of Block 8, Lots 1 thru 11 of Block 9, Lots 1 thru 13 of Block 10, Lots 1 thru 30 of Block 11 and Lot A and Lots 1 thru 23 of Block 12 and Dedicated Right-of-Way, Elks Meadows Subdivision, located in the E1/2 NE1/4, Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the E1/2 NE1/4, Section 21, T1N, R8E, BHM, Pennington County, South Dakota, located east of the intersection of Elk Vale Road and Old Folsom Road.

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

The Mayor presented No. 07PL106, a request by Renner & Associates for Stephen E. Hilton for a **Preliminary Plat** on Hilton Tract of Palmer Subdivision, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract A of Palmer Subdivision and the SW1/4 of the NW1/4 of Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, located at 22550 Potter Road. LaCroix moved, second by Johnson and carried to approve the Preliminary Plat with the following stipulations: 1. Prior to City Council Approval of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines be submitted for review and

approval or a Variance to the Subdivision Regulations must be obtained. If on-site wastewater treatment systems are proposed then information on depth and type of soil, and capacity of septic tanks proposed must be submitted for review and approval and percolation tests demonstrating that the soils are suitable for on-site wastewater treatment systems be submitted for review and approval; 2. Prior to City Council approval of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review. If a shared well and/or a community water system is proposed then it shall be designed as a public water system or a Variance to the Subdivision Regulations shall be obtained. In particular, the water system shall be designed and constructed to provide adequate fire and domestic flows. In addition, the plat document shall be revised to show utility easement(s) as needed; 3. Prior to City Council approval of a Preliminary Plat application, road construction plans for Palmer Road shall be submitted for review and approval. In particular, the road construction plans shall show the street located in a minimum 52 foot right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 4. Prior to City Council approval of a Preliminary Plat application, a Wildland Fire Mitigation Plan shall be submitted for review and approval; 5. Prior to City Council approval of a Preliminary Plat application, a cost estimate of the subdivision improvements shall be submitted for review and approval; 6. Prior to City Council approval of a Preliminary Plat application, a revised legal description for the proposed lot shall be submitted for review and approval; 7. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and, 8. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval.

The Mayor presented No. 07SV046, a request by Renner & Associates for Stephen E. Hilton for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, pavement, sewer, water, street light conduit and sidewalk as per Chapter 16.16 of the Rapid City Municipal Code** on Hilton Tract of Palmer Subdivision, located in the SW1/4 of the NW1/4, SE1/4 of the NW1/4, and the NE1/4 of th SW1/4, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract A of Palmer Subdivision and the SW1/4 of the NW1/4, located in the SW1/4 of the NW1/4, SE1/4 of the NW1/4, and the NE1/4 of th SW1/4, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, located at 22550 Potter Road. LaCroix moved, second by Okrepkie and carried to approve the Variance.

LaCroix moved, second by Johnson and carried to authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of pavement, curb, gutter, sewer, street light conduit and sidewalk along Palmer Road as it abuts Tract A of Palmer Subdivision and the SW1/4 of the NW1/4, located in the SW1/4 of the NW1/4, SE1/4 of the NW1/4, and the NE1/4 of the SW1/4, Section 14, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota (07SV046)

Okrepkie moved, second by Johnson and carried to close the public hearing on Items 60 – 100.

CONSENT PUBLIC HEARING ITEMS – Item 104 - 106

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

ALCOHOL LICENSES

104. Steven C. Lester, LLC dba **Rushmore Plaza Holiday Inn**, 505 N. Fifth Street for a Retail (On-Sale) Liquor License TRANSFER from Steven C. Lester dba Rushmore Plaza Holiday Inn, 505 N. Fifth Street
105. **Pennington County Democratic Party** for a special Beer & Wine License for an event scheduled September 29, 2007 at AFL – CIO Labor Temple, 922 E. St. Patrick Street
106. **Rapid City Fine Arts Center, Inc.** for a special Beer & Wine License for an event scheduled October 13, 2007 at Dahl Arts Center, 713 7th Street

NON-CONSENT PUBLIC HEARING ITEMS – Items 107 – 110

The Mayor presented No. 07PD057, an appeal of the Planning Commission's decision on a request by Boschee Engineering for Stoney Creek Development for a **Major Amendment to a Planned Commercial Development** on a parcel of land located in a portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, lying South of Catron Boulevard, in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota being more particularly described as follows: Beginning at the Northeast corner of said NW $\frac{1}{4}$ SW $\frac{1}{4}$, Thence S25°04'24"W, 609.82 feet to the true point of beginning, said point is lying on the south right-of-way line of Catron Boulevard; Thence departing said south right-of-way line, S25°51'23"W, 193.96 feet; thence N70°48'41"W, 304.64 feet to a point lying on the easterly right-of-way line of Bendt Drive as shown on the final plat of Stoney Creek South Subdivision; Said point is also lying on a curve concave to the southeast and whose chord bears N44°11'25"E, 11.07 feet; Thence northerly along the arc of said curve to the right whose radius is 174.00 feet, and whose delta angle is 03°38'45", an arc distance of 11.07 feet to a point of reversed curvature; Thence continuing northerly along said easterly right-of-way line of Bendt Drive the following two courses; Thence northerly along the arc of said curve to the left whose radius is 226.00 feet, and whose delta angle is 33°41'44", an arc distance of 132.91 feet to a point of tangency; Thence N12°19'03"E, 57.83 feet to a point lying on the southerly right-of-way line of Catron Boulevard; said point is also lying on a curve concave to the southwest and whose chord bears S70°05'51"E, 306.73 feet; Thence southeasterly along said right-of-way line and along the arc of said curve to the right whose radius is 1356.92 feet, and whose delta angle is 12°58'45", an arc distance of 307.38 feet to the true point of beginning, containing 1.354 acres more or less, located at the southeast corner of the intersection of Bendt Drive and Catron Boulevard. LaCroix moved, second by Johnson to approve the amendment with all the previously adopted stipulations and the requirement that the sign be in accordance with the drawing that has been submitted, with the provision that the color of the base be a neutral color similar to the buildings in the development. Motion carried with Alderman Hadcock ABSTAINING.

The Mayor presented No. 07SV045, a request by Shannon Schad for a **Variance to the Subdivision Regulations to reduce the easement width from 49 feet to 20 feet for a common access easement and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along the access easement as per Chapter 16 of the Rapid City Municipal Code** on Lots 1R2, 2R2 and 3R in Block 2 of Skyview North Subdivision, located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1R, 2R and 3 in Block 2 of Skyview North Subdivision, located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2038, 2050 and 2064 Harney Drive.

LaCroix moved, second by Olson and carried to acknowledge the applicant's withdrawal of the request for a Variance.

The Mayor presented No. 07SV047, a request by Sperlich Consulting, Inc. for Schriener Investments for a **Variance to the Subdivision Regulations to waive the requirement to install water, sewer, curb, gutter, pavement, sidewalk, street light conduit and to waive the requirement to dedicate the Right-of-way along the Section line highway as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 6 of Block 1, Lots 1 thru 5 of Block 2 and Lot 1 of Block 3 of Medicine Ridge Subdivision, located in the NE1/4 of the NE1/4 and the SE1/4 of the NE1/4, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4, located in the NE1/4 of the NE1/4 and the SE1/4 of the NE1/4, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southwest of the intersection of Enchanted Pines Drive and Stumer Road. LaCroix moved, second by Okrepkie and carried to deny without prejudice.

The Mayor presented No. 07RZ062, second reading of Ordinance No. 5332, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to General Agriculture District** on Lot 1 of Mailloux Subdivision, Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1030 Country Road. Notice of hearing was published in the Rapid City Journal on September 8, 2007 and September 15, 2007. Ordinance No. 5332 having had the first reading on September 4, 2007; LaCroix moved, second by Okrepkie 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. 5332 the second time.

EXECUTIVE SESSION permitted by SDCL 1-25-2

Chapman moved, second by Okrepkie to go into Executive Session at 10:02 P.M. for the reasons permitted by SDCL 1-25-2. Motion carried with Alderman Kooiker voting NO. The Council came out of Executive Session at 10:42 P.M. with all members present.

STAFF DIRECTION

Johnson moved, second by Okrepkie and carried to authorize the Mayor and Finance Officer to extend offers in accordance with the discussion in Executive Session on the first property acquisition matter.

Chapman moved, second by Okrepkie and carried to direct the City Attorney's Office to engage in discussions with nonprofits that may be able to assist the City in resolving a situation.

Olson moved, second by LaCroix and carried to authorize the Mayor and Finance Officer to sign a settlement agreement between the City of Rapid City and Walgar; identify a funding source as the Capital Improvement Program contingency fund for the amount of \$230,000; and authorize the Finance Officer to issue treasurer's checks in the amount of \$230,000 to Walgar and their attorney.

BILLS

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

Payroll Paid Ending 09-01-07, Paid 09-10-07	748,485.40
Payroll Paid Ending 09-01-07, Paid 09-10-07	3,274.52
Pioneer Bank, Taxes Paid 09-10-07	182,292.25
Pioneer Bank, Taxes Paid 09-10-07	239.69
First Administrators, claims paid 09-04-07	190,045.65
First Administrators, claims paid 09-12-07	87,514.68
Berkley Risk Administrators, claims paid 09-05-07	26,915.80
Black Hills Electric Cooperative, electricity	896.84
Black Hills Power & Light, electricity	50,310.72
Montana Dakota Utilities, gas	220.32
West River Electric Association, electricity	16,975.13
United States Postmaster, postage	900.00
Computer Bill List	<u>3,617,066.54</u>
Subtotal	\$4,925,137.54
Payroll Paid Ending 09-01-07, Paid 09-10-07	2,753.91
Pioneer Bank, Taxes Paid 09-10-07	195.87
City of Rapid City, postage	4.11
City of Rapid City, health insurance	1,178.00
Conoco Phillips, gasoline	153.52
Marlin Leasing, copier lease	37.10
Simpson's Printing, newsletter	72.68
Standard Life, life insurance	7.00
Western Stationers, copy paper	<u>15.97</u>
Subtotal	\$4,929,555.70
Mainline Contracting, Inc., CO#2, W06-1562	18,473.86
Walgar and Banks McCullen, settlement agreement	<u>230,000.00</u>
Total	\$5,178,029.56

ADJOURN

As there was no further business to come before the Council at this time, the meeting adjourned at 10:45 P.M.

CITY OF RAPID CITY

ATTEST:

Finance Office

Mayor

(SEAL)