

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

April 20, 2009

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, April 20, 2009 at 7:00 P.M.

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

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Fire Chief Mark Rohlfig, Police Chief Steve Allender, City Engineer Dale Tech, Development Services Coordinator Bob Dominicak, Community Resource Director Kevin Thom and Administrative Coordinator Amber Sitts.

ADOPTION OF AGENDA

The following items were added to the agenda:

- 24/7 Program, Alderman Kooiker
- Report on the What Now Workshop, Alderman LaCroix
- Report on Historical Trauma Workshop, Alderman LaCroix
- Thank you to Journalists, Alderman Hadcock

Motion was made by Weifenbach, second by Chapman and carried to adopt the agenda as amended.

APPROVE MINUTES

Motion was made by Hadcock, second by Chapman, and carried to approve the minutes from April 6, 2009.

AWARDS AND RECOGNITIONS

Box Elder Mayor Al Dial announced that they would like to invite Rapid City Police Officer Jason Everson to their next City Council meeting to present him with an award. Chief Allender then spoke of Officer Everson's efforts to save his neighbors from a house fire.

Mayor Hanks presented the Veteran of the Month award for April 2009 to Steven Fuelling and recognized his efforts and dedication to the service of his country and community.

Mayor Hanks presented a Certificate of Recognition to Mike Roesler, a Rapid City Fire Department employee, acknowledging his 30 years of dedicated service to the Rapid City community.

NON-PUBLIC HEARING ITEMS – Items 4 – 91

Motion was made by Hadcock, seconded and carried to open the public comment for Items 4 – 91. No comments were offered.

Motion was made by Chapman, seconded and carried to close the public comment for Items 4 – 91.

CONSENT ITEMS – Items 4 – 49

The following items were removed from the Consent Items:

5. Sports Saloon Inc. DBA Sports Buzz Family Food N Fun, Mt. Rushmore Road for a Retail (on-off sale) Wine License
6. Sports Saloon Inc. DBA Sports Buzz Family Food N Fun, Mt. Rushmore Road for a 2009 - 2010 Retail (on-off sale) Malt Beverage License, No Video Lottery
14. No. PW041409-06 – Authorize Mayor & Finance Officer to Sign Agreement between the City of Rapid City and Sperlich Consulting, Inc. for the Robbinsdale Reconstruction Project Phase I & II, Project No. SSW06-1494 / CIP No. 50134, in the amount not to exceed \$449,750.00.
17. No. PW041409-09 – Authorize Mayor & Finance Officer to Sign Agreement between the City of Rapid City and Kadrmas, Lee & Jackson, Inc. for the East Boulevard and East North Street Reconstruction, Project No. ST08-1511 / CIP No. 50142, in the amount of \$1,794,247.00.
21. Approve sending the request from Bob Knecht to require public access to restrooms to the Plumbing Board for consideration and recommendation.

Motion was made by Chapman, seconded and carried to approve the following Items as they appear on the Consent Items:

Alcoholic Beverage License Applications Set for Hearing (May 4, 2009)

4. Rapid City Library Foundation for a Special Event Beer and Wine License for and event scheduled May 8, 2009 at the Rapid City Public Library, 610 Quincy Street

2009 – 2010 Retail (on-off sale) Malt Beverage License Renewals

7. City of Rapid City, Rushmore Plaza Civic Center, 444 N. Mt. Rushmore Rd. for a Retail (on-off sale) Malt Beverage License, No Video Lottery
8. SMJ Ventures LLC DBA Oma's Cafe and Bakery, 1118 E. North Street for a Retail (on-off sale) Malt Beverage License, No Video Lottery
9. Leading Edge Management LLC DBA Buffalo Wings and Rings, 5622 Sheridan Lake Rd. for a Retail (on-off sale) Malt Beverage License, No Video Lottery

Public Works Committee Consent Items

10. No. PW041409-01 – Approve \$174,000.00 in additional funding for the Jolly Lane Lift Station Upgrade - (.16 Utility Fund Oversight Committee).
11. No. PW041409-02 – Approve Change Order No. 1F for Meadowbrook Drive Reconstruction, Project No. St08-1708 / CIP No. 50338, to Highmark, Inc. for an increase of \$606.20.
12. Approve PW041409-03 and PW041409-04. No. PW041409-03 – Change Order No. 3F for East Highway 44 Utilities Reconstruction, Project No. SSW05-1469 / CIP No. 50479, to Heavy Constructors, Inc. for a decrease of \$1,620.76. No. PW041409-04 – Change Order Number 2 for Elk Vale Low Level Reservoir, Project No. W07-1638/CIP No. 50321, to Natgun Corporation, for an increase of \$2,110.22.

13. No. PW041409-05 – Authorize Staff to Advertise for Bids for ADA Compliance Project, Project No. ADA09-1781. Estimated cost of project: \$50,000.00.
15. No. PW041409-07 – Authorize Mayor & Finance Officer to Sign Agreement between the City of Rapid City and HDR Engineering, Inc. for the Solid Waste Management Plan, Project No. SWO09-1778 / CIP No. 50749, in the amount of \$178,000.00.
16. No. PW041409-08 – Authorize Mayor & Finance Officer to Sign Agreement between the City of Rapid City and Burns & McDonnell Engineering Co., Inc. for the Water Reclamation Facility Digester Control Building Improvements, Project No. WRF09-1783 / CIP No. 50581, in the amount of \$98,878.00.
18. No. PW041409-10 – Authorize Mayor & Finance Officer to Sign Agreement between the City of Rapid City and SD Department of Game, Fish & Parks for the Construction, Maintenance and Operation of a Bypass Structure at Canyon Lake within the City of Rapid City, in an amount not to exceed \$390,250, which is 50 percent of the total construction cost.
19. No. PW041409-11 – Authorize Staff to solicit proposals for Solid Waste Reuse Center.
20. Approve No. 09TP007, 09TP008, 09TP009, 09TP010, 09TP011, 09TP012, and 09TP013. 09TP007 - 2009-2013 Transportation Improvement Program Amendment No. 09-007. 09TP008 - 2009-2013 Transportation Improvement Program Amendment No. 09-008. 09TP009 - 2009-2013 Transportation Improvement Program Amendment No. 09-009. 09TP010 - 2009-2013 Transportation Improvement Program Amendment No. 09-010. 09TP011 - 2009-2013 Transportation Improvement Program Amendment No. 09-011. 09TP012 - 2009-2013 Transportation Improvement Program Amendment No. 09-012. 09TP013 - 2009-2013 Transportation Improvement Program Amendment No. 09-013.

Legal & Finance Committee Consent Items

22. No. LF041509-01 – Confirm appointment of Alan Van Bochove and Jim Mullenberg to the City Electrical Board.
23. No. LF041509-25 – Confirm appointment of Patricia Pummel to the Beautification Committee.
24. Acknowledge the Mayor's report on setting the working session on the parking ordinance for April 28, 2009, at 5:30 p.m.
25. No. LF040109-02 – Request the City Attorney's office draft a formal policy for adoption regarding Council members serving on boards within the City of Rapid City and bring it to the April 29, 2009, Legal and Finance Committee meeting.
26. No. LF041509-02 – Acknowledge Capital Improvements Program Committee Monthly Update for March 2009.
27. Approve taking \$12,000 from the Sports Facility Grant Program to fund the ADA upgrades at Robbinsdale Park.
28. No. LF041509-03 – Approve the Parks and Recreation CIP Five Year Plan.
29. No. LF041509-04 – Approve the Affordable Housing Capital Improvements funding increase for a total of \$2,840 for sidewalk installation at 146 Patton Street.

- 30. Acknowledge the report and acknowledge Martinson's intent to take the discussion regarding ADA compliant automatic doors to the Mayor's Committee on Disabilities.
- 31. Acknowledge report by LaCroix regarding historical trauma workshop to be held in Rapid City on Saturday, April 18th.
- 32. No. LF041509-06 – Approve Event Permit for Wellspring, Inc. for Fourth Annual Stampede 10k Walk/Run to be held on April 26, 2009, beginning at 8:00 a.m.
- 33. No. LF041509-26 – Acknowledge donation from Dr. Robert Looyenga with a big thank you.
- 34. No. LF041509-07 – Authorize staff to donate surplused 1999 Ford E3 ambulance to Western Dakota Tech Fire Science Program.
- 35. No. LF041509-27 – Authorize Mayor and Finance Officer to sign Agreement between Melrose North Pyrotechnics, Inc. and the City of Rapid City for 2009 Fireworks Display and Addendum to Agreement.
- 36. No. LF041509-08 – Approve Travel Request for Cameron Humphres, Jennifer Eckman, and Jerry Mitchell to attend AAAE Conference in Philadelphia, PA, June 13-18, 2009, in the approximate amount of \$8,022.45.
- 37. No. LF041509-09 – Approve Travel Request for Cameron Humphres to attend Marketing and Communications Conference and Jumpstart in Montreal, Canada, May 30 – June 4, 2009, in the approximate amount of \$3,626.30.
- 38. No. 09TP014 – Authorize Mayor and Finance Officer to sign a No Cost, Time Extension with Kadmas Lee & Jackson to December 31, 2009 for the Mount Rushmore Road Central Corridor Analysis.
- 39. Acknowledge the following volunteers for Workmen's Compensation Purposes: Zachary Larson and Moses Muci.
- 40. Acknowledge update on reimbursement for lease of 80 acres of cropland along Elk Vale Drive.
- 41. No. LF041509-10 – Approve Resolution (No. 2009-047) Declaring Property Surplus.

RESOLUTION # - 2009-047
RESOLUTION DECLARING PROPERTY SURPLUS

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

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

Finance

Superscope Tape Recorder, Model C-202LP, N/N: 45Y4Y0709, includes foot pedal
Marantz Tape Recorder, Model PMD201, S/N: 82U390032

Streets

2001 International Harvester truck Sander with plow, S/N: 1HTSCAAM21H354292

1984 Chevrolet flatbed truck C-65, S/N: 1GBJ6D1F5EV131081
2001 Elgin Vacuum Sweeper, S/N:49HAAEBV62DJ79341

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

Dated this 20th day of April, 2009

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 42. No. LF041509-12 – Approve Resolution (No. 2009-053) to Amend the Temporary Pay Matrix.

RESOLUTION #2009-053
RESOLUTION TO AMEND THE TEMPORARY PAY MATRIX

WHEREAS, the City of Rapid City hires temporary employees to perform a variety of tasks, and

WHEREAS, the existing temporary pay matrix shall be amended to compensate the employees accordingly.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Rapid City that the temporary pay matrix be revised as attached effective July 19, 2009.

Dated this 20th day of April, 2009

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 43. No. LF041509-14 – Approve Resolution (No. 2009-051) to Amend the Contract between the AFSCME Library and the City of Rapid City by Establishing the Position of Library Associate II to the AFSCME-Library Pay Scale.

RESOLUTION NO. 2009-051
RESOLUTION TO AMEND THE CONTRACT BETWEEN THE AFSCMELIBRARY
AND THE CITY OF RAPID CITY BY ESTABLISHING THE POSITION OF LIBRARY
ASSOCIATE II TO THE AFSCME-LIBRARY PAY SCALE

WHEREAS, the Library Director has requested that the position of Library Associate II should be established to provide the necessary services in the Library for the City of Rapid City; and

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 Grade 15 of the AFSCME-Library pay scale;

Job Title	Grade	Wage
Library Associate II	15	\$16.72 to \$25.44/hr.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the AFSCME-Library pay scale by adding the above position classification description at the grade recommended in the job evaluation.

Dated this 20th day of April, 2009

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 44. No. LF041509-15 – Approve proposed changes to the Land Information Systems Task Force bylaws.
- 45. No. LF041509-16 – Approve Travel Request for David Van Cleave and Bob Druckrey to attend WEFTEC Conference in Orlando, FL, October 9-15, 2009, in the approximate amount of \$4,980.01.
- 46. No. LF041509-05 – Approve Identity Theft Prevention Program.

RESOLUTION 2009-057
RESOLUTION TO APPROVE AND IMPLEMENT
AN IDENTITY THEFT PREVENTION PROGRAM

WHEREAS, Section 114 of the Fair and Accurate Credit Transactions Act of 2003 (FACTA) requires all municipalities that operate utilities to develop an identity theft prevention program; and

WHEREAS, the Federal Trade Commission enacted a “Red Flags Rule” which implements Section 114 of FACTA; and

WHEREAS, the City of Rapid City has appointed a Program Administrator for purposes of developing a program to comply with FACTA and the Red Flags Rule; and

WHEREAS, the Program Administrator has developed a written Identity Theft Prevention Program that meets the standards required by FACTA; and

WHEREAS, the Identity Theft Prevention Program is appropriate to the size and complexity of the City of Rapid City and its municipal utilities, the Program is reasonably calculated to identify and detect relevant Red Flags indicating a potential risk of identity theft, and the Program includes appropriate responses to such Red Flags that will mitigate and prevent identity theft.

NOW THEREFORE BE IT RESOLVED by the City of Rapid City that the attached Identity Theft Prevention Program for Rapid City is hereby adopted.

Dated this 20th day of April, 2009

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 47. No. LF041509-22 – Direct the City Attorney’s Office to list Lot 1 of Wally Byam Addition for sale at the value established by the freeholders.
- 48. No. LF041509-23 – Acknowledge raffle request for Pennington County Republican Party.
- 49. No. LF041509-24 – Approve property tax abatement for Green Tree Servicing for 2007 in the amount of 923.64; Janice E. Richardson for 2007 in the amount of \$180.50; and Patricia L. Wells for 2008 in the amount of \$130.22.

END OF CONSENT CALENDAR

Motion was made by Kooiker, seconded and carried to set the hearing at the June 1, 2009 City Council meeting for Sports Saloon Inc. DBA Sports Buzz Family Food N Fun, Mt. Rushmore Road for a Retail (on-off sale) Wine License and a Retail (on-off sale) Malt Beverage License with No Video Lottery.

Motion was made by Kroeger and seconded to Authorize Mayor & Finance Officer to Sign Agreement between the City of Rapid City and Sperlich Consulting, Inc. for the Robbinsdale Reconstruction Project Phase I & II, Project No. SSW06-1494 / CIP No. 50134, in the amount not to exceed \$449,750.00. Mayor Hanks clarified that he wanted to recognize that opportunity was given for public input due to the high dollar amount of the agreement. Tech confirmed the estimated costs of phase I and II are approximately \$6 million and stated that the funding source is CIP. Motion carried.

Motion was made by Kroeger and seconded to (No. PW041409-09) Authorize Mayor & Finance Officer to Sign Agreement between the City of Rapid City and Kadrmas, Lee & Jackson, Inc. for the East Boulevard and East North Street Reconstruction, Project No. ST08-1511 / CIP No. 50142, in the amount of \$1,794,247.00. Tech explained that East North Street is not in good condition, so the City has approved a contract for overlays which will be done by mid-May. The DOT agreed to pay for 50% of street costs, but the City will pay for water and sewer improvements. The total estimated cost of the project is about \$20 million. Since it is a joint project, there are many reviews that need to be done, and they anticipate bidding the first project in September of 2010. LaCroix stated his concern for the approval of an extension for another project that the company is working on, and he questioned if we have any safeguards in place to get the project done on time. Tech said that the extension for the other project was due to the company waiting for information from the City. He explained that this project is for engineering design and said the company has done a reasonable job of staying on track in the past. Responding to a question from Kooiker, Tech said the consultant was selected according to the consultant selection procedure. Kooiker noted that this firm receives a lot of City work, and he wants to ensure they are able to complete the work and the process is fair. Tech said that they look at tasks involved and they make sure the consultant has the resources to complete every task. Hadcock discussed the bidding process and wants to make sure funds are spread around through different engineering companies. Kooiker asked about principals interfacing with the City, and Tech listed the name of the office manager with the firm. He then asked if a former City official was involved in this selection. Tech indicated that this firm was selected prior to the former City employee working for the firm.

Substitute motion was made by Kooiker and seconded to continue to May 4, 2009. Chapman asked why we are continuing this item if that person was hired by the firm after they were selected by the City. He also encouraged the Public Works Department to make sure Council is a part of consultant selection process, and as long as it has gone through the consultant selection process, the question is if they are competent. Weifenbach said he will vote no understanding that this has already been through the process but noted that at some point the process should be discussed. Kooiker explained that he offered the motion because this person worked for the City prior to working for the firm. It could have been awarded when he worked for the City, so he would like more information. Kroeger said that he does not believe the Public Works Director sits in on the interview committee which chooses the firm, so he does not support the motion. Chapman agreed with Kroeger and pointed out that one person does not make the decision. Responding to Okrepkie, Tech estimated there was a 6 month time frame before the former City employee started with the firm. Upon roll call vote being taken, the following voted AYE: Kooiker and Okrepkie; NO: Kroeger, Hadcock, LaCroix, Weifenbach and Chapman. Motion failed.

Mayor Hanks confirmed that there were no objections to allowing the Council members to speak one more time on the issue. LaCroix said that he is concerned when one company gets most of the business, so he would like to see it spread around. His main concern is that the project moves forward. Weifenbach said that he will continue to pursue finding options that lead to the best service and costs. Mayor Hanks clarified that since there are federal funds coming through the state for this project the consultants cannot use the actual dollar amount in the selection process per a federal statute. Kooiker said he does not want to delay the projects but wants to make sure the process is fair. He asked that this be looked into, and if it is found that there was involvement by the former City employee, he said the Council needs to take another look at it. He expects the answer to be given to the Council and community. Weifenbach asked about the federal statute, and Green suggested that it is brought through committee since it is a separate item. Motion carried.

Motion was made by Chapman to approve sending the request from Bob Knecht to require public access to restrooms to the Plumbing Board for consideration and recommendation. Motion died for lack of a second.

Motion was made by Weifenbach and seconded to table the request. Motion carried with one NO from Chapman.

NON-CONSENT ITEMS – Items 50 – 91

Motion was made by Hadcock, seconded and carried to open the public comment for Items 50 - 91.

Michael Sanborn urged the Council to approve Ordinance 5513 without amendment and asked them to consider an additional ordinance prohibiting the release of domestic water fowl in public water. He urged the Council to talk to Game, Fish and Parks and take their advice.

Lyle Henrickson explained his requests regarding Items 81 through 85 and asked that they are allowed to keep the existing conditions. Don Policky said he is the owner of the property and explained that they want to do a simple remodel to improve the appearance of their property. They would like to maintain what they have, which will not affect traffic flow for adjoining properties.

Hani Shafai addressed Item 74 in reference to TID 62. He gave totals of taxes due in 2008 and 2009 and indicated that the numbers did not include the new BankWest that is being built. He stated that this TIF was created to revitalize downtown and dissolving it would be a disservice as it can help resolve the parking issues. Shafai stated that the cost to taxpayers is very small compared to paying for parking stalls.

Bruce Peterson stated that he is in favor of the City purchasing defibrillators for patrol units as his daughter's life was recently saved by this type of device. He thanked the Mayor and Council for moving forward to make this happen.

Motion was made by Chapman, seconded and carried to close the public comment for Items 50 – 91.

Ordinances

Ordinance 5510 (No. 09RZ020) An Ordinance Amending Section 17.06 of the Rapid City Municipal Code, Rezoning the within described property as requested by City of Rapid City for a **Rezoning from No Use District to General Commercial District** of Lots 4 and 5 of Hillsvieview Subdivision and the 75 foot wide S.D. Highway 44 right-of-way lying adjacent to and south of Lot 5 of the Hillsvieview Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44. Motion was made by Kooiker, seconded and carried that Ordinance 5510 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, May 4, 2009.

Ordinance 5511 (No. 09RZ021) An Ordinance Amending Section 17.06 of the Rapid City Municipal Code, Rezoning the within described property as requested by City of Rapid City for a **Rezoning from No Use District to General Commercial District** of Lot 15 Revised less the north 350 feet and Lot 17 all of Hillsvieview Subdivision and the north 75 feet of the S.D. Highway 44 right-of-way lying adjacent and south of Lot 17 and Lot 15 Revised of Hillsvieview Subdivision all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44. Motion was made by Kooiker, seconded and carried that Ordinance 5511 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, May 4, 2009.

Ordinance 5512 (No. 09RZ022) An Ordinance Amending Section 17.06 of the Rapid City Municipal Code, Rezoning the within described property as requested by City of Rapid City for a **Rezoning from No Use District to Low Density Residential District** of the north 350 feet of Lot 15 Revised of Hillsvieview Subdivision and the south 293 feet of Lot 6 of Marshall Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44. Motion was made by Kooiker, seconded and carried that Ordinance 5512 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, May 4, 2009.

Ordinance 5513 (No. 09RZ023) An Ordinance Amending Section 17.06 of the Rapid City Municipal Code, Rezoning the within described property as requested by Dream Design International, Inc. for a **Rezoning from Medium Density Residential District to Office Commercial District** of Lots 31 and 32 of Block 19 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 336 Meade Street. Motion was made by Kooiker and seconded and carried that Ordinance 5513 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, May 4, 2009. Dominicak said he believes that a dental office is being proposed for the area.

Ordinance 5501 (No. LF040109-24) An Ordinance to Prohibit the Feeding of Wildlife and Waterfowl in the City of Rapid City by Establishing Chapter 6.16 of the Rapid City Municipal Code. Motion was made by Chapman and seconded that Ordinance 5501 be placed upon the first reading. Chapman indicated that he had a written statement from Alderman Olson since she was not able to attend the meeting. In her statement, she explained that because of feeding there has been a dramatic increase in water fowl at Canyon Lake Park. She said this leads to unhealthy living conditions for birds and people and pointed out that the City cannot reduce water fowl numbers in the area of feeding is allowed.

Amendment motion was made by Kooiker and seconded to write warnings for balance of 2009, fine up to \$25 plus court costs in 2010, fine up to \$50 plus court costs in 2011, and fine up to the full amount allowed by law starting January 1, 2012. Hadcock said fining is not the solution. She said an area was built for the ducks, but she agreed that we do need to reduce numbers for safety and health reasons. Green recommended keeping the graduated fines scale that was proposed but administratively determine issuing citations. Kooiker said he supports the change if the Mayor and City Attorney commit to making sure tickets are not written until 2010. Green said he is in charge of the people who prosecute Ordinance violations and will assure the Council that he will honor the request if that is the direction of Council.

Amendment motion was modified by Kooiker and accepted by the seconder to fine up to \$25 plus court costs for the remainder of 2009 and 2010, fine up to \$50 plus court costs in 2011, and fine up to the full amount allowed by law starting January 1, 2012. Weifenbach said he was against the ordinance at first but then thought about what it is doing to the ducks. He is most concerned about the ducks and suggested posting signs telling people why they should not feed the ducks.

Okrepkie asked for clarification about the warning system, and Green explained that it would not be appropriate to mandate warnings in an ordinance. Okrepkie said the objective is to make sure the animals here are healthy, and he said he does not believe that not feeding the ducks will increase the quality of the remaining birds. He believes if we keep the numbers down through harvesting we can have both. Kroeger said there is no signage at Canyon Lake, so we need to get signs posted telling people not to feed the ducks. He suggested talking with Game, Fish and Parks to share costs and create educational signage. LaCroix agreed that the signage is important and also mentioned adding an ordinance on releasing birds in public areas. Chapman said the ordinance is just one piece of this. A management plan has been approved that talked about education, so there has been an education campaign already. He agreed that we need to educate each other on why it is important not to feed the ducks. Hadcock suggested adding duck feed dispensers and said the enjoyment people get from feeding ducks outweighs fines. Kooiker explained that sometimes the geese are dangerous around small children. He believes there should be a gentle public education program and added that if this amendment fails he will vote against the Ordinance. The following voted AYE: Kroeger, Weifenbach, Chapman and Kooiker; NO: Hadcock, LaCroix, and Okrepkie. Motion carried.

Motion was made by Kooiker and seconded to continue to May 4, 2009 as amended. Chapman said based on the previous vote he supports the continuation. Motion carried.

Ordinance 5506 (No. LF041509-17) An Ordinance to Increase the Penalty for Insufficient Funds and No Account Checks Delivered to the City of Rapid City by Amending Section 9.04.010 of the Rapid City Municipal Code. Motion was made by Kooiker, seconded and carried that Ordinance 5506 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, May 4, 2009.

Ordinance 5507 (No. LF041509-18) An Ordinance to Clarify the Authority of the Rapid City Police Department to Operate Vehicles in Carrying out Its Official Duties by Amending Chapter 2.20 of the Rapid City Municipal Code. Motion was made by Kooiker, seconded and carried that Ordinance 5507 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, May 4, 2009.

Ordinance 5502 (No. 09OA001) An Ordinance Amending the Procedures for Authorization of Conditional Use Permits by Amending Section 17.54.030.A.1 of the Rapid City Municipal Code having passed its first reading on April 6, 2009; motion was made by Kooiker and seconded that the title be read the second time. Dominicak indicated that the ordinance changes the approval procedures by adding items to the application. The following voted AYE: Kooiker, Kroeger, Hadcock, LaCroix, Okrepkie, Weifenbach and

Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5502 was declared duly passed upon its second reading.

Ordinance 5499 (No. LF040109-14) An Ordinance Regarding Supplemental Appropriation No. 3 for 2009 having passed its first reading on April 6, 2009; motion was made by Kooiker and seconded that the title be read the second time. The following voted AYE: Kooiker, Kroeger, Hadcock, LaCroix, Okrepkie, Weifenbach and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5499 was declared duly passed upon its second reading.

Ordinance 5498 (No. LF040109-22) An Ordinance to Revise the Terms and Conditions for City Participation in the Cost of Bringing Private Nonconforming Water and Sewer Service Lines up to Current Standards by Amending Sections 13.06.010 and 13.06.020 of the Rapid City Municipal Code having passed its first reading on April 6, 2009; motion was made by LaCroix and seconded that the title be read the second time. Kooiker stated that he is not sure enough time has been given for the current process to work.

Substitute motion was made by Kooiker, seconded and carried to continue to the May 4, 2009 City Council meeting.

Ordinance 5500 (No. LF040109-23) An Ordinance to Modify the Structure of the Department of Parks and Recreation by Revising Chapter 2.89 of the Rapid City Municipal Code and Repealing Chapters 2.86 and 2.90 having passed its first reading on April 6, 2009; motion was made by Kooiker and seconded that the title be read the second time. The following voted AYE: Kooiker, Kroeger, Hadcock, LaCroix, Okrepkie, Weifenbach and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5500 was declared duly passed upon its second reading.

Growth Management Department Items

Motion was made by Kooiker and seconded to continue Items 61, 62, 64, 65, 66, 67, 68, 70, 71, 72 and 73 to the May 4, 2009 City Council meeting, Item 63 to the July 6, 2009 City Council meeting and Item 69 to the May 18, 2009 City Council meeting. Motion carried.

61. No. 09EX023 – Approve Waiving the Requirement to Install Sidewalks along Elk Vale Road with the requirement that prior to Council approval, waiver of right to protest assessment has been submitted. *(Continued from 3/16/2009 and 4/6/2009)*
62. No. 08PL098 - A request by Dream Design International Inc. for a **Preliminary Plat** on Lots 29 thru 33 of Block 3 of Homestead Plaza Subdivision, located in the S1/2 NW1/4 and in the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract A of F&N Subdivision, the balance of the E1/2 SW1/4 NW1/4, the balance of the SE1/4 NW1/4, located in the S1/2 NW1/4 and the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Timmons Boulevard, south of Neel Street and west of Big Sky Drive.
63. No. 08PL099 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1 thru 28 of Block 3; Tracts A, B, C and D of Block 4 of Homestead Plaza Subdivision, located in the S1/2 NW1/4 and in the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract A of F&N Subdivision, the balance of the E1/2 SW1/4 NW1/4, the balance of the SE1/4 NW1/4, located in the S1/2 NW1/4 and the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Timmons Boulevard, south of Neel Street and west of Big Sky Drive.

64. No. 08PL116 - A request by Sperlich Consulting, Inc. for Zandstra Real Estate Holdings for a **Preliminary Plat** on Lots 8 thru 12 of Block 8, Lots 5 thru 9 of Block 9, Lots 17 thru 23 of Block 10, Lots 4 thru 18 of Block 11 and Lots 1 thru 10 of Block 13 of Elks Country Estates, located in a portion of Tract 1 of the E1/2, Section 16, T1N, R8E, BHM, located in the SE1/4, Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 1 of the E1/2, Section 16, T1N, R8E, BHM, located in the SE1/4, Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the north and south sides of the intersection of Jolly Lane and Padre Drive and adjacent to Forest Oaks Court.
65. No. 08PL131 - A request by FourFront Design, Inc. for Rapid City Economic Development Foundation for a **Preliminary Plat** on Lot 1R and Lot 2 of Block 3 of Rushmore Business Park, located in the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 of Block 3 and a portion of Government Lot 2, located in the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: Commencing at the N¼ Corner of Section 4, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota; Thence S00°06'56"W along the Center 1/4 line of said Section 4 a distance of 124.10 feet to a point on the South Right-of-Way of East Anamosa Street, Thence N89°56'23"E along said South Right-of-Way of East Anamosa Street a distance of 142.23 feet to a point along said Right-of-Way to the point of beginning; Thence N89°57'20"E along said South Right-of-Way of East Anamosa Street a distance of 285.56 feet to the intersection of the South Right-of-Way of East Anamosa Street and the West Right-of-Way of Concourse Drive; thence S00°11'20"W along the West Right-of-Way of Concourse Drive a distance of 129.00 feet; thence continuing along the West Right-of-Way of Concourse Drive along a curve to the LEFT, having a radius of 562.00 feet, a delta angle of 13°19'37" and whose long chord bears S06°43'28"E a distance of 135.30 feet; thence continuing along the West Right-of-Way of Concourse Drive S13°38'17"E a distance of 668.79 feet; thence S76°22'04"W a distance of 265.23 feet; thence N13°37'01"W a distance of 439.18 feet; thence S76°22'37"W a distance of 60.35 feet; thence N13°37'23"W a distance 302.02 feet; thence N77°53'25"E a distance of 57.99 feet; thence N05°25'18"W a distance of 258.44 feet to the point of beginning, located at 333 Concourse Drive.
66. No. 08PL143 - A request by Sperlich Consulting, Inc. for Joe Muth at Doeck, LLC for a **Preliminary Plat** on Lot 1R-2 of Block 3 of Rainbow Ridge Subdivision, located in E1/2 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1R of Block 3 of Rainbow Ridge Subdivision, located in the SE1/4 NE1/4, and a portion of the NE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest terminus of Bunker Drive.
67. No. 08PL145 - A request by Sperlich Consulting, Inc. for Ronald Shape for a **Preliminary Plat** on Lot 13 of Block 6, Lots 2 thru 11 of Block 7, Lots 2 thru 11 of Block 8 of Homestead Subdivision, located in a portion of the SE1/4 of the NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 of the NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the eastern terminus of Homestead Street and north of Carl Avenue.
68. No. 08PL176 - A request by Renner & Associates for Pete Lien and Sons for a **Preliminary Plat** on Lots 1 and 2 of Keller Subdivision, located in the S1/2 of the SE1/4 and the SE1/4 of the SW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota, legally described as Lots A and B of Keller Subdivision, located in the S1/2 of the SE1/4 and the SE1/4 of the SW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota, located at the Black Hills Dog Track adjacent to the west side of Sturgis Road and south of the intersection of Universal Drive and Sturgis Road.

69. No. 09PL003 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lot 1 of Block 2 of Hilltop Business Park Subdivision, formerly a portion of the SE1/4 of the NE1/4, located in the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Homestead Street and Elk Vale Road.
70. No. 09PL004 - A request by D.C. Scott Co. Land Surveyors for Herbert Jones for a **Preliminary Plat** on Lots 11AR of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 11A and the east 20 feet of Lot 11 of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located at 5581 Corbin Drive.
71. No. 09PL008 - A request by Matt Benne for Angie Charlson for a **Preliminary Plat** on Lots A, B, C and D of Lot 4R of Block 15 of Canyon Lake Heights Subdivision, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 4R in Block 15 of Canyon Lake Heights Subdivision, as shown in the plat filed in Plat Book 28, Page 87 and as corrected by Affidavit recorded December 17, 1997 in Book 69, Page 9640, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4560 Cliff Drive. *(Continued from April 6, 2009)*
72. No. 09PL014 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1, 2 and 3 of Tract 3 of Discovery Subdivision of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract 3 of Discovery Subdivision located in the NE1/4 of the SE1/4 and in the SE1/4 of the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1851 Discovery Circle.
73. No. 09PL015 - A request by Sperlich Consulting, Inc. for Tim Engesser for a **Layout Plat** on Lots 1R, 2R and Lots 3 thru 6 of Engesser Subdivision, located in the E1/2 SE1/4 of Section 24, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lots 1 and 2 of Engesser Subdivision, located in the E1/2 SE1/4 of Section 24, T1N, R8E, BHM, Pennington County, South Dakota, located southwest of the intersection of Dunn Road and Radar Hill Road.

Legal & Finance Committee Items

Motion was made by Kooiker and seconded to (No. LF102908-20) Acknowledge the report on the Status of the Rushmont Project and Staff Recommendation for TIF No. 62. Chapman expressed his interest in hearing the staff recommendation before acknowledging the report. Mayor Hanks explained that Dream Design and Brian Vulcan are interested in making proposals, and he recommended continuing the discussion to the Council work session on April 28, 2009 for full discussion on the issue. He also added that both entities are interested in making a formal presentation to the Council around May 4th or 5th, so he can give the Council an update as to his knowledge on the subject during the work session. Chapman stated that they should have some discussion of this matter prior to creating a parking plan. LaCroix mentioned that he has the same concerns and suggested putting together a separate committee to listen to the proposals. He also stated his concern that the work session will get side tracked.

Substitute motion was made by Kooiker and seconded to continue to the work session on April 28, 2009. Chapman asked that this item is the first on the agenda. Motion carried.

Motion was made by Kooiker and seconded to authorize up to \$45,000 for automated external defibrillators for the Rapid City Police Department patrol units with 50% from the Rapid City Police Department and 50% from the Council Contingency Fund. Kooiker expressed his appreciation to the

Police and Fire Chiefs and Mr. Peterson. He pointed out that many times squad cars can get to a scene faster than the ambulance, and he also encouraged the County to purchase units for their vehicles as well. Responding to Chapman, Preston said \$150,000 was budgeted in the contingency fund and no funds have been distributed at this point. Mayor Hanks clarified that if there are more major snow events they typically look to the contingency funds for support. Weifenbach recognized those who are involved in supporting this issue. Allender confirmed all police cars will have a defibrillator. He said the purchase will be done through a bidding process and feels they can move through the process quickly, possibly under 60 days for the complete start up. Motion carried.

Motion was made by Kooiker, seconded and carried to authorize staff to offer up to Step N for a Forensic Chemist.

Motion was made by Kooiker, seconded and carried to approve (No. LF041509-13) Resolution (No. 2009-052) to Amend the City of Rapid City Compensation Plan to Change the Classification of the Forensic Examiner Position from Exempt to Non-Exempt.

RESOLUTION #2009-052
RESOLUTION TO AMEND THE CITY OF RAPID CITY
COMPENSATION PLAN TO CHANGE THE CLASSIFICATION OF THE
FORENSIC EXAMINER POSITION FROM EXEMPT TO NON-EXEMPT

WHEREAS, the City of Rapid City has established the positions of Forensic Examiner I and II on the Fraternal Order of Police pay scale; and

WHEREAS, the Forensic Examiner positions are currently classified as exempt for Fair Labor Standards Act purposes; and

WHEREAS, a review of the Forensic Examiner positions shows that these positions should be classified as non-exempt positions.

NOW, THEREFORE, BE IT RESOLVED by City of Rapid City that the City's compensation plan is amended by changing the classification of the Forensic Examiner I and II positions on the Fraternal Order of Police pay scale from exempt to non-exempt as follows:

Job Title	Grade	Hourly Rate Range
FOP NON-SWORN Forensic Examiner I	18	\$19.39 to \$29.50
FOP NON-SWORN Forensic Examiner II	19	\$20.37 to \$31.00

Dated this 20th day of April, 2009

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

Motion was made by Kooiker and seconded to (No. LF041509-19) Authorize Mayor and Finance Officer to sign Release of Agreement with Midland Rushmore, LLC Regarding Payment of the Proportionate Share of Lift Station Upgrade Costs. Motion carried with Chapman abstaining.

Motion was made by Kooiker and seconded to (No. LF041509-20) Authorize Mayor and Finance Officer to sign Release of Agreement with Midland Rushmore, LLC Regarding Construction of Off-Site Improvements at the Intersection of LaCrosse Street and Rapp Street. Motion carried with Chapman abstaining.

Motion was made by Kooiker and seconded to (No. LF041509-21) Authorize Mayor and Finance Officer to sign Release of Agreement with By-Pass Development, LLC Regarding Improvements to North Elk Vale Road. Motion carried with Chapman abstaining.

Public Works Committee Items

Kroeger requested comments from staff regarding the (No. 09EX034) Appeal of denial for an exception to allow driveway spacing less than 35 foot, Lots 27-32 & south 50' of Lots 1-4 Green Acres Addition - PIN 2034361008, 2034361011. Tech gave an overview of the area and proposed improvements and explained that none of the existing or proposed approaches meet the standards. He suggested closing one approach and leaving the others as they are now.

Motion was made by Kroeger and seconded to approve the exception. Tech confirmed that Public Works staff met onsite and agreed to allow the exceptions except for a portion of Item 84 and a portion of 82. Tech explained the parking surface is paved so there is no sidewalk. He also said the City will put in vertical curbs when the street is redone, but that is a future consideration project at this point. Kooiker suggested placing the item on CIP for later discussion. Motion carried.

Chapman compared the situation to another service station on Mt. View and W. Main, but Tech explained that was a street project for the DOT. He said the City has jurisdiction on the approaches off of W. Main and updating the property causes the conformity requirement.

Motion was made by Kroeger and seconded to approve the (No. 09EX035) exception to allow a driveway width greater than 28 feet, Lots 27-32 & south 50' of Lots 1-4 Green Acres Addition - PIN 2034361011. Green reminded the Council if you want to correct the issues now is an opportunity to do so. It was indicated that traffic on St. Onge can sometimes block other entrances. Motion carried.

Motion was made by Kroeger and seconded to approve the (No. 09EX036) exception to allow property to take access of the higher order street Lots 27-32 & south 50' of Lots 1-4 Green Acres Addition - PIN 2034361011. Tech clarified that W. Main is the higher order, and this item would close both entrances on W. Main. Motion carried.

Motion was made by Kroeger and seconded to approve the (No. 09EX037) exception to allow approach corner clearance Lots 27-32 & south 50' of Lots 1-4 Green Acres Addition - PIN 2034361011. Motion carried.

Motion was made by Kroeger and seconded to approve the (No. 09EX038) exception to allow less than required sight distance for approaches Lots 27-32 & south 50' of Lots 1-4 Green Acres Addition - PIN 2034361011. Motion carried.

Bids

The following companies submitted bids for (No. CC042009-02.1) Flormann Street Down Spout Project DR08-1754 / CIP No. 50743 opened on April 14, 2009: Mainline Contracting, R.C.S. Construction,

Grizzly Excavation, Hills Materials, Simon Contractors and Quinn Construction. Staff reviewed the bids and recommends the bid award to R.C.S. Construction. Motion was made, seconded and carried to approve the bid award to the lowest responsible bidder meeting specifications, R.C.S. Construction, for a total contract amount of \$69,188.70.

The following companies submitted bids for (No. CC0042009-02.2) 44th Street Reconstruction Phase I Project No. ST05-1435 / CIP No. 50365 opened on April 14, 2009: Mainline Contracting, R.C.S Construction, Heavy Constructors, Quinn Construction and Hills Materials Company. Staff reviewed the bids and recommends bid award to R.C.S. Construction. Motion was made by Kroeger, seconded and carried to approve the bid award to the lowest responsible bidder meeting specifications, R.C.S. Construction, for a total contract amount of \$1,611,789.19.

The following companies submitted bids for (No. CC0042009-02.3) Sixth Street Water Main Franklin Street to St. Charles Street Project No. W08-1742 / CIP No. 50738 opened on April 14, 2009: Rapid Construction, Mainline Contracting, R.C.S. Construction, Grizzly Excavation, Hills Materials Company and Simon Contractors. Staff reviewed the bids and recommends bid award to Rapid Construction. Motion was made by LaCroix and seconded to approve the bid award to the lowest responsible bidder meeting specifications, Rapid Construction, for a total contract amount of \$49,099.90. Kooiker pointed out that this firm got into trouble for using used pipe in November of 2007. He wanted assurance that this contractor has been doing good since that time, and the inspections show used pipe is not being used. It was indicated that Public Works will have full time inspection on the project. Motion carried.

The following companies submitted bids for (No. CC0042009-02.4) Limestone Gravel opened on April 14, 2009: Pete Lien and Sons and Hills Materials Company. Staff reviewed the bids and recommends bid award to Pete Lien and Sons. Motion was made by Hadcock, seconded and carried to approve the bid award to the lowest responsible bidder meeting specifications, Pete Lien and Sons, for a total contract amount of \$73,523.25.

The following companies submitted bids for (No. CC0042009-02.5) Ready Mixed Concrete opened on April 14, 2009: Pete Lien and Sons and Hills Materials Company. Staff reviewed the bids and recommends bid award to Pete Lien and Sons. Motion was made by Hadcock and seconded to approve the bid award to the lowest responsible bidder meeting specifications, Pete Lien and Sons, for a total contract amount of \$62,793.75. Responding to a question from Chapman, Tech explained that they received advertising authority prior to the blizzards. The blizzards caused damage to the streets, so they adjusted the quantities needed. Motion carried.

The following companies submitted bids for (No. CC0042009-02.6) Hot Mixed Asphaltic Concrete opened on April 14, 2009: J&J Asphalt Company, Simon Contractors and Hills Materials Company. Staff reviewed the bids and recommends bid award to Simon Contractors. Motion was made by LaCroix, seconded and carried to approve the bid award to the lowest responsible bidder meeting specifications, Simon Contractors, for a total contract amount of \$160,875.00. It was indicated that they raised the quantities needed for this project as well.

Council Items & Liaison Reports

Kooiker reported that Pennington County has chosen to relocate the 24/7 program to a residential area. He thanked the Mayor for the letter he wrote to a constituent, and he pointed out they do not have much ability to do anything about this. He would like an update at the May 4, 2009 City Council meeting from our Growth Management Director explaining recommendations and specifics.

Motion was made by Kooiker and seconded to have a presentation on the 24/7 program at the May 4, 2009 City Council meeting and to invite the Sheriff. Hadcock said the program is good but feels they can do better with the process. Mayor Hanks explained where the building is located and said the decision

regarding its location was made by the Sheriff. LaCroix said no matter where you put the building there will be a line of people outside. Kooiker asked if they could help the County look at other alternatives and suggested using the substation at the mall. He asked the Mayor and Council leadership to work with the County to find the best solution for the location of the program. Okrepkie asked why the Sheriff picked that building, and Mayor Hanks indicated the question might be answered when he submits his review which will come from the Planning Commission in the next 30 days. Okrepkie asked if part of the motion would be to invite sheriff to the meeting, and Kooiker agreed that was part of the motion. Motion carried.

Motion was made by LaCroix and seconded to continue the What Now program report and the Historical and Boarding School Trauma Workshop report to the May 4, 2009 City Council meeting. Motion carried.

Hadcock thanked journalists Scott Aust and Lana Bradstream and wished them luck in future endeavors.

PUBLIC HEARING ITEMS – Items 92 – 107

Motion was made by LaCroix, seconded and carried to open the public comment for Items 92 – 107.

CONTINUED PUBLIC HEARING CONSENT ITEMS – Items 92 – 97

Motion was made by Hadcock, seconded and carried to approve the following items as they appear on the Continued Public Hearing Consent Items.

Continue the following items until May 4, 2009:

92. No. 08SV047 - A request by FourFront Design, Inc. for Rapid City Economic Development Foundation for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along East Anamosa Street and to waive the requirement to install sidewalk on Concourse Drive as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1R and Lot 2 of Block 3 of Rushmore Business Park, located in the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 of Block 3 and a portion of Government Lot 2, located in the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: Commencing at the N¼ Corner of Section 4, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota; Thence S00°06'56"W along the Center 1/4 line of said Section 4 a distance of 124.10 feet to a point on the South Right-of-Way of East Anamosa Street, Thence N89°56'23"E along said South Right-of-Way of East Anamosa Street a distance of 142.23 feet to a point along said Right-of-Way to the point of beginning: Thence N89°57'20"E along said South Right-of-Way of East Anamosa Street a distance of 285.56 feet to the intersection of the South Right-of-Way of East Anamosa Street and the West Right-of-Way of Concourse Drive; thence S00°11'20"W along the West Right-of-Way of Concourse Drive a distance of 129.00 feet; thence continuing along the West Right-of-Way of Concourse Drive along a curve to the LEFT, having a radius of 562.00 feet, a delta angle of 13°19'37" and whose long chord bears S06°43'28"E a distance of 135.30 feet; thence continuing along the West Right-of-Way of Concourse Drive S13°38'17"E a distance of 668.79 feet; thence S76°22'04"W a distance of 265.23 feet; thence N13°37'01"W a distance of 439.18 feet; thence S76°22'37"W a distance of 60.35 feet; thence N13°37'23"W a distance 302.02 feet; thence N77°53'25"E a distance of 57.99 feet; thence N05°25'18"W a distance of 258.44 feet to the point of beginning, located at 333 Concourse Drive.
93. No. 08SV054 - A request by Sperlich Consulting, Inc. for Joe Muth at Doeck, LLC for a **Variance to the Subdivision Regulations to waive the requirement to install water as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1R-2 of Block 3 of Rainbow Ridge Subdivision, located in E1/2 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South

Dakota, legally described as Lot 1R of Block 3 of Rainbow Ridge Subdivision, located in the SE1/4 NE1/4, and a portion of the NE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest terminus of Bunker Drive.

94. No. 09SV004 - A request by D.C. Scott Co. Land Surveyors for Herbert Jones for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and additional pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 11AR of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 11A and the east 20 feet of Lot 11 of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located at 5581 Corbin Drive.
95. No. 09SV007 - A request by Matt Benne for Angie Charlson for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Cliff Drive and to reduce the pavement width from 27 feet to 20 feet and 18 feet along Cliff Drive; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along the 30 foot wide private roadway easement, to reduce the pavement width from 20 feet to 12 feet along the 30 foot wide private roadway easement and to reduce the width of the private roadway easement from 45 feet to 30 feet as per Chapter 16.16 of the Rapid City Municipal Code** on Lots A, B, C and D of Lot 4R of Block 15 of Canyon Lake Heights Subdivision, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 4R in Block 15 of Canyon Lake Heights Subdivision, as shown in the plat filed in Plat Book 28, Page 87 and as corrected by Affidavit recorded December 17, 1997 in Book 69, Page 9640, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4560 Cliff Drive.
96. No. 09SV009 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install water and sewer along Elk Vale Road and Interstate 90 as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1, 2 and 3 of Tract 3 of Discovery Subdivision of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract 3 of Discovery Subdivision located in the NE1/4 of the SE1/4 and in the SE1/4 of the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1851 Discovery Circle.

Continue the following items until May 18, 2009:

97. No. 09SV002 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install water and sewer along Elk Vale Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 of Block 2 of Hilltop Business Park Subdivision, formerly a portion of the SE1/4 of the NE1/4, located in the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Homestead Street and Elk Vale Road.

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion by Hadcock, seconded and carried to close the public comment for Items 92 – 97.

CONSENT PUBLIC HEARING ITEMS – Item 98 – 102

Motion to was made by Okrepkie, seconded and carried to approve the following items as they appear on the Consent Public Hearing Items.

Alcohol Licenses

98. Dahl Arts Center for a Special Event Beer and Wine License for events scheduled 4/19/2009, 5/1/2009, 5/2/2009 and 5/4/2009 at the Art Museum at the Dahl, 713 7th Street
99. Rapid City Arts Council, Inc. DBA Dahl Arts Center, 713 7th Street for a Retail (on-off sale) Malt Beverage License, No Video Lottery (*Continue to May 4, 2009 City Council Meeting Pending Conditional Use Permit*)
100. Rapid City Arts Council, Inc. DBA Dahl Arts Center, 713 7th Street for a Retail (on-off sale) Wine License (*Continue to May 4, 2009 City Council Meeting Pending Conditional Use Permit*)
101. Rapid City Downtown Association DBA Summer Nights for events scheduled 6/11/2009, 6/18/2009, 6/25/2009, 7/2/2009, 7/9/2009, 7/16/2009, 7/23/2009, 7/30/2009, 8/6/2009, 8/13/2009, 8/20/2009, 8/27/2009 and 9/3/2009 on 6th and 7th Streets between Main and St. Joseph Streets
102. Sodak Mex I, Inc DBA On The Border, 1331 E. North Street for Sunday Opening with approved Retail (on-sale) Liquor License

END OF CONSENT PUBLIC HEARING CALENDAR

NON-CONSENT PUBLIC HEARING ITEMS – Items 103 - 107

Motion was made by Kroeger, seconded and carried to approve (No. 09SE002) a Request by James L. Scull, Jr. for a Special Exception to the Flood Area Construction Regulations to allow temporary structures in the floodway and removal of the structures the next day after the event on Tract 1 of Rapid City Greenway Tract located in Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of the intersection of Chapel Lane and Shore Drive with the following stipulations: 1. That the event will be stopped and the structures removed if ordered by the Police Chief, Fire Chief, Mayor, Emergency Management Director or the Public Works Director; and, 2. That the structures for the event be removed that evening after the event has ceased.

Motion was made by Kroeger, seconded and carried to approve (No. 09FV002) an Exception Request by the City of Rapid City to for a Fence Height Exception to allow a ten foot high fence in a Public District on Lot 2 less Lot H1, Lot H2, Lot H3 and right-of-way of Block 10 of Robbinsdale Addition No. 10, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4415 Parkview Drive with the following stipulation: The fence shall be constructed in conformance with the architectural plans and elevations submitted as part of this Fence Height Exception.

Ordinance 5503 (No. 09RZ017) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within described property as requested by City of Rapid City for a **Rezoning from No Use District to General Commercial District** on the west 100 feet of the Lot 14 of Hillsvieview Subdivision and the 75 foot wide S.D. Highway 44 right-of-way lying adjacent and south of the west 100 feet of Lot 14 of Hillsvieview Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44 having passed its first reading on April 6, 2009; motion was made by Kroeger and seconded that the title be read the second time. The following voted AYE: Kooiker, Kroeger, Hadcock, LaCroix, Weifenbach, Okrepkie and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance 5503 was declared duly passed upon its second reading.

Ordinance 5504 (No. 09RZ018) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within described property as requested by City of Rapid City for a **Rezoning from No Use District to General Commercial District** on Lot 7 of E1/2 SE1/4, and the 75 foot wide East Highway 44 Right-of-way located south of Lot 7 of the E1/2 SE1/4, and the 33 foot wide Valley Drive Right-of-way located east of Lot 14 less the west 100 feet of Hillsvieview Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1585 Valley Drive having passed its first reading on April 6, 2009; motion was made by Kroeger and seconded that the title be read the second time. The following voted AYE: Kooiker, Kroeger, Hadcock, LaCroix, Weifenbach, Okrepkie and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance 5504 was declared duly passed upon its second reading.

Ordinance 5505 (No. 09RZ019) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within described property as requested by City of Rapid City for a **Rezoning from No Use District to Light Industrial District** on Lot 5 of the E1/2 SE1/4, and the 75 foot wide East Highway 44 Right-of-way located north of Lot 5 of the E1/2 SE1/4, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2613 East Highway 44 having passed its first reading on April 6, 2009; motion was made by Kroeger and seconded that the title be read the second time and that it be approved in conjunction with a planned development designation. The following voted AYE: Kooiker, Kroeger, Hadcock, LaCroix, Weifenbach, Okrepkie and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance 5505 was declared duly passed upon its second reading.

BILLS

The following bills have been audited. Preston requested an additional payment to Highmark Inc. for the Meadowbrook Drive Reconstruction Change Order in the amount of \$34.20. With this change, the bill list totals \$4,686,955.14. Motion was made, seconded and carried to authorize the Finance Officer to issue warrants or treasurers check, drawn on the proper funds, in payment thereof, including the additional payment to Highmark Inc.

SD Retirement System, Paid 4-3-2009	374,528.71
SD Retirement System, Paid 4-3-2009	428.54
First Administrators, Claims Paid 4-8-2009	93,475.40
First Administrators, Claims Paid 4-15-2009	113,100.43
South Dakota Municipal League	170.50
First National Bank in Sioux Falls, Paid 4-3-2009	64,346.09
First National Bank in Sioux Falls, Paid 4-14-2009	317,602.73
Black Hills Power and Light, Paid 4-6-2009	24,934.48
Black Hills Power and Light, Paid 4-14-2009	32,926.65
Montana Dakota Utilities, Paid 4-6-2009	4,505.77
Montana Dakota Utilities, Paid 4-9-2009	8,442.69
Montana Dakota Utilities, Paid 4-14-2009	26,925.35
Scull Construction	54,582.68
West River Electric, Paid 4-14-2009	10,304.17
West River Electric, Paid 4-16-2009	18,586.48
Computer Bill List	3,540,007.20
Subtotal	4,684,867.87
SD Retirement System, Paid 4-3-2009	322.74
City of Rapid City – Postage	0.95
City of Rapid City – Health Insurance	962.50
Metropolitan Life Insurance	6.42

CITY COUNCIL

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Travel Center	405.40
Angie Weeks	279.00
Wright Express	76.06
Subtotal	4,686,920.94

EXECUTIVE SESSION permitted by SDCL 1-25-2

Motion was made by LaCroix, seconded and carried to go into Executive Session at 9:38 PM for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 10:35 P.M. with all members present.

ADJOURN

As there was no further business to come before the Council at this time, the meeting was adjourned at 10:37 P.M.

CITY OF RAPID CITY

ATTEST:

Finance Office

Mayor

(SEAL)