

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

August 17, 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, August 17, 2009 at 7:00 P.M.

The following members were present: Mayor Alan Hanks and the following Alderpersons: Bill Waugh, Patti Martinson, Sam Kooiker, Aaron Costello, Lloyd LaCroix, Malcom Chapman, Karen Gundersen Olson, Ron Weifenbach, Ron Kroeger and Deb Hadcock; 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, Public Works Director Robert Ellis, Police Chief Steve Allender, Fire Chief Mark Rohlfing, Community Resource Director Kevin Thom, Development Services Coordinator Bob Dominicak, Parks and Recreation Director Jerry Cole and Administrative Coordinator Amber Sitts.

ADOPTION OF AGENDA

The following items were added to the agenda:

- Consider Item 65 after 71
- Update on the West Main Street study
- Budget schedule, Alderman LaCroix
- Support for an event in Memorial Park in August 28, 2009, Alderman Chapman

Motion was made by LaCroix, second by Hadcock, and carried to adopt the agenda as amended.

APPROVE MINUTES

Motion was made by Weifenbach, second by Chapman and carried to approve the minutes from the July 29, 2009 Special Council meeting and August 3, 2009 Regular Council meeting.

AWARDS AND RECOGNITIONS

Mayor Hanks presented William Groethe with an Executive Proclamation to recognize the contributions he has made with his photographs and proclaimed September 2, 2009 as William M. Groethe Day in Rapid City. Senator Stan Adelstein also presented Mr. Groethe with an Executive Proclamation from the Office of the Governor also proclaiming September 2, 2009 as William M. Groethe Day in South Dakota.

Mayor Hanks presented the Veteran of the Month for August 2009 to Wayne Andrews and recognized his efforts and dedication to the service of his country and community.

Mayor Hanks presented a Resolution to the Rapid City Toxic U-12 Girls Soccer Team for their efforts in the Disney Cup International Soccer Showcase.

RESOLUTION #2009-110

WHEREAS, the City of Rapid City, South Dakota hereby recognizes the achievements of the Rapid City Toxic U-12 Girls Soccer Team finishing in second place in the Disney Cup International Soccer

Showcase. This outstanding team of girls gave up only three goals in the entire tournament and received compliments from peers and coaches on their level of soccer skills; and

WHEREAS, the City of Rapid City commends the coaches and players of the Rapid City Toxic U-12 Girls Soccer Team for the first ever appearance of a South Dakota team in this 50 country international showcase, and for bringing such a high honor to our community. They have shown our community and all of South Dakota what teamwork and sportsmanship is all about.

NOW THEREFORE BE IT RESOLVED by the City of Rapid City acting through Mayor Alan Hanks and the Common Council, that the following names of the players and coaches be kept as a permanent record of the City of Rapid City and that a copy of this Resolution be furnished to the Rapid City Toxic U-12 Girls Soccer Team with the official seal of the City of Rapid City, South Dakota.

Coaches

Josh Valder, Mike Cole, Rick Carlson
Dana Coats, Kyle White

Rapid City Toxic U-12 Soccer Team

Brittany Barnes, Afton Burns, Delaney Carlson, Alex Coats, Hali Cole, Alyssa Dikoff,
Lexi Goshorn, Hailey Hearn, Emily Hein, Rachel Mayforth, Kiley Medler, Makenzie Miller,
Riley Potter, Avery White, Olivia Enger, Student Manager.

Dated this 17th day of August, 2009.

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

ATTEST:
s/ James F. Preston
Finance Officer

Mayor Hanks presented a Certificate of Recognition to Cliff Peterson, a Rapid City Police Department employee, acknowledging his 25 years of dedicated service to the Rapid City community.

GENERAL PUBLIC COMMENT

Randy Ross represented the Powwow Garden and Indian Art Market and stated that the project is moving along. He thanked the Council for getting the preconstruction design process in place and Alderman Hadcock for organizing a community meeting. He said they want people to have input in the project and reported that everything is on cue. Lisa Cook spoke in support of the Powwow Garden and Indian Art Market. She said she appreciates support from Council on the project and requests that it continues. She said she hopes the Council will consider notifying the entire Indian community of public meetings. Diane Zephyer said this is a positive project but pointed out that the Indian community needs to be involved. She asked that the Council appoint a task force so that the group can push forward the project. She said she sees it floundering under present leadership. She also agreed that notices should go to the Native community.

NON-PUBLIC HEARING ITEMS – Items 6 – 61

Motion was made by LaCroix, second by Weifenbach, and carried to open the public comment for Items 6 to 52. No comments were offered.

Motion was made by Olson, second by Costello and carried to close the public comment for Items 6 to 52.

CONSENT ITEMS – Items 6 – 52

The following items were removed from the Consent Items:

24. Set a public meeting for educational purposes regarding the ATTA Powwow Gardens project at the Journey Museum with ATTA members present and requested staff to send notification of the meeting to neighbors within 600 feet of the garden location.
35. No. LF081209-21 - Approve the Selection of Underwriter for Issuance of Bonds for Water System Improvements.

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

Alcoholic Beverage License Applications Set for Hearing (September 8, 2009)

6. Jeff Salter DBA The Wine Rack, 5734 Sheridan Lake Rd. Ste. 202, for a Package (off-sale) Liquor License
7. Rapid City Catholic School System for a Special Beer and Wine License for an event scheduled at 300 Fairmont Blvd. on October 3, 2009.
8. BDUBS, LLC DBA Buffalo Wild Wings, 715 Mountain View Rd., for a Retail (on-sale) Liquor License TRANSFER from Lester and Webb Enterprises LLC DBA South City Tavern Bar & Grille, 640 E. St. Patrick Street.

Public Works Committee Consent Items

9. No. PW 081109-01 – Approve the recommendation to adopt the 2009 Edition of the Storm Water Quality Manual – Storm Water Steering Committee.
10. No. PW081109-02 – Authorize the Mayor to Appoint a task force for the development and implementation of a “Drainage Utility Fee” – Storm Water Steering Committee.
11. No. PW081109-03 – Approve Change Order No. 3F to Heavy Constructors, Inc. for the Secondary Digester Cover and Gas Mixing Equipment Replacement, Project No. WRF07-1549A / CIP No. 50581, for a decrease of \$55,385.00.
12. No. PW081109-04 – Approve Change Order No. 4F to Heavy Constructors, Inc. for the Meade Street Reconstruction – Phase 2, Project No. DR03-1333C / CIP No. 50416, for a decrease of \$106,319.98.
13. No. PW081109-05 – Approve Change Order No. 1F to RCS Construction, Inc. for the Flormann Street Downspout, Project No. DR08-1754 / CIP No. 50743, for a decrease of \$2,595.15.
14. No. PW081109-06 – Authorize Staff to Advertise for Bids for Rapid City Fire Department Fire Station #7, Project No. FD09-1767. Estimated Cost of Project: \$1,370,000.00.
15. No. PW081109-07 – Authorize Staff to Advertise for Bids for Fire Station Waterline Reconstruction, Project No. IDP09-1791 / CIP No. 50772. Estimated cost of project: \$63,000.00.

16. No. PW081109-08 – Authorize Staff to Advertise for Bids for 5th Street Pedestrian Crossing at Rapid City Regional Hospital, Project No. ST09-1764 / CIP No. 50750. Estimated Cost of Project: \$145,000.00.
17. No. PW081109-09 – Authorize Staff to Advertise for Bids for Street Rehabilitation – Alta Vista Drive and St. Cloud Street, Project No. ST09-1815 / CIP No. 50549. Estimated Cost of Project: \$135,000.00.
18. No. PW081109-10 – Authorize Mayor and Finance Officer to Sign a Professional Services Agreement Between the City of Rapid City and FourFront Design, Inc., for the Downtown Street Improvements Phase 2 – Sixth Street from Omaha Street to Kansas City Street, Project No. ST09-1817 / CIP No. 50138, in the amount of \$237,348.00.

Legal & Finance Committee Consent Items

19. No. LF081209-01 – Confirm appointment of Trevor Johnson to an open term on the Historic Preservation Commission.
20. No. LF081209-02 – Confirm appointment of Jayne Kraemer to the City's Health Care Committee for an indefinite term.
21. Acknowledge the presentation on the new version of Rapid Map.
22. No. LF081209-03 - Request the Mayor to re-appoint members to the Energy Policy Committee and to update the Council after the committee has been reactivated.
23. Separate the erosion sediment control permit fees and drainage fees into separate funds and to receive an update on the amounts collected in 2008 and 2009.
25. No. LF081209-04 – Approve Event Permit for Festival of Lights Parade to be held on November 28, 2009.
26. No. LF081209-05 – Authorize Mayor and Finance Officer to sign COPS Hiring Recovery Program Grant Award #2009RKWX0792.
27. No. LF081209-17 – Approve Travel Request for Cathy Bock and Scott Sitts to attend Drug/Narcotics Investigation in Longmont, CO, September 8-11, 2009, in the approximate amount of \$1,485.
28. No. LF081209-19 – Approve the event permit for the Boys Club fun run on August 30, 2009.
29. No. 09TP019a – Approve Citizens' Advisory Committee bylaw amendments.
30. No. 09TP019b – Approve Technical Coordinating Committee bylaw amendments.
31. No. 09TP019c – Approve Executive Policy Committee bylaw amendments.
32. No. 09TP020 – Approve Rapid City Metropolitan Planning Organization Operations Plan.
33. Acknowledge the following volunteers for workmen's compensation purposes: Theresa Farrell, Bridger Martin, Lizby Mathews, Edwin Brown.

- 34. No. LF081209-07 – Approve Resolution (No. 2009-093) Declaring Property Surplus.

RESOLUTION #2009-093
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

Belkin ergonomic keyboard S/N: 03066063, inoperable

Engineering

Lietz/Sokkisha Set 3 surveyor w/3 batteries & charger, model D20808, Serial 79391.

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 17th day of August, 2009.

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

ATTEST:

s/ James F. Preston
Finance Officer

- 36. No. LF081209-20 – Approve abatement for KT Real Estate for 2008 in the amount of \$3494.34.
- 37. No. LF081209-08 – Approve Resolution No. 2009-096 Plan Amendment No. 1 to the City of Rapid City Healthcare Plan.
- 38. No. LF081209-09 – Approve Resolution No. 2009-095 Plan Amendment No. 2 to the City of Rapid City Healthcare Plan.
- 39. No. LF081209-10 – Approve Resolution No. 2209-097 Summary of Material Modifications No. 3 to the City of Rapid City Medical and Dental Plans.
- 40. No. LF081209-11 – Approve Travel Request for Angela Tallon to attend Introduction to Geoprocessing Scripts Using Python in Broomfield, CO, October 8-9, 2009, in the approximate amount of \$1,670.
- 41. No. LF081209-12 – Authorize Mayor and Finance Officer to sign Contract for Fiscal Year 2009 Community Development Block Grant Sub-Recipients – Help! Line Center.
- 42. No. LF081209-18 – Authorize staff to solicit Requests for Proposals for the video/audio equipment update in the City Council/School Board Chambers.
- 43. No. LF081209-14 – Authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and Zandstra Construction Incorporated/Triple Z Real Estate Development Limited Partnership for the Completion of Subdivision Improvements.

44. No. LF081209-15 – Authorize Mayor and Finance Officer to sign Ground Lease Agreement with FMLC, Inc. for North Street Fire Station property.
45. No. LF081209-16 – Approve Travel Request for Jason Green to attend IMLA's 74th Annual Conference in Miami, FL, October 17-22, 2009, in the approximate amount of \$2,700.

END OF CONSENT CALENDAR

CONTINUED CONSENT ITEMS – Items 46 – 52

Continue the following items until September 8, 2009:

46. 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.
47. No. 09PL018 - A request by Centerline, Inc. for Hidden Valley, Inc. for a **Preliminary Plat** on Tracts 1 thru 3, Lots 1A thru 12B and Lot Z of Block 1, Lots 1A thru 11B of Block 2 of Skylines Village Subdivision, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the south 495 feet of the NE1/4 SE1/4 less Lot 1, the SE1/4 SE1/4 all in Section 22, T1N, R7E, BHM, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2000 Golden Eagle Drive.
48. No. 09PL023 - A request by Davis Engineering, Inc. for a **Layout and Preliminary Plat** on Lots 3R, 4, 5, 6 and 7 of Block 7, Lots 3, 4, 5 and 6 of Block 8 of Murphy Ranch Estates Subdivision, Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of Tract F of the NE1/4 of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located southeast of the intersection of Springfield Road and Knuckleduster.
49. No. 09PL040 - A request by Centerline, Inc. for Lazy P-6 Land Co., Inc. for a **Layout Plat** on Lot 1 in Block 1 and Lots 1 thru 4 in Block 2, located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, legally described as a parcel of land located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, located at the southeast corner of the intersection of Fifth Street and Catron Boulevard.
50. No. 09PL041 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Tract A of Block 2 of Heartland Retail Center, located in the NW1/4 of the NW1/4, Section 34, T2N, R8E, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the NW1/4 of the NW1/4, less the east 200 feet lying south of Cheyenne Boulevard right-of-way, Section 34, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of Cheyenne Boulevard and North Elk Vale Road.

Continue the following items until September 21, 2009:

51. No. 09PL024 - A request by D.C. Scott Co. Land Surveyors for William M. Jobgen for a **Preliminary Plat** on Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, located in the SE1/4

SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located between Carlin Street and Crane Drive.

Continue the following items until October 5, 2009:

52. 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.

END OF CONTINUED CONSENT ITEMS

Motion was made by Olson, second by Chapman, to set a public meeting for educational purposes regarding the ATTA Powwow Gardens project at the Journey Museum with ATTA members present and request staff send notification of the meeting to neighbors within 600 feet of the garden location. Hadcock expressed the importance of this meeting and said it will be positive for all people to know the culture of the community around us. She announced that the meeting will be held September 9th at 7:00 P.M. in the Journey Museum Theater and offered to notify additional people if needed. Olson pointed out that ATTA stands for Alliance for Tribal Tourism Advocates and said the organization has a history of other important projects throughout the state. Motion carried.

Motion was made by Olson, second by Costello and carried to authorize staff to enter into negotiations with RBC to provide underwriter services for financing water system upgrades.

NON-CONSENT ITEMS – Items 53 – 61

Motion was made by Costello, second by LaCroix and carried to open the public comment for Items 53 to 61.

Vern Osterloo addressed the Council and offered to answer any questions related to Item 55, which is an amended ordinance that would allow sales of medical supplies and equipment rental as a conditional use in the Office Commercial District.

Sidney Hanson indicated that the Hanson Heights Property owners are seeking action on the order to install sidewalks on a portion of East St. Patrick Street. He reviewed the lots involved and pointed out the recommendation that came forward from the Public Works Committee that the order should be withdrawn. He then summarized his request for action and said the order is an unreasonable hardship on the property owners.

Motion was made by Costello, second by LaCroix and carried to close the public comments for Items 53 to 61.

Ordinances

Ordinance 5532 (No. LF081209-06) An Ordinance Regarding Supplemental Appropriation No. 4 for 2009. Motion was made by Olson, second by Chapman and carried that Ordinance 5532 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, September 8, 2009

Ordinance 5524 (No. 09OA005) An Ordinance Revising Conditional Uses Within the Heavy Industrial Zoning District by Amending Section 17.24 of the Rapid City Municipal Code having passed its first reading on August 3, 2009; motion was made by Olson and second by Waugh, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5524 was declared duly passed upon its second reading.

Ordinance 5530 (No. 09OA006) An Ordinance Amending Section 17.40.030 of the Rapid City Municipal Code by Adding a New Subsection, 17.40.030 L, to Allow Sales of Medical Supplies and Medical Equipment Rental as a Conditional use in the Office Commercial Zoning District having passed its first reading on August 3, 2009; motion was made by Olson, second by Weifenbach, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance 5530 was declared duly passed upon its second reading.

Growth Management Department Items

Motion was made by Olson, seconded and carried to approve (No. 09PL039) A request by Centerline, Inc. for PLM Land Development, LLC for a **Layout Plat** on Lots 36 thru 53 of Block 1 of PLM Subdivision, located in the NW1/4 of Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as A portion of the unplatted balance of the N1/2 NW1/4 and the unplatted balance of the SW1/4 NW1/4, all in Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: commencing from the Point of Beginning, the northeast corner of Lot 33 in Block 1 of PLM Subdivision consisting of a 5/8" rebar with Hanson #6251 cap, thence first course - N85°57'24"E a distance of 32.35', thence second course - N78°30'13"E a distance of 229.00', thence third course - S84°12'27"E a distance of 224.17', thence fourth course - N86°55'12"E a distance of 205.00', thence fifth course - N80°28'46"E a distance of 241.41', thence sixth course - S83°06'22"E a distance of 205.42', thence seventh course - S70°31'14"E a distance of 300.02', thence eighth course - S20°04'47"W a distance of 407.59' to the southwest corner of Lot 16 of Block 1 of PLM Subdivision, thence ninth course - N89°42'39"W a distance of 564.79' along the north boundary of Eastridge Estates Subdivision, thence tenth course - N88°31'55"W a distance of 119.66', thence eleventh course - N72°48'55"W a distance of 309.01', thence twelfth course - N72°34'37"W a distance of 131.54', thence thirteenth course - N90°00'00"W a distance of 164.21', thence fourteenth course - N0°00'00"E a distance of 294.68' to the Point of Beginning. Said Parcel containing 13.1855 acres more or less, located at the eastern terminus of

Conestoga Court with the following stipulations: 1. Prior to submittal of a Preliminary Plat application, an Exception shall be obtained to allow roll curb with curb side sidewalks or the construction plans shall show the design in compliance with the Street Design Criteria Manual which allows curb side sidewalks with standard curbs along a lane place street or roll curbs with property line sidewalks; 2. Upon submittal of a Preliminary Plat application, drainage arrows shall be shown on the grading plan. In addition, the plat document shall be revised to show drainage easements and/or Major Drainage Easements as needed; 3. Upon submittal of a Preliminary Plat application, the plat document shall be revised to show access to proposed Lot 45. The applicant has the option of either revising the plat to show Lot 45 as a flagpole lot abutting Conestoga Court a minimum width of 25 feet or showing an access easement extending from the end of Conestoga Court across Lots 44 and/or 46. If the applicant chooses to extend an access easement as identified then construction plans for the access easement shall be submitted for review and approval showing the street located within a minimum 45 foot wide easement and constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, streetlight conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 4. Upon submittal of a Preliminary Plat application, road construction plans for Conestoga Court shall be submitted for review and approval. In particular, the road construction plans shall show the street located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. In addition, the construction plans shall identify the construction of a permanent turnaround at the end of the cul-de-sac with a minimum 110 foot diameter right-of-way and a minimum 96 foot diameter paved surface or a Variance to the Subdivision Regulations shall be obtained; 5. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. The plat document shall also be revised to provide utility easements as needed. In addition, the "20 foot wide Major Utility Easement" located on Lots 44, 45 and 46 must be identified as a "20 foot wide Public Sewer Easement"; 6. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. In addition, the water plans shall show a water main extended to serve Lot 45 or an Exception shall be obtained to allow a water service line to cross another lot. The water plans shall also demonstrate that adequate fire and domestic flows are being provided. The plat document shall also be revised to provide utility easements as needed; 7. Upon submittal of a Preliminary Plat application, a utility master plan including public and private utilities shall be submitted for review and approval; 8. Upon submittal of a Preliminary Plat application, an Erosion and Sediment Control Plan designed in compliance with the adopted Stormwater Quality requirements shall be submitted for review and approval. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction; 9. Upon submittal of a Preliminary Plat application, a cost estimate for the subdivision improvements shall be submitted for review and approval; 10. Prior to submittal of a Preliminary Plat application, an Exception shall be obtained to allow Conestoga Court as a 925 foot long cul-de-sac with no intermediate turnarounds in lieu of an intermediate turnaround every 600 feet as per the Street Design Criteria Manual or the plat document shall be revised accordingly; 11. Prior to submittal of a Preliminary Plat application, an Exception shall be obtained to allow a lot length greater than twice the lot width or the plat shall be revised to comply with the length to width requirement; 12. Prior to submittal of a Preliminary Plat application, the plat document shall be revised identifying the line running parallel to portions of the north lot line of the property; 13. All currently adopted International Fire Codes shall be continually met; 14. An Air Quality Permit shall be obtained prior to any surface disturbance of one acre or more; 15. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; 16. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 17. The approved Layout Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired.

However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.

Legal & Finance Committee Items

Motion was made by Olson, second by LaCroix, to (No. LF081209-13) Authorize staff to solicit Requests for Proposals for the RC Parks Restroom Renovation Project No. PR09-0619. Cole explained that LEED certification is probably beyond their reach, so he proposed changing the wording in the RFP from "meets LEED standards" to "incorporates LEED principals where possible." Olson stated that the intent of her motion is to include the language described by Cole and LaCroix agreed. Motion carried.

Public Works Committee Items

Motion was made by Costello, second by LaCroix, and carried to (No. 07VE002) Approve a request by Sperlich Consulting, Inc. for Schriener Investments, LLC to consider an application for a **Vacation of Access and Utility Easement** on a portion of the 66 foot wide access and utility easement located in the NE1/4 of the NE1/4 of the NE1/4 and the SE1/4 of the NE1/4 of the NE1/4 all located in Section 23, T1N, R7E, Rapid City, Pennington County, South Dakota, more generally described as being located north of Enchantment Road and west of the eastern terminus of Stumer Road with the following stipulations: 1. Prior to City Council approval, documentation shall be submitted from all of the utility companies indicating approval of the Vacation of Access and Utility Easement request; and, 2. Prior to City Council approval, an alternate means of access in compliance with the Street Design Criteria Manual shall be recorded to provide access to the adjacent properties located north and east of the subject property.

RESOLUTION #2009-106
RESOLUTION OF VACATION OF ACCESS AND UTILITY EASEMENT

WHEREAS it appears that a portion of the 66 foot wide access and utility easement located in the NE1/4 of the NE1/4 of the NE1/4 and the SE1/4 of the NE1/4 of the NE1/4 all located in Section 23, T1N, R7E, Rapid City, Pennington County, South Dakota, more generally described as being located north of Enchantment Road and west of the eastern terminus of Stumer Road, is no longer needed; and

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

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

Dated this 17th day of August, 2009.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

Bids

The following companies submitted bids for (No. CC081709-02.1) Milo Barber Transportation Center Improvements opened on August 11, 2009: Rangel Construction Co., Heavy Constructors, Mac Construction and SECO Construction Inc. Staff reviewed the bids and recommends bid award to SECO Construction Inc. Motion was made by Waugh, second by LaCroix, to approve the bid award to the lowest responsible bidder meeting specifications, SECO Construction Inc., for a total contract amount of \$907,895.00 for Base Bid plus Alternate 2. Ellis said that they received \$1.3 million in grant funds to offset the costs for this and future improvements. He explained that there is a 20% match required so the local match will be over \$181,000 and the grant will cover about \$726,000. Motion carried.

The following companies submitted bids for (No. CC081709-02.2) Elm Avenue Reconstruction – Phase 3; Project ST09-1759 / CIP 50130 opened on August 11, 2009: Simon Contractors of SD Inc., Heavy Constructors, Mainline Contracting and Hills Materials Co. Staff reviewed the bids and recommends bid award to Heavy Constructors. Motion was made by Waugh and seconded to approve the bid award to the lowest responsible bidder meeting specifications, Heavy Constructors, for a total contract amount of \$1,598,970.72. Chapman pointed out Items 11 and 12 on the agenda which were change orders for Heavy Constructors for a decrease. Ellis explained they were a result of liquidated damages for projects going beyond completion date. He said he has no reason to believe that they will not complete the next project on time. Motion carried.

Mayor's Items

Mayor Hanks reported that they will bring forward a recommendation at the next Public Works meeting regarding the intent for West Main Street. Motion was made by Waugh, second by Chapman and carried to acknowledge the report.

Alderman LaCroix announced that the budget break out sessions will be held August 31 and September 1, 2 and 3 with dinner at 5:00 P.M. and the meeting starting at 5:30 P.M. Motion was made by Chapman, second by Costello and carried to acknowledge the report.

Alderman Chapman pointed out an item to ask the Mayor to draft a proclamation for an event on August 28, 2009 at the band shell. Mayor Hanks said that the proclamation has been drafted and he will forward a copy to the Council. Motion was made by Chapman, second by Olson and carried to acknowledge the report.

Council Items & Liaison Reports

Alderman Kroeger addressed (No. CC081709-03) A Request from Sid Hansen to reconsider an order to install sidewalks on that portion of E Saint Patrick Street described as follows: Lots 1-8; Lot 16; Lots 9-12 Revised; Hansen Heights, Sec 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota and expressed his disappointment that action cannot be taken on this item. Green explained that the Council took up the item on May 18, 2009, and the Council's action was to stay enforcement until the end of the year unless a development plan comes forward. He said it would be inappropriate to act on this as an Alderman's item. Kroeger stated that a majority of the area does not have sidewalks, and he asked why we would force one property owner to put in sidewalks. Responding to Chapman, Green explained that the substitute motion means to strike the entire previous motion and insert something new. Therefore, consistent with practice, the Council disposed of this item with the substitute motion on May 18th. Green also clarified that the applicant now has three options: install the sidewalks, come forward with development plan that addresses sidewalks or come back to council after the 1st of the year and request more time. Green explained that the Council already ordered sidewalks in but stayed the enforcement of the order. Chapman said after reading more information he has concerns and wants to give the applicant an opportunity to come back. Green suggested that the applicant start at the committee level, and he also said there will be plenty of time before the

second meeting in January if that works better for the applicant. Costello described the sidewalks in the area and pointed out that they are installed on the north side of the street. Motion was made by Olson, second by Chapman, to acknowledge the report. Motion carried with one NO from Kroeger.

PUBLIC HEARING ITEMS – Items 62 – 73

Motion was made by Chapman, seconded and carried to open the public comment for Items 62 – 73.

Troy Erickson represented MG Oil in reference to a Conditional Use Permit for an alcohol license transfer and indicated he is available for questions.

George Brown addressed Item 70 regarding a fence height exception and asked the Council to consider the health risks as there have been several people with cancer in the area. Kevin Lewis explained that Black Hills Power wants to acquire his home and said he will not be putting up a fence unless this project goes through. He indicated he has lived there for 12 years and asked the Council to approve the exception. Steven Dunn, Black Hills Power, said that the approval process has narrowed the design to the proper functionality and aesthetics. He described the design and upgrades and reviewed the reasons for needing the upgrade. Terri Charest stated that she is not in favor of the fence and said it will take away from the residential area. She is also concerned for safety and the effects it could have. Ed Thompson said he and most of his neighbors are against the fence and asked Council to consider that. Mark Sarda, Black Hills Power, said they worked with City staff and considered neighborhood concerns in the design of the project. He explained that they were not approved for alternate sites. They plan to purchase low noise transformers so the new facility will have lower noise level. He said they are also trying to make it low profile, and he described the proposed landscaping. Aida Compton stated that they are a neighborhood, not an industrial area. She said that she is a cancer survivor and does not wish to go through that again. Corey Singaas indicated he is against the fence as it is a stepping stone to a huge substation in the neighborhood. Peggy (last name unknown) said she is opposed to the plan. She pointed out that traffic is busy there, and the fence and trees will obstruct the view. She suggested putting the substation on Minnesota Street.

Richard Horton stated that he is concerned with drainage and dust control regarding a proposed parking lot in his neighborhood. He said they need to pave the alley so drainage goes from Meade to Flormann and down. He indicated that he has no problems with the proposal otherwise. Edward Lynch said he owns the property where they are trying to get additional parking, and he indicated that many neighbors are patients of his. He said he wants to remain in the neighborhood but needs to expand. They have done a PCD to ensure the property is used for parking. He has met with neighbors and adjacent landowners, and they have come to an agreement to pave a segment in order to address drainage and dust concerns. Michael Stanley, Dream Design International, said they are working with Dr. Lynch on the project, and he indicated that he and Hani Shafai are available for questions.

Mario Rangel indicated that he is an owner of the property across the street from the proposed on-sale liquor establishment. He said they see a lot of potential for this area but indicated there is concern that intoxicated individuals will walk through their establishment. He said the neighboring property owners take pride in the area.

CONTINUED PUBLIC HEARING CONSENT ITEMS – Items 62 – 64

Motion was made by Olson, second by LaCroix and carried to approve the following items as they appear on the Continued Public Hearing Consent Items:

Continue the following items until September 8, 2009:

62. No. 09SV015 - A request by Centerline, Inc. for Lazy P-6 Land Co., Inc. for a **Variance to the Subdivision Regulations to reduce the pavement width from 12 feet to 11 feet per lane as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 in Block 1 and Lots 1 thru 4 in Block 2, located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, legally described as a parcel of land located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, located at the southeast corner of the intersection of Fifth Street and Catron Boulevard.

Continue the following items until September 21, 2009:

63. No. 09SV012 - A request by D.C. Scott Co. Land Surveyors for William M. Jobgen for a **Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code** on Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located between Carlin Street and Crane Drive.

Continue the following items until October 5, 2009:

64. 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.

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion was made by LaCroix, second by Costello and carried to close the public comment for Items 62 to 73.

CONSENT PUBLIC HEARING ITEMS – Items 65 – 66

The following item was removed from the Consent Public Hearing Items:

- 65. MG Oil Company DBA Chances Casino, 1565 Haines Ave. Ste. B for a Retail (on-off sale) Malt Beverage License WITH Video Lottery TRANSFER from MG Oil Company DBA Clock Tower Lounge, 2525 W. Main Street

Motion was made by Olson, second by Hadcock and carried to approve the (No. LF071509-14) Resolution Levying Assessment for Cleanup of Miscellaneous Properties

RESOLUTION LEVYING ASSESSMENT FOR
CLEANUP OF MISCELLANEOUS PROPERTY

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

1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by the property cleanup is the amount stated in the proposed assessment roll.
2. The Assessment Roll for Cleanup of Miscellaneous Property is hereby approved and assessments thereby specified are levied against each and every lot, piece, or parcel of land thereby described.
3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City Finance Office in accordance with the procedure in Section 9-43-43 to 9-43-53 of the South Dakota Compiled Laws of 1967, as amended, and shall be payable in one annual installment bearing interest at the rate not to exceed nine percent (9%).

Dated this 17th day of August, 2009.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

END OF CONSENT PUBLIC HEARING CALENDAR

NON-CONSENT PUBLIC HEARING ITEMS – Items 67 – 73

Motion was made by Costello, second by LaCroix and carried to approve (No. 09CA016) A request by the City of Rapid City to consider an application for an amendment to the Comprehensive Plan to adopt the Comprehensive Preservation Plan.

RESOLUTION #2009-107
RESOLUTION AMENDING THE COMPREHENSIVE PLAN
OF THE CITY OF RAPID CITY

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

WHEREAS the Rapid City Council held a public hearing on the 17th day of August, 2009 at which they considered the recommendation of the Planning Commission and the proposed amendment to the Comprehensive Plan; and

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

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the Comprehensive Plan of the City of Rapid City be amended to adopt the City Comprehensive Preservation Plan and that such amendment be filed with the City Finance Office

Dated this 17th day of August, 2009.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

Motion was made by LaCroix, second by Kroeger, to approve (No. 09CA009) A request by Dream Design International, Inc. for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Residential to Office Commercial with a Planned Commercial Development** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 336 Meade Street. Dominicak indicated that there are stipulations to consider, and Olson asked if the stipulations need to be part of the discussion. A copy of the list of stipulations was then distributed to the Council. Olson stated that she is not in favor of the motion and said this will not serve the long term needs of the neighborhood. She said this begins an intrusion of small, well-kept homes and preserving houses is important to preserving quality neighborhoods. After review of the stipulations, LaCroix and Kroeger confirmed the intent of the motion is to include the stipulations. Weifenbach objected to including the stipulations in the motion, so Mayor Hanks indicated an amendment motion is needed to include the stipulations. LaCroix pointed out that one of the stipulations deals with the drainage issue, and he also pointed out that the property owner has been there for 25 years. Hani Shafai, Dream Design, indicated that they had not received the stipulations until now and stated that they have an issue with number one. He explained that the layout does not comply with this stipulation that requires a setback of 12 feet, and the layout is the only way to efficiently make the site fit a parking lot. He stated that the current layout setback is from 1.6 feet to 6.25 feet. Responding to Weifenbach regarding stipulation 6, Dominicak said design criteria requires that principal access must be off the public street, not an alley, and he also clarified that most of the stipulations are already taken care of in the submitted plans. Weifenbach said he has issues with stipulations 1 and 6. Responding to Kooiker, Lynch explained that he held two neighborhood meetings to explain his intentions for the parking lot. He explained the reasons that two specific people who were opposed, but he also said he agreed to pave a certain area to help with drainage. Lynch also clarified that Neighborhood Commercial zoning does not allow a parking lot to be done as a separate unit, so that is why they need the zoning as Office Commercial with the PCD. Shafai also pointed out that Office Commercial does not allow retail so there will be more limited working hours. It was indicated the minimum distance needed is 1.5 feet. Lynch confirmed that he has spoken with property owners, and they are not opposed to the current layout. Responding to Costello, Shafai described the drainage layout. Lynch said he needs more space and is not sure of his other options if this is not approved.

Amendment motion was made by Hadcock, second by Weifenbach, to include all stipulations as presented by staff with the exception of stipulation 1 to read "a minimum of 1.5 foot distance between the parking lot and the residential lot located directly to the east of the property." Hadcock expressed her appreciation that Dr. Lynch visited with neighborhood. Chapman stated that it is poor policy for the Council to have so many stipulations to review at the last minute. He asked Lynch what would happen if they continue the item, and Lynch said he wants to move forward as he has been working on it since April. Chapman said in the future they need to get related information prior to meeting. Lynch clarified that the paved alley is from Meade St. to the alley that runs east and west and he has verbal agreement to extend to Flormann. Motion carried.

Upon vote being taken, the amendment motion to approve the request with stipulations carried with one NO from Olson.

Motion was made by LaCroix, second by Hadcock, to approve (No. 09PD021) A request by Dream Design International, Inc. for a **Planned Commercial Development - Initial and Final Development Plan** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 336 Meade Street. Dominicak clarified that the previously discussed stipulations were for this item.

Substitute motion was made by Chapman, second by Waugh and carried to reconsider Item 68.

Motion was made by Hadcock, second by Weifenbach, to approve (No. 09CA009) A request by Dream Design International, Inc. for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Residential to Office Commercial with a Planned Commercial Development** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 336 Meade Street. Motion carried with one NO from Olson.

RESOLUTION #2009-079
RESOLUTION AMENDING THE COMPREHENSIVE PLAN
OF THE CITY OF RAPID CITY

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

WHEREAS, the Rapid City Council held a public hearing on the 17th day of August, 2009, at which they considered the recommendation of the Planning Commission and the proposed amendment to the Comprehensive Plan; and

WHEREAS, the proposed Amendment to the Adopted Comprehensive Plan would change the land use designation from Residential to Office Commercial with a Planned Commercial Development on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 336 Meade Street; and

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

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the Amendment to the Comprehensive Plan to change the land use designation from Residential to Office Commercial with a Planned Commercial Development on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 336 Meade Street, as attached to the original hereof be filed with the City Finance Office.

Dated this 17th day of August, 2009.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

Motion was made by Hadcock, second by LaCroix, to approve (No. 09PD021) A request by Dream Design International, Inc. for a **Planned Commercial Development - Initial and Final Development Plan** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 336 Meade Street with the following stipulations: 1. Prior to issuance of a building permit, the site plan shall be revised to provide a minimum 1.5 foot distance between the parking lot and the residential lot located directly east of the property; 2. Prior to issuance of building permit, a site plan shall be submitted for review and approval showing the location of the existing residence located east of the property in relation to the proposed six foot high fence. In addition, a Fence Height Exception shall be obtained to allow a six foot high fence in lieu of a four foot high fence in the front yard or the fence shall be revised to comply with the Ordinance; 3. A building permit shall be obtained prior to the start of construction; 4. Prior to issuance of building permit approval, the parking plan shall be revised to show one "van" accessible parking space; 5. The fence shall be constructed to conform architecturally to the elevation and color palette submitted as part of this Initial and Final Planned Commercial Development Plan. In addition, the finished side of the fence shall be constructed to face the adjacent properties; 6. Prior to issuance of a building permit, and Exception shall be obtained to allow an alley to serve as the principal means of access or the site plan shall be revised to comply with the Street Design Criteria Manual; 7. Prior to issuance of a building permit, construction plans shall be submitted for review and approval, showing the adjustment of the manhole to the new final grade of the alley in accordance with the City Standard Specifications; 8. Prior to issuance of a building permit, a drainage plan shall be submitted for review and approval to insure that the development does not create any adverse drainage impacts drainage onto the adjacent properties; 9. The lighting shall be placed and operated in compliance with the applicant's lighting plan. In particular, all but the center light shall shut off no later than 10:00 p.m. each day. In addition, the lighting shall be designed to be reflected within the property boundaries so as not to shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind; 10. All provisions of the Office Commercial District shall be met unless an Exception is specifically authorized as a stipulation of this Commercial Development Plan or a subsequent Major Amendment; 11. A minimum of 8,280 landscaping points shall be provided and irrigated as identified in the approved landscaping plan. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary; 12. A parking lot shall be allowed on the property. No other use shall be allowed on the property unless otherwise specifically authorized as a Major Amendment to the Commercial Development Plan; and, 13. The Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. A time extension may be granted if identified and requested as part of a phasing schedule submitted with the Final Commercial Development Plan application; or upon written request to the Growth Management Director, and prior to the Final Development Plan approval expiration date, a one year extension for Final Development Plan approval may be granted.

Motion was made by Costello, second by LaCroix, to approve (No. 09FV003) A request by Steven Dunn for Black Hills Power for a **Fence Height Exception to allow an eight foot high fence with barbed wired in the Low Density Residential District** on Lots 23 and 24, Lots 25 and 26 with a ten foot wide portion of the adjacent alley of the South Boulevard Addition, located in the NW1/4 of Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east side of Fifth

Street between Cleveland and Oakland Street. Olson pointed out there was discussion at a public meeting about proposed changes but the most recent changes are different. She wanted to allow the neighborhood to take a second look at the proposed changes. LaCroix reminded the Council and residents that if this is approved there is still an 11.6.19 process to go through. He also pointed out that residents moved there knowing the substation was there. Costello confirmed the intent of his motion is to approve the exception based on the last design submitted by Black Hills Power including all landscaping. Responding to Chapman, Sarda indicated that alternate sites were too far from the load center, and he confirmed that they do not plan to add on to this substation again in the future. He also confirmed that their planning group looks at City expansion and they purchase land ahead of time. Martinson stated concern that moving the substation to another site would only transfer the problem to another neighborhood. Responding to Hadcock, Olson explained that the Future Land Use Committee has been in conversation with Black Hills Power, and they would like to see the expansion in another location. Costello stated that he understood that the Future Land Use Committee had talked about the location but no formal action was taken since substations are standard use in this area. Responding to Costello, Dunn explained the service area and the capacity of the site. Olson then clarified that the Future Land Use Committee did not take a formal position but suggested possibly securing another site. Kooiker pointed out that he cannot find minutes from the Future Land Use Committee, so he encouraged the City to have minutes documented. Mayor Hanks clarified that the committee deals with zoning, not details of conditional uses, and Green added that the committee deals with speculation of what will happen in the future, not specific applications that are presented. Upon vote being taken, the following voted AYE: Martinson, Costello, LaCroix, Chapman, Kroeger and Waugh; NO: Kooiker, Olson, Weifenbach and Hadcock. Motion carried.

Motion was made by Costello, second by Waugh, to approve with stipulations (No. 09UR019) A request by Troy Erickson for M.G. Oil Co. for a **Conditional Use Permit to allow an on-sale liquor establishment** on Lot 1 of Tract A of Block 1 of Northern Heights Subdivision, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southwest corner of the intersection of Lindbergh Avenue and Haines Avenue. Dominicak confirmed that the neighborhood was notified using the normal process, including publication in the newspaper. Kroeger expressed his concern with this type of establishment in the neighborhood and said it would be important to know the activity that takes place in the trailer court adjacent to the area.

Substitute motion was made by Kroeger, second by Olson, to continue to the September 2, 2009 Legal and Finance meeting. Olson stated that she supports the motion as there are a number of unanswered questions.

Second substitute motion was made by Hadcock, second by Martinson, to deny the request. Responding to Weifenbach, Troy Erickson explained the process of how the permit came before the Council. He said Planning Commission recommended approval, but after that time, Mr. Rangel delivered a letter protesting the permit. Green confirmed this has gone through the correct process and said the letter presented by Rangel is grounds for the item to come to Council. It was indicated that everyone within 500 feet was notified of the permit with a certified letter. Weifenbach, Olson and Chapman expressed their support for a continuation.

Question was called by Waugh, and Mayor Hanks confirmed there was no objection. Upon roll call vote being taken, the following voted AYE: Kooiker, Kroeger and Hadcock; NO: Costello, Chapman, Olson, Weifenbach, Waugh and Martinson. Motion failed with Alderman LaCroix abstaining.

Hadcock suggested sending notices to a broader area, and Mayor Hanks said that recommendation can be made at the Legal and Finance Committee. Kroeger asked Council to drive by the area and pointed out that notices went to several rental units who do not care. He said the Police Department has been working to clean up the area and said this is not an appropriate place for a casino. Upon

vote being taken on the substitute motion to continue to the September 2, 2009 Legal and Finance meeting, motion carried with LaCroix abstaining.

Motion was made, seconded and carried to continue to the September 8, 2009 City Council meeting MG Oil Company DBA Chances Casino, 1565 Haines Ave. Ste. B for a Retail (on-off sale) Malt Beverage License WITH Video Lottery TRANSFER from MG Oil Company DBA Clock Tower Lounge, 2525 W. Main Street.

Ordinance 5518 (No. 09RZ026) 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 Medium Density Residential District to Office Commercial District** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 336 Meade Street having passed its first reading on June 15, 2009; motion was made by Waugh and second by Hadcock, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Weifenbach, Kroeger and Hadcock; NO: Olson; whereupon the Mayor declared the motion passed and Ordinance No. 5518 was declared duly passed upon its second reading.

Ordinance 5531 (No. 09RZ032) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by the City of Rapid City for a **Rezoning from No Use District to General Agriculture District** on Lots H-3 and H-4 in the NW1/4 of Section 9, and the south 75 feet of East St. Patrick Street right-of-way located adjacent and north of Lots H-3 and H-4, and the south 75 feet of S.D. Highway 44 right-of-way located north of Lots H-3 and H-4 and north of South Elk Vale Road on-off ramp, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of East St. Patrick Street and S.D. Highway 44 having passed its first reading on August 3, 2009; motion was made by Costello and second by LaCroix, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5531 was declared duly passed upon its second reading.

BILLS

Payroll Paid Ending 07-18-09, Paid 07-24-09	899,747.52
Payroll Paid Ending 08-01-09, Paid 08-07-09	952,254.09
Payroll Paid Ending 07-18-09, Paid 07-24-09	3,592.80
Payroll Paid Ending 08-01-09, Paid 08-07-09	3,592.80
Pioneer Bank, Taxes Paid 07-24-09	207,165.22
Pioneer Bank, Taxes Paid 08-07-09	215,500.20
Pioneer Bank, Taxes Paid 07-24-09	241.92
Pioneer Bank, Taxes Paid 08-07-09	242.42
SD Retirement, Paid 08-04-09	377,267.45
SD Retirement, Paid 08-04-09	421.62
Berkley Risk Administrators, July Claims	36,797.61
First Administrators, Claims Paid 08-05-09	60,787.87
First Administrators, Claims Paid 08-12-09	50,930.38
Black Hills Electric Cooperative, Paid 08-11-09	731.34
Black Hills Power and Light, Paid 08-11-09	31,171.34
Montana Dakota Utilities, Paid 08-11-09	314.21
West River Electric, Paid 08-11-09	27,726.96
SD Retirement System Special Pay	45.00

Computer Bill List	<u>4,886,124.63</u>
Subtotal	7,754,655.38
Payroll Paid Ending 07-18-09, Paid 07-24-09	2,903.73
Payroll Paid Ending 08-01-09, Paid 08-07-09	2,903.73
Pioneer Bank, Taxes Paid 07-24-09	222.13
Pioneer Bank, Taxes Paid 08-01-09	222.13
SD Retirement System, Paid 08-04-09	322.74
City of Rapid City, Health Insurance	962.50
City of Rapid City, Postage	8.75
Ikon Financial Services, Copier Maintenance	60.11
Metropolitan Life Insurance	6.42
Simpson Printing	334.00
Wright Express	<u>172.34</u>
 Total	 7,762,773.96

Preston requested to add payments to Heavy Constructors for Meade Street Reconstruction Phase 2 Change Order #4 Final for \$48,916.97 and RCS for Flormann Street Down Spout Change Order #1 Final for \$3,640.85. The new Bill List total is \$7,815,331.78. Motion was made by LaCroix, second by Costello and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof.

EXECUTIVE SESSION for the purposes permitted by SDCL 1-25-2

Motion was made by LaCroix, second by Costello and carried to go into Executive Session at 9:51 P.M. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 10:32 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 10:33 P.M.

CITY OF RAPID CITY

ATTEST:

Finance Office

Mayor

(SEAL)