

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

July 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, July 20, 2009 at 7:00 P.M.

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

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

**ADOPTION OF AGENDA**

The following items were added to the agenda:

- Request from Oglala Sioux Tribe
- Raffle Request from MDA
- Report on West Main
- Information on Bleachers
- Include direction of 2010 budget with Item 59, Alderman Weifenbach
- Allow motorcycle parking in front of Oasis Lounge, Alderman Kooiker
- Executive session procedures, Alderman Kooiker

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

**APPROVE MINUTES**

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

**AWARDS AND RECOGNITIONS**

Mayor Hanks presented the Veteran of the Month for July 2009 to Jerry Thompson and recognized his efforts and dedication to the service of his country and community.

**GENERAL PUBLIC COMMENT**

Kevin Yellow Bird Steel, Oglala Sioux Tribe, explained their fundraising effort for an annual pow wow and said they are seeking help and/or donations as Rapid City's sister city.

Motion was made by LaCroix, second by Martinson, to add the Oglala Sioux Tribe's request to the agenda. Motion carried unanimously.

Alderman Chapman entered the meeting at 7:20 P.M.

Mike Brummer expressed his opposition to the proposed downtown improvement district (DID), and he pointed out that 90% of business owners he contacted are also not in favor. He explained that it might be

a good idea for the core area, and if the DID is desired by this group of businesses, then it should be funded by them only. He said other businesses cannot absorb additional taxes right now as they need to provide quality products and competitive prices to their customers. Vern Fisher said he was not aware of the proposed DID, and he said he will have an empty building if he has to raise his tenant's rent. He stated that if he is part of it then the whole City should be part of it. Gwen Ray said that her building is not in the core area. She stated that the extra tax should be spread among everyone, not just businesses in a certain area. Charles Ray said that they pay enough property tax. He said if this is a good thing for downtown Rapid City then all citizens should be taxed equally, and citizens should vote on it. Mary Renka asked that the Council keep in mind what this will do for a medical business on Quincy Street. She said this will not bring business to her. She takes care of issues at her business and does not think it is fair to tax her when she will not benefit from it. Don Madsen said the idea is good, but it does not serve the area where he is at. He said he understands having it for the downtown core area but does not believe he should subsidize the downtown core. Roger Frye indicated that a decision should be made about the parking meters downtown before considering a DID. Michael Krump indicated that his business is on Quincy Street, and he was surprised to see the information regarding additional taxes. He spoke of the successful downtown district in Lincoln, Nebraska. He said there seems to be a lopsided effort here, and they are asking businesses to pay who will not benefit. He stated that good things can happen from this, but we need to share it more evenly. Kurt Whitesell said he applauds the downtown district's efforts but said those who benefit from it should pay for it.

Margaret Jefferson from the Oasis Lounge indicated that she wants reconsideration of the discussion at the recent Legal and Finance meeting. She wants the opportunity to discuss 2 or 3 spaces in front of her business for motorcycle parking as others have been granted the same request. She said she is just asking for equal treatment.

#### **NON-PUBLIC HEARING ITEMS** -- Items 4 - 60

Motion was made by Chapman, second and carried to open the public comment for items 4 – 43.

Barb Lindberg expressed her concern with the Stanley Consultant Source Water Protection report. It was indicated that the item on the agenda regarding this report is to recognize that the report has been delivered to the City Council, and it is not an adoption. She then pointed out several issues in the report and referred to another report from Dr. Perry H. Rahn. She concluded that there are lots of flaws in the Stanley Report.

Clark Jones stated that his understanding is that the Council wants to use water rates as a punitive weapon to advance sustainability. He also referenced information from a book by Jeffery Sachs. He urged the Council to have public meetings regarding the sustainable plan first and throughout the process.

Motion was made Chapman, second by LaCroix and carried to close the public comment for items 4 – 43.

#### **CONSENT ITEMS** – Items 4 - 38

18. Acknowledge the Update on Shed Located at Jamie Johnson Field.
19. No. LF071509-25 - Adopt the Green-sustainable recommendations. (Please note pages 26-31 of the attached power point.)
24. No. LF071509-06 – Approve event permit for Summer Nights to change previous permit from 6th Street to a Section of 7th Street North of Main Street to Alley A every Thursday Night commencing July 16-September 3, 2009, from 3:00 p.m.

32. No. LF071509-15 - Approve annual Report on Tax Increment Financing Districts.

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

***Appeal Set for Hearing (August 3, 2009)***

4. No. 09PD021 - South Boulevard Addition - An **Appeal of the Planning Commission's decision** on a request by Dream Design International, Inc. to consider an application 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.

***Alcoholic Beverage License Applications Set for Hearing (August 3, 2009)***

5. Matthew J. Batchelder DBA Windsor Block Grocery Co., 610 7<sup>th</sup> Street for a Package (off-sale) Malt Beverage License
6. Heinsel Investments LLC DBA Comfort Suites, 3815 Edwards St. for a Retail (on-sale) Liquor License TRANSFER from Sharaf Properties, 4507 S. I-90 Service Road

***Public Works Committee Consent Items***

7. No. PW071409-01 – Acknowledge the Source Water Protection Report Presentation
8. No. PW071409-02 – Approve Change Order No. 3-Final to Tru-Form Construction, Inc., Downtown Pavement Repair, Project No. STCM 08-1747 / CIP No. 50445, for a decrease of \$17,977.05.
9. No. PW071409-03 – Approve Change Order No. 2-Final to Site Work Specialists, Inc., Rand Road Drainage Channel Repair and Improvements, Project No. DR08-1735 / CIP No. 50733, for a decrease of \$1,173.24.
10. No. PW071409-04 – Approve Change Order No. 1-Final to KRM Concrete, LLC, Miscellaneous Improvements Project 2009, Project No. MIP09-1774 / CIP No. 50298, for an increase of \$9,329.37.
11. No. PW071409-05 – Authorize Staff to Advertise for Bids for Ten (10) Fully Automated Garbage Collection Trucks. Estimated Cost: \$2,236,000.00.
12. No. PW071409-06 – Authorize Mayor and Finance Officer to Sign an Agreement between the City of Rapid City and PLM Development, LLC, for the payment of oversize costs for public water mains and public sewer mains, in the amount of \$129,249.00.
13. No. PW071409-07 – Approve the Request for Authorization to spend \$275,000 to purchase salt and sand for street maintenance with funding source to be: Unencumbered Cash - \$275,000.00.
14. No. PW071409-08 – Approve the Request that City Council set the hearing date for the State Revolving Fund (SRF) Loan application for the Water Reclamation Facility Improvements Project for the August 3, 2009, City Council Meeting.

15. No. PW071409-09 – Acknowledge the Report on Update on the Status of the Flood Plain Policy Subcommittee Recommendations.

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

16. Acknowledge the 2010 City Budget presentation from Mayor Hanks and set the budget hearing dates on August 10-12, 2009.
17. No. LF071509-01 - Confirm the following appointments to the Historic Sign Review Committee: Reappointment of Jim Jackson (Three Year Term), Clancy Kingsbury (Term to Expire July 2010), and Pat Roseland (Three Year Term).
20. No. LF071509-02 – Approve travel request for Kim Gerhardt to attend Fingerprint Examination Course for Training and Development in Seattle, WA, October 18-24, 2009, in the approximate amount of \$1,712.
21. No. LF071509-03 – Approve travel request for Michaela Schanz and Kim Gerhardt to attend Palm Print Comparison Course in Champaign, IL, September 12-17, 2009, in the approximate amount of \$1,884.
22. No. LF071509-04 – Approve travel request for Tom Senesac, Steve Allender and Deb Cady to attend the 2009 MOCIC Conference in Duluth, MN, August 23-29, 2009, in the approximate amount of \$1,872.
23. No. LF071509-05 - Approve event permit for Rushmore Little League to close Herman Street between East Chicago and East New York Street from 4:00 p.m. to approximately 10:00 p.m. July 23-31, 2009.
25. No. LF071509-07 – Approve event permit for Rapid City Downtown Association for Motorcycle Parking on the North Side of Main Street between 6th Street and 7th Street August 3-9, 2009.
26. No. LF071509-08 – Approve Joint Application for 2009 Justice Assistance Grant.
27. No. LF071509-09 – Approve travel request for Cameron Humphres, Jennifer Eckman, and Jerry Mitchell to attend AAAE Conference in Philadelphia, PA, June 13-18, 2009, in the amount of \$8,339.25 (previously approved in the approximate amount of \$8,022.45).
28. No. LF071509-23 – Approve travel request for Paul Sterling to attend iAIM School of Arena Operations in Chicago, IL, August 16-20, 2009, in the amount of \$3,338.00.
29. No. LF071509-11 – Authorize Submission of Application for Gwendolyn L. Stearns Foundation.
30. No. LF071509-13 - Approve report on Retail (on-off sale) Malt Beverage License Eligible for Video Lottery.
31. No. LF071509-14 – Approve Resolution Fixing Time and Place for Hearing on August 17, 2009 for Assessment Roll for Property Cleanup.

RESOLUTION #2009-094  
RESOLUTION FIXING TIME AND PLACE FOR HEARING ON ASSESSMENT ROLL FOR  
CLEANUP OF MISCELLANEOUS PROPERTY

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

1. The Assessment Roll for Cleanup of Miscellaneous Property was filed in the Finance Office on the 20th day of July 2009. The City Council shall meet at the City / School Administration Center in Rapid City, South Dakota, on the 17th of August 2009 at 7:00 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.

2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time, and place of hearing thereon; that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.

3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her, or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 20th day of July, 2009.

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

ATTEST:  
s/ James F. Preston  
Finance Officer

(SEAL)

- 33. Acknowledge the Following Volunteers for Workmen’s Compensation Purposes: Shannon Lewis, Leah Nutter, Kelsey Bellew, Carissa Bellew, Bryaunah Stewart, Taryn Stickney.
- 34. No. LF071509-16 – Approve resolution No. 2009-082 Declaring Property Surplus.

RESOLUTION #2009-082  
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:

- Growth Management
- Gateway computer S/N: 0027184451, System # S0570
- Belkin battery backup 550VA S/N: 20104834247W5
- Panasonic DotMatrix printer KXP2023, S/N: 6JMBVF73153
- Creative Cambridge soundway computer speakers SBS52
- 2) Digital Express computer speakers G-Max 2000, S/N: 4408AUL746028187 and S/N: 4703015707
- West Bend 42 cup coffee maker

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 July, 2009.

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

ATTEST:  
s/ James F. Preston  
Finance Officer

(SEAL)

- 35. No. LF071509-17 - Authorize Staff to Apply for Broad Band Technology Grant.
- 36. No. LF071509-24 – Authorize Mayor and Finance Officer to sign U.S. Department of Housing and Urban Development (HUD) Funding Approval/Agreement for Community Development Block Grant Funds for FY 2009 and to complete the Request for Release for Funds and Certification.
- 37. No. LF071509-18 - Acknowledge Source Water Protection Report Presentation by Robert Ellis.
- 38. No. LF052709-01 – Approve Resolution (2009-090) of Intent to Enter into Lease with Storybook Island, Inc.

RESOLUTION #2009-090  
A RESOLUTION OF INTENT TO ENTER INTO LEASE OF  
LAND WITH STORYBOOK ISLAND, INC. PURSUANT TO SDCL 9-12-5.2

BE IT RESOLVED by the City of Rapid City that the City of Rapid City intends to enter into a lease of real property with Storybook Island, Inc. which property is described as follows:

A portion of Tract 8, Rapid City Greenway Tracts, Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.

BE IT FURTHER RESOLVED that a copy of this resolution of intent be published once at least ten (10) days prior to the hearing to be held at City Hall, 300 Sixth Street, Rapid City, South Dakota, at 7:00 o'clock, p.m., on the 3rd day of August, 2009, or as soon thereafter as the item may come on for hearing at said meeting; and

BE IT FURTHER RESOLVED that following the hearing the City Council may adopt a resolution authorizing a lease upon the terms and conditions as it shall determine in said resolution.

Dated this 20th day of July, 2009.

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

ATTEST:  
s/ James F. Preston  
Finance Officer

(SEAL)

END OF CONSENT CALENDAR

Motion was made by Kooiker, second by LaCroix, to acknowledge the Update on Shed Located at Jamie Johnson Field. It was indicated that the issue will be resolved by July 25th. Motion carried.

Motion was made by Olson, second by Costello, to (No. LF071509-25) adopt green sustainable recommendations and ask that a task force is appointed. Weifenbach expressed concern and said there needs to be more discussion.

Substitute motion was made by Weifenbach, second by Waugh, to continue to the August 17, 2009 City Council meeting. Chapman said he understands concern if the Council was asked to implement something, but this recommendation does not require formally adopting anything. Olson explained that they are recommending a roadmap for implementing green and sustainable, a suggested time line and appointments for a task force. The green cities team compiled a list of a variety of expertise and interest in the community. Kooiker said they should acknowledge the recommendations as this is not an adoption of final ordinances or resolutions.

Second substitute motion was made by Kooiker, second by Weifenbach, to acknowledge the report on green sustainable recommendations and to follow through with the recommendations to create a community roadmap, suggested time line and invite the Mayor to appoint a committee. Responding to Martinson, Green explained that this motion acknowledges the report and formalizes their third recommendation to appoint a committee. Motion carried.

Motion was made by Kooiker, second by Waugh, to (No. LF071509-06) approve an event permit for Summer Nights to change previous permit from 6th Street to a Section of 7th Street North of Main Street to Alley A every Thursday Night commencing July 16-September 3, 2009, from 3:00 p.m. Costello expressed his disappointment in the proposed change. He said he does not believe that crossing Main Street is safer than going through Art Alley, and he explained that the reason this was moved due to loading zone and parking complaints. Responding to Costello, Allender said he only honored the request from Summer Nights and forwarded it to Council but was not involved in the decision. Costello said he will support the change but hopes this is a temporary move as he would like to see Art Alley serve as the corridor to summer nights events. LaCroix said it does not hurt to try this change and said maybe the businesses will eventually want it changed back to 6th Street. Hadcock said the move to 7th Street is positive and felt that Art Alley will still be recognized even if the event is moved. Responding to Weifenbach, it was confirmed that there are no businesses on the north side of 7th Street that will object to the event being moved. Costello stated that he wants to make sure that Rapid Transit is aware of the change. Motion carried with a NO from Costello and Weifenbach.

Motion was made by Kooiker, second by Chapman, to (No. LF071509-15) Approve annual Report on Tax Increment Financing Districts. Kooiker said it looks as though they are at 13% exceeding the 10% allowed by state law. Elkins said she is guessing the valuation may be showing up in more than one district, and she offered to review the information before next meeting. Weifenbach asked how much property tax Rapid City foregoes on collection of the TIFs, but it was indicated that those figures were not available.

Substitute motion was made by Weifenbach, second by Waugh and carried to continue this item to the July 29, 2009 Legal and Finance meeting.

Motion was made by Hadcock, second by Weifenbach, to reconsider Item 25. Motion carried.

Motion was made by Kooiker and seconded to (No. LF071509-07) Approve event permit for Rapid City Downtown Association for Motorcycle Parking on the North Side of Main Street between 6th Street and 7th Street August 3-9, 2009. Hadcock said it would make sense to add the north side of the Main Street between 7th and 8th Street. She said she thinks this would suffice the Oasis and other businesses on the opposite side of the street.

Substitute motion was made by Hadcock, second by Martinson, to approve event permit for Rapid City Downtown Association for Motorcycle Parking on the North Side of Main Street between 6th Street and

8th Street August 3-9, 2009 and to give discretion to the Police Chief and Mayor to close down the area if it is not working. It was indicated that this motion would block off approximately 80 spots. Allender explained what was approved last year and said that the 800 block of Main Street was converted to auto parking mid-rally as it was slow. Weifenbach pointed out that this request is for 80 spots and the Oasis is asking for 3. Chapman said this is a poor way to make a plan. He asked why this is not brought forward in advance and pointed out that we have not talked to any of the businesses about the plan. He suggested creating open spots on each block. LaCroix pointed out that bikers will come downtown for events such as Summer Nights, so it would make sense to block off more spots during that time. He said we are shooting in the dark by providing this parking and then will end up taking it back. It was indicated that the original request included a section of 7th Street, but this area was removed during the Legal and Finance meeting. Hadcock said that making downtown motorcycle friendly is important, and we can take away some spots if they are not used. She said there has been positive response from this area in the past for taking parking spots for events. Kooiker clarified that this motion theoretically takes care of the Oasis' concern. Chapman reiterated that there is disconnect in how we are communicating what is globally wanted downtown by the businesses, and we need to think about this issue before mid-July. Weifenbach said the Oasis applied for spots last year, and she was told to reapply the following year as it was too late. LaCroix agreed with the stipulations on the motion, and Martinson said there should be a more defined policy on parking related to specific events. Responding to Kooiker, Margaret Jefferson, owner of the Oasis, said that this does not help her. Upon roll call vote, the following voted AYE: Olson, Kroeger, Martinson, Weifenbach, Waugh and Hadcock; NO: Costello, LaCroix, Chapman and Kooiker. Motion carried.

#### **CONTINUED CONSENT ITEMS** – Items 39 – 43

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

#### ***Continue the following items until August 3, 2009:***

39. 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.
40. 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.
41. 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.
42. 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.

43. No. 09PL034 - A request by Fisk Land Surveying & Consulting Engineers for Walter J. Bradsky for a **Layout Plat** on Lots 5A and 5B of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, legally described as Lot 5 of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, located at 7800 Elkhart Road.

END OF CONTINUED CONSENT ITEMS

**NON-CONSENT ITEMS** – Items 44 – 60

Motion was made by LaCroix, seconded and carried to open the public comment for items 44 – 60.

Margaret Jefferson, owner of the Oasis, stated that the best thing to do regarding parking during the rally would be to take away all of the motorcycle parking and open it up so that motorcycles can park in any open spot without being ticketed. She felt that she is being singled out.

Motion was made by Olson, seconded and carried to close the public comment for items 44 – 60.

***Ordinances***

Ordinance 5526 (No. 09RZ028) 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 Heavy Industrial District** of Lots 4 and 5 of Hillsvie Subdivision and the 75 foot wide S.D. Highway 44 right-of-way lying adjacent and south of Lot 5 of Hillsvie 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, second by LaCroix and carried that Ordinance 5526 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, August 3, 2009

Ordinance 5527 (No. 09RZ029) 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** of that portion of Lot 15 Revised of Hillsvie Subdivision described as follows: Beginning at the southwest corner of Lot 15 Revised; thence N00°03'23"W 481.98 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 482.22 feet, more or less; thence S38°37'42"W 80.71 feet, more or less; thence N51°22'18"W 101.19 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right of way located adjacent and south of the above described property, 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, second by Olson and carried that Ordinance 5527 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, August 3, 2009.

Ordinance 5528 (No. 09RZ030) 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 Heavy Industrial District** of that portion of Lot 15 Revised of Hillsvie Subdivision described as follows: Beginning at the southeast corner of Lot 15 Revised; thence N51°22'18"W 320.51 feet, more or less; thence N38°37'42"E 80.71 feet, more or less; thence N00°00'00"W 283.40 feet, more or less; thence S89°50'46"E 200.00 feet, more or less; thence S00°00'00"E 546.00 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right-of-way located adjacent and south of the above described parcel, 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, second by Olson and carried that Ordinance 5528 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, August 3, 2009.

Ordinance 5529 (No. 09RZ031) 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** of that portion of Lot 15 Revised of Hillview Subdivision described as follows: Beginning at the northeast corner of Lot 15 Revised; thence S00°00'00"E 349.61 feet, more or less; thence N89°50'46"W 200.00 feet, more or less; thence N00°00'00"W 198.82 feet, more or less; thence N90°00'00"W 129.91 feet, more or less; thence N00°03'23"W 150.00 feet, more or less; thence N89°56'06"E 330.06 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the south 293 feet of Lot 6 of Marshall Subdivision, located in the SE¼ NE¼ of 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, second by Olson and carried that Ordinance 5529 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, August 3, 2009.

Ordinance 5519 (No. 09OA004) An Ordinance Revising the Off Street Parking Requirements by Amending Section 17.50.270 of the Rapid City Municipal Code having passed its first reading on July 6, 2009; motion was made by Kooiker and second by LaCroix that the title be read the second time. Upon vote being taken, the following voted AYE: Kooiker, Olson, Kroeger, Costello, LaCroix, Chapman, Martinson, Weifenbach, Waugh and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5519 was declared duly passed upon its second reading.

Ordinance 5520 (No. LF070109-26) An Ordinance to Require a Majority Vote for Election to the Offices of Mayor and Alderman by Adding Section 1.16.030 to Chapter 1.16 of the Rapid City Municipal Code having passed its first reading on July 6, 2009; motion was made by Kooiker and second by Olson that the title be read the second time. Green explained that this ordinance is in response to a change in state law that run off elections are now optional. In order to retain the status quo, we need to adopt this new ordinance. Upon vote being taken, the following voted AYE: Kooiker, Olson, Kroeger, Costello, LaCroix, Chapman, Martinson, Weifenbach, Waugh and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5520 was declared duly passed upon its second reading.

### ***Legal & Finance Committee Items***

Motion was made by Kooiker, seconded and carried to continue to the July 29, 2009 Legal and Finance meeting (No. LF070109-31) A request to Amend the Infrastructure Development Partnership Fund Agreement.

Motion was made by Hadcock, second by LaCroix and carried to table the event permit request for motorcycle parking on the 700 block of Main August 3-9, 2009.

Motion was made by LaCroix, second by Olson to (No. LF071509-12) Approve a Policy for Requirements for Property Owner Signatures on Development Applications. Responding to Weifenbach, Elkins indicated that they rely on the Director of Equalization for ownership information, and she said they then assume that the person signing has authority to sign for the group. Olson said a complete examination of a lease should precede as it is an important step in regard to the property owner. Motion carried.

### RESOLUTION #2009-098

RESOLUTION ADOPTING A POLICY REQUIRING PROPERTY OWNERS' SIGNATURES, OR PROOF OF NOTICE TO THE PROPERTY OWNER, ON DEVELOPMENT APPLICATIONS

WHEREAS, on March 16, 2009, the Common Council requested the Planning Commission to review the policies related to property owners' signatures on development applications; and

WHEREAS, on April 9, 2009, the Planning Commission was briefed on the issues by City staff; and

WHEREAS, the issue was discussed again at the July 9, 2009 Planning Commission meeting; and

WHEREAS, there is no ordinance or statute that requires the landowner to sign development applications; and

WHEREAS, the City's policy has been to require development applications to contain the landowner's signature; and

WHEREAS, individuals other than the landowner may have a property interest in land subject to a development application; and

WHEREAS, it may not be feasible or possible for an applicant to obtain the signature of the landowner; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to adopt a policy requiring that a development application contain the landowner's signature; or, in the absence of the landowner's signature, the applicant must show proof of a good faith effort to notify the landowner by certified return receipt mail.

NOW, THEREFORE, BE IT RESOLVED, by the City of Rapid City, that when possible, development applications shall contain the landowner's signature.

BE IT FURTHER RESOLVED, that when the applicant cannot secure the signature of the landowner, the applicant must show proof of a good faith effort to notify the landowner by certified return receipt mail of the pending application seven days prior to consideration by the Planning Commission and/or Common Council on a form provided by Growth Management.

BE IT FURTHER RESOLVED, that this policy shall not apply applications that require the property owner's signature by statute or ordinance including annexation applications, right-of-way vacations, subdivision plats or other similar applications.

Dated this 20th day of July, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

Motion was made by Kooiker, second by Hadcock and carried to approve a raffle request from MDA.

**Public Works Committee Items**

Motion was made by Kroeger, second by Weifenbach, to continue to the August 3, 2009 City Council meeting (09EX068) approving with a waiver of right to protest the appeal of the denial for an Exception to

Waive the Requirement to Install Sidewalk per City Ordinance 12.16.080 on property located at 1770 Centre Street, Horst Offices. Olson expressed that she is not in support of waiving the installation of sidewalks. Motion carried.

### ***Bids***

The following companies submitted bids for (No. CC072009-02.1) Landfill Scale Approach Repair Project No. SWO09-1790/CIP No. 50769 opened on July 14, 2009: Tru-Form Construction Inc., Hills Materials Company and Simon Contractors of SD, Inc. Staff reviewed the bids and recommends bid award to Simon Contractors of SD Inc. Motion was made by LaCroix, second by Hadcock and carried to approve the bid award to the lowest responsible bidder meeting specifications, Simon Contractors of SD, Inc., for a total contract amount of \$39,344.20.

The following companies submitted bids for (No. CC072009-02.2) Current Model Year Backhoe opened July 14, 2009: Butler Machinery Company and RDO Equipment Company. Staff reviewed the bids and recommends bid award to Butler Machinery Company. Motion was made by Hadcock, second by LaCroix and carried to approve the bid award to the lowest responsible bidder meeting specifications, Butler Machinery Company, for a total contract amount of \$122,068.00.

### ***Mayor's Items***

Mayor Hanks advised the Council that, due to the two recent fatalities on West Main Street, he has asked Public Works to look at the road between Cross Street and West Street to determine if it is appropriate to create a median to not allow a left turn.

Mayor Hanks reported that the City has received a request from Dickenson, ND to use our portable bleachers. He said rental fees would be about \$3,000 and said they want to make sure the agreement states they are liable for any damages from the time they pick it up. He confirmed that we do not have use for them during that time and that wear and tear was figured into the rental fees.

### ***Council Items & Liaison Reports***

Motion was made by Weifenbach, second by Hadcock and carried to continue to the July 28, 2009 Public Works meeting the change of law for state professional service contracts.

Alderman Weifenbach asked for an update on South Creek drainage issues, and Tech stated that the project was included in CIP for 2014. It was indicated that funding of \$140,000 was identified to deal with the issue.

Alderman Weifenbach requested an update on the letters that went out to Franklin Street residents with private sewers. Tech explained that there were 876 letters sent within the last month and said Public Works has received about 50 to 60 inquiries. No projects have been identified at this time. Weifenbach clarified that he is questioning private sewer lines, not nonconforming. Motion was made by Weifenbach, second by Olson to continue this item to the July 28, 2009 Public Works meeting. Tech explained that letters were sent regarding the nonconforming lines, and he is not aware if staff has been directed to send letters regarding private lines. Motion carried.

Alderman Weifenbach requested an update on current sales tax revenues. He stated his concern is that we have a cumulative 3% decrease in sales tax revenues but budgeted on a 4% increase, so there is a 7% shortfall. He does not believe it would be fiscally responsible to budget into the reserves or unencumbered cash. Preston was then asked to give a short presentation.

Mayor Hanks recessed the meeting at 8:56 P.M. for technical difficulties and reconvened at 9:05 P.M.

Preston reviewed the recent sales tax payments and explained the differences with the numbers the City reports compared to the numbers posted on the state website. Weifenbach expressed his interest in making sure the Council has all the information they need. Responding to Weifenbach, Preston said if we are down 3% at the end of the year we would have about \$600,000 less than what was collected in 2008. Mayor Hanks explained the projections from previous years and said that if we come in flat this year then we are down about 2% from projections which is about \$400,000. Mayor Hanks indicated that he will work with Council leadership and will talk about revenue projections on the front side of the budget hearings. Kooiker said the numbers he presented at the last meeting were verified with the Secretary of Revenue's office and noted that they include all of the various sources of sales tax. He said it is important to explain how the sales tax numbers work and reporting is done. He also did not appreciate being told he did not have his facts. He indicated we would be down \$1.4 million if the year ends at 3% down as there was a 4% assumption built into the budget.

Motion was made by Kooiker, second by Weifenbach, that the 2010 budget be recalculated to assume a 0% increase in sales tax revenue for 2010 over 2009 and 0% increase for 2009 over 2008. Chapman said the Mayor and Council leadership should be given latitude to come up with direction for the hearings. The Mayor has proposed a budget and it has been handed to Council. The Council can make changes when they start the process in August. LaCroix agreed with Chapman but said the discussion is good. He said we need to go through the process though. Olson said she is not comfortable voting on this item until there has been more discussion but agrees that full consideration should be given to the sales tax discussion. Hadcock said some things that have been brought up are good and said it is good to ask questions early. She would like to see some stuff early instead of being presented with everything at the budget. Costello supported getting the information now in order to be prepared. Mayor Hanks clarified that this information is on the disks that were already provided to Council. He recommended waiting because it gives time to get another check from the state. He said we are down 3% and that number is greatly attributable to the inclement weather in March. Responding to Waugh, Preston indicated that we will have one more payment for the first half of June when the budget hearings begin, and he also explained how the calculations can be done to satisfy Alderman Kooiker's request for recalculations. Kooiker clarified that he is asking for the budget to be rewritten but will settle for something close for good discussion. Chapman reiterated the Council can disagree with what the Mayor has proposed. He also said he would be prepared to start the budget process for 2011 as soon as the 2010 budget is passed. Responding to Weifenbach, Preston said the numbers on the state website are the filing period for June, which is our reporting period for May. Kooiker said if the motion fails it is his understanding that the information will still be brought to budget regarding the impact of doing 0% plus 0%. He said this would also mean the department heads will need to identify areas where they can make cuts. He said we cannot wait until the budget hearings and hope it works out. Kooiker said if the Mayor and Finance Officer are willing to bring forward a list of itemized possible cuts and what higher level numbers would be then he would be willing to withdraw his motion. Mayor Hanks then explained the role of the Mayor versus the Council and said it is inappropriate to ask the Mayor to revisit the budget. He pointed out that the budget he proposed is zero growth on the expense side and revenue projections are a best guess. He said it is important that the Council look at the expense side. Mayor Hanks explained that he has a statutory requirement to provide a budget to the Council, and the Council has a statutory requirement to adopt one. LaCroix reiterated that Preston will have the numbers a zero at the hearings, but he said it is too early to ask the Mayor to make changes. He said they need to have discussion with the department heads first. Hadcock said she thought they would get the information Sam asked for before the budget. She also said if the Council wants to change the budget they need to work with the Mayor as a team. Hadcock said that you do not need to take a budget from scratch; instead, it should be based on priority. She said she does not think they should start the budget in October but maybe in January or February after they see the numbers. Martinson stated that they should look at the 0 growth numbers for comparison purposes but should not stick to that as much as the Mayor's numbers. Kroeger said he has not spent more than an hour looking at the budget and is not ready to discuss it right now. He said we need to have the discussion but they should start August 10th. Question was called by

Kroeger. Chapman said that Council leadership will commit to coming to the hearings with the information, so it would be unnecessary to recalculate. He hoped that the motion would be withdrawn. Upon vote being taken, the following voted AYE: Weifenbach and Kooiker; NO: Kroeger, Costello, LaCroix, Chapman, Martinson, Waugh, Hadcock, and Olson. Motion failed.

Alderman Kooiker addressed his request to allow motorcycle parking in front of Oasis Lounge. He said since action was taken for the North side of Main Street he does not know if it makes sense to add spaces to the South side of the street. Motion was made by Weifenbach to grant the three parking spots in front of the Oasis, second by Kooiker. Weifenbach pointed out that another event permit for Sports Rock was approved for a similar request and asked why. LaCroix explained the discussion at Legal and Finance regarding the event permits. Responding to Weifenbach, Allender stated that in this case it is easier to monitor 80 spots rather than only 3 because there will be barricades and signage. Weifenbach expressed that he is not sure Jefferson is being treated fairly. He suggested letting her have the parking spots and then reconsider the issue next year. Olson indicated that they have a solution in place for motorcycle parking and does not think we need to make any additional correction. Hadcock reiterated that the Chief explained that larger areas are easier to enforce. The parking across the street will be sufficient, and it will make a difference. Weifenbach asked if Jefferson's request can be changed to 80 parking spots. Green said a request for reconsideration is not in order as there was no notice at the prior meeting. He said he understands that the Council has taken this up as an action item so it is up to the Council how they interpret their rules. Weifenbach urged the Council to give Jefferson the 3 spots since she went through the proper process. Chapman said he is unsure of why they approved the permit for Sports Rock and will vote in favor even though he disagrees with singling out businesses. Responding to Hadcock, Allender explained that the Ugly's Inc. (Sports Rock) request was for every Wednesday night at 5:00 PM. He continued to say that the spaces can be designated as motorcycle parking, but there was no enforcement promised. The spots in front of the Oasis will require a different level of enforcement. Waugh said he recalls a discussion from 2003 and 2004 regarding a plan for motorcycle parking, but there has never been a plan. He said a good step is to designate the 80 consecutive parking places but singling out one business is not a good step. Upon vote being taken, the following voted AYE: Chapman, Martinson, Weifenbach and Kooiker; NO: Costello, LaCroix, Waugh, Hadcock, Olson and Kroeger. Motion failed.

Alderman Kooiker discussed the Executive Session procedures and thinks the Council needs a full discussion. He explained that often there is a motion to approve an item per the direction from executive session, but we have no institutional memory of what that direction was since there are no notes or minutes taken. He pointed out that several other states have well documented executive sessions and their laws protect those minutes. He said we should work with the Municipal League to find a way to enable us to document what occurs behind closed doors. Kooiker said it becomes easy to veer into policy discussion but we should not discuss a purchase agreement for a lot on Skyline Drive behind closed doors. Responding to Hadcock, Green said some other states have provisions for minutes in executive session, but there are very specific provisions on protection. He advised that under South Dakota law that should not be our practice. Hadcock expressed interest in having that information available without breaking codified state law. Green indicated that he would like to research the issue first but said it is possible there is something that can be done. Hadcock also said we need to give more direction as to what executive session is about so that the public understands. Mayor Hanks pointed out that it would be a good question to ask during the upcoming open records discussion. Martinson hoped that Green could discuss the subject with the Attorney General's Office and make recommendations to the Council in light of the new open records law. Green agreed to report back to the Council.

LaCroix addressed the request from Oglala Sioux Tribe for sponsorship. He encouraged the Council to sponsor the pow wow since they are our sister city and explained that they would have gone through the subsidy process if they would have known about it. Responding to LaCroix, Yellow Bird Steel stated that they have a variety of categories for the funds, including elders and children. Motion was made by LaCroix, second by Hadcock, to approve an expenditure of \$5,000.00 from the Council Contingency for

sponsorship of the pow wow. Responding to Hadcock, Mayor Hanks indicated that there is a small line item for sister cities Apolda and Nikko, which has been done for many years. Hadcock asked about recently adding another sister city, but the Mayor explained there has been nothing formal yet. Responding to Chapman, Preston indicated that the Council Contingency balance is approximately \$130,000.00. Chapman said he hopes we will give Mr. Yellow Bird Steel the schedule for subsidy as the proper place to go in the future. Responding to Martinson, Mayor Hanks explained the subsidy committee and indicated this request would fall under performing arts. Kroeger pointed out the previous discussion that the budget will be short for the coming year and explained that he cannot be in favor of taking the funds from Council Contingency at this point. Upon roll call vote, the following voted AYE: LaCroix, Chapman, Waugh, Hadcock, Kooiker and Costello; NO: Martinson, Weifenbach, Olson and Kroeger. Motion carried.

### **Staff Items**

Motion was made by Kooiker, second by LaCroix and carried to award an informal quote for East Quincy Street Sanitary Sewer Extension Project No. SS09-1814 / CIP No. 50770 to Warax Excavating in the amount of \$22,760.00.

### **PUBLIC HEARING ITEMS** – Items 61 – 85

Motion was made, seconded and carried to open the public comment for Items 61 – 85.

Mark Sarda, Black Hills Power, said there has been a lot of discussion regarding the substation, and he explained their different proposals and the neighborhood objections. He said Black Hills Power is asking the Council to approve the fence height exception so that they can continue with the process.

Machelle Knoll explained her request regarding a fence height exception and said this request is to contain her dog and to have a reasonable amount of privacy. She explained that the denial was due to the possibility of negative visual impact for surrounding neighbors, vehicles or pedestrians. Machelle said due to this concern by Growth Management she is asking the Council to approve a 6 foot fence placed 10 feet back from the sidewalk.

### **CONTINUED PUBLIC HEARING CONSENT ITEMS** – Items 61 – 67

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

#### ***Continue the following items until August 3, 2009:***

61. 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.
62. 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.

63. No. 09RZ026 - A request by Dream Design International, Inc. for a **Rezoning from Medium Density Residential District to Office Commercial District** 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.
64. 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.
65. 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.
66. No. 09SV014 - A request by Fisk Land Surveying & Consulting Engineers for Walter J. Bradsky for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer along S.D. Highway 44, to waive the requirement to install curb, gutter, street light conduit, water, sewer, to reduce the pavement width from 24 feet to 22 feet and to waive the requiriement to dedicate right-of-way along Elkhart Road, Kenosha Road, and Canterberry Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 5A and 5B of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, legally described as Lot 5 of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, located at 7800 Elkhart Road.
67. No. 09FV003 - South Boulevard Addition – A request by Steven Dunn for Black Hills Power to consider an application 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, more generally described as being located east side of Fifth Street between Cleveland and Oakland Street.

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion was made by Olson, seconded and carried to close the public comment for items 61 – 85.

**CONSENT PUBLIC HEARING ITEMS** – Item 68 – 78

74. 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
76. LaMore Restaurant Group Inc. DBA Denny's, 2206 N LaCrosse St. for a Retail (on-off sale) Malt Beverage License NO Video Lottery

- 77. LaMore Restaurant Group Inc. DBA Denny’s, 2206 N LaCrosse St. for a Retail (on-off sale) Wine License
- 78. The Lost Steer LLC DBA The Lost Steer, 5412 Hwy. 16, for a Retail (on-off sale) Malt Beverage License

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

**Growth Management Items**

- 68. No. 09CA010 – Approve a request by Rising Properties, LLC for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Residential to General Commercial with a Planned Commercial Development** on Lots 15 and 16 of Block 10 of Flormann Addition, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 727 Fairview Street.

RESOLUTION # 2009-080  
 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 20<sup>th</sup> day of July, 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 General Commercial with a Planned Commercial Development on Lots 15 and 16 of Block 10 of Flormann Addition, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 727 Fairview 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 General Commercial with a Planned Commercial Development on Lots 15 and 16 of Block 10 of Flormann Addition, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 727 Fairview Street, as attached to the original hereof be filed with the City Finance Office.

Dated this 20th day of July, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 69. No. 09VR002 – Approve a request by Olsen Development Company, Inc. for a **Vacation of Section Line Highway** of the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, all located in the SE1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2000 Golden Eagle Drive.

RESOLUTION #2009-085  
RESOLUTION OF VACATION OF SECTION LINE HIGHWAY

WHEREAS it appears that the Section Line Highway located on the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, all located in the SE1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota more generally described as being located at 2000 Golden Eagle Drive; is not needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described Section Line Highway desires said public Section Line Highway to be vacated and released.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the public Section Line Highway heretofore described, and as shown on Exhibit "A", attached hereto, and incorporated herein, is hereby vacated.

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

Dated this 20th day of July, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 70. No. 09VR003 – Approve a request by Olsen Development Company, Inc. for a **Vacation of Section Line Highway** of the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, and Tract B of Tract 1 of the W1/2 SW1/4 less the IGT Subdivision and less right-of-way all located in the SE1/4 of Section 22 and the SW1/4 of Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2000 Golden Eagle Drive.

RESOLUTION #2009-086  
RESOLUTION OF VACATION OF SECTION LINE HIGHWAY

WHEREAS it appears that the Section Line Highway located on the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4 of Section 22, and Tract B of Tract 1 of the W1/2 SW1/4 less the IGT Subdivision and less right-of-way all located in the SE1/4 of Section 22 and the SW1/4 of Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2000 Golden Eagle Drive; is not needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described Section Line Highway desires said public Section Line Highway to be vacated and released.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the public Section Line Highway heretofore described, and as shown on Exhibit "A", attached hereto, and incorporated herein, is hereby vacated.

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

Dated this 20th day of July, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

**Alcohol Licenses**

- 71. Rapid City CVB for a Special Event Beer and Wine License for an event scheduled August 23, 2009 at Memorial Park.
- 72. Humane Society of the Black Hills for a Special Event Beer and Wine License for an event scheduled August 22, 2009 at Canyon Lake Chophouse, 2720 Chapel Lane.
- 73. Cimarron Casino Inc. DBA Royal Casino II, 2530 W. Main Street Ste. 2 for a Retail (on-off sale) Malt Beverage License WITH Video Lottery TRANSFER from Cimarron Casino Inc. DBA Eastside Plaza Casino, 1000 Cambell Street
- 75. Benjamin and Maria Munoz DBA El Ranchito Mexican Restaurant, 1012 East North Street Ste. A for a Retail (on-off sale) Malt Beverage License NO Video Lottery

**END OF CONSENT PUBLIC HEARING CALENDAR**

Motion was made by Weifenbach, second by LaCroix, and carried to continue the following alcohol licenses to the August 3, 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; LaMore Restaurant Group Inc. DBA Denny's, 2206 N LaCrosse St. for a Retail (on-off sale) Malt Beverage License NO Video Lottery; LaMore Restaurant Group Inc. DBA Denny's, 2206 N LaCrosse St. for a Retail (on-off sale) Wine License; and The Lost Steer LLC DBA The Lost Steer, 5412 Hwy. 16, for a Retail (on-off sale) Malt Beverage License.

**NON-CONSENT PUBLIC HEARING ITEMS** – Items 79 – 85

Ordinance 5523 (No. 09RZ027) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Rising Properties, LLC for a **Rezoning from Medium Density Residential District to General Commercial District** on Lots 15 and 16 of Block 10 of Flormann Addition, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 727 Fairview Street having passed its first reading on July 6, 2009; motion was made by LaCroix and second by Costello that the title be read the second time. Elkins explained that this involved a planned development designation and is approved contingent on approval of the rezoning. She noted one individual who had concerns. Upon vote being taken, the following voted AYE: Kooiker,

Olson, Kroeger, Costello, LaCroix, Chapman, Martinson, Weifenbach, Waugh and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5523 was declared duly passed upon its second reading.

The Mayor presented (No. 09SE005) A request by Mona Drole for Ups of Downs Family Support Group for a **Special Exception to the Flood Area Construction Regulations to allow temporary structures in the flood plain** on Tract 20 of the Rapid City Greenway Tract, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the Memorial Park Bandshell. Motion was made by Kooiker, second by LaCroix and carried to approve the request 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.

The Mayor presented (No. 09SE006) A request by Rapid City Convention & Visitors Bureau for a **Special Exception to the Flood Area Construction Regulations to allow temporary structures in the flood plain** on Tract 20 less Lot H1 of the Rapid City Greenway Tract, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the Memorial Park Bandshell. Motion was made by Kooiker, second by LaCroix and carried to approve the request 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.

The Mayor presented (No. 09VR004) A request by Olsen Development Company, Inc. for a **Vacation of Section Line Highway** of the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, of Section 22 and the E1/2 N1/2 NE1/4 of Section 27, all located in the SE1/4 of Section 22 and the NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2000 Golden Eagle Drive. Motion was made by Kooiker, second by LaCroix and carried to approve the request with the following stipulations: 1. Prior to City Council approval, a utility easement, reviewed and approved by Montana Dakota Utilities Company, Qwest Corporation and the City of Rapid City, shall be recorded for the existing Montana Dakota Utilities Company gas line and Qwest Corporation telephone line located within the section line highway; 2. Prior to City Council approval, an access easement shall be recorded at the Register of Deed's Office securing a turnaround at the western terminus of the area of the section line highway to be vacated; and, 3. Prior to City Council approval, an Exception shall be obtained to allow a 1,125 foot long cul-de-sac with no intermediate turnarounds in lieu of a maximum 500 foot long cul-de-sac with an intermediate turnaround every 600 feet.

RESOLUTION #2009-087  
RESOLUTION OF VACATION OF SECTION LINE HIGHWAY

WHEREAS it appears that the Section Line Highway located on the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, of Section 22 and the E1/2 N1/2 NE1/4 of Section 27, all located in the SE1/4 of Section 22 and the NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2000 Golden Eagle Drive; is not needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described Section Line Highway desires said public Section Line Highway to be vacated and released.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the public Section Line Highway heretofore described, and as shown on Exhibit "A", attached hereto, and incorporated herein, is hereby vacated.

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

Dated this 20th day of July, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

The Mayor presented (No. 09VR005) A request by Fisk Land Surveying & Consulting Engineers for Tom Rau and Dana Vogt for a **Vacation of Right-of-way** of Lot 16 of Block 2 and Lot 18 of Block 1 of Country Club Heights, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2809 and 2812 Frontier Drive. Motion was made by Kooiker, second by LaCroix and carried to approve the request with the following stipulations: 1. Prior to City Council approval, the utility easement document shall be signed by the adjacent property owners, Dana Vogt, Thomas Rau, Sherwood L. Corner and Lila Mae Corner. Upon approval of the Vacation of Right-of-way request and the subsequent recording of the Vacation Resolution at the Register of Deed's Office, the utility easement shall be recorded to insure that the existing utilities are secured within an easement.

RESOLUTION #2009-088  
RESOLUTION OF VACATION OF RIGHT-OF-WAY

WHEREAS it appears that the right-of-way located on Lot 16 of Block 2 and Lot 18 of Block 1 of Country Club Heights, located in the NE1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2809 and 2812 Frontier Drive; is not needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described right-of-way desires said public right-of-way to be vacated and released.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the public right-of-way heretofore described, and as shown on Exhibit "A", attached hereto, and incorporated herein, is hereby vacated.

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

Dated this 20th day of July, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

The Mayor presented (No. 09FV009) A request by Machel M. Knoll to consider an application for a **Fence Height Exception to allow a six foot fence in lieu of a four foot fence in the Low Density Residential Zoning District** on Lot B of Lot 1 of Block 8 of CHMH Subdivision, Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 807

Sagewood Street. Motion was made by Kooiker, second by LaCroix, to approve the request with the stipulation that the fence is 10 feet back from the front yard set back. Motion carried with one NO from Waugh.

The Mayor presented (No. 09FV010) A request by Scott Goble for SWS, LLC to consider an application for a **Fence Height Exception to construct an 8 foot high fence in lieu of a six foot high fence and to allow an 8 foot high fence in the front yard setback in lieu of a 4 foot high fence in the General Commercial Zoning District** on Block 20 excepting therefrom the south eight and one-half feet thereof in Airport Addition, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 232 Wright Street. Motion was made by Hadcock, second by Weifenbach, to approve the request with the following stipulations: 1. Prior to Public Works Committee approval, a revised landscape plan shall be submitted for review and approval; and, 2. The fence shall be constructed in conformance with the architectural plans and elevations and color palette submitted as part of this Fence Height Exception. Kooiker wanted to acknowledge that he is abstaining from this item. Motion carried with Kooiker abstaining.

### **BILLS**

Payroll Ending 07/04/2009, Paid 07/10/2009	911,094.37
Payroll Ending 07/04/2009, Paid 07/10/2009	3,434.18
Pioneer Bank and Trust, Paid 07/10/2009	210,857.55
Pioneer Bank and Trust, Paid 07/10/2009	230.29
Berkley Risk, Paid 07/02/2009	35,872.78
First Administrators, Paid 07/07/2009	56,073.98
First Administrators, Paid 07/14/2009	76,062.23
First National Bank, Paid 07/14/2009	317,602.73
Montana Dakota Utilities, Paid 07/13/2009	1,425.51
West River Electric, Paid 07/13/2009	17,875.41
Computer Bill List	6,033,767.39
Subtotal	
Payroll Ending 07/04/2009, Paid 07/10/2009	2,824.60
Pioneer Bank and Trust, Paid 07/10/2009	216.08
City of Rapid City – Health Ins.	962.50
City of Rapid City – Postage	195.06
Ikon Financial Services	8.59
Knology	2.44
McKie Ford	881.65
Metropolitan Life	6.42
Angie Weeks	41.52
Total	6,038,906.25

Preston requested to add a payment to KRM Concrete for Miscellaneous Improvement Projects 2009 Change Order #1 Final in the amount of \$8,265.82, Siteworks Specialists for Rand Road Drainage Change Order #2 Final in the amount of \$172.50, and Tru-Form Construction for Downtown Pavement Repair Change Order #3 Final in the amount of \$5,544.10. The new Bill List total is \$6,052,888.67. Motion was made by Hadcock and seconded to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof. Responding to Kroeger, Preston indicated we are not paying out of unencumbered cash or reserves that were not authorized in the budget. Motion carried.

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

Motion was made by Costello, second by Chapman, to go into Executive Session at 10:45 P.M. for the reasons permitted by SDCL 1-25-2. Motion carried with one NO from Kooiker. The Council came out of Executive Session at 11:20 P.M. with all members present.

Motion was made by Hadcock, second by Weifenbach, to deny (No. LF071509-20) a request to authorize Mayor and Finance Officer to Sign Real Estate Purchase Agreement with Robert J. Burgard and Diane E. Burgard. Weifenbach indicated that he does not support the request due to the earlier comments about shortfalls in the budget and said there are higher priorities. Costello agreed and said the timing needs to be right. Hadcock stated we need to base on priority lists. She believes this is good land but not in the budget right now. Motion carried.

**ADJOURN**

As there was no further business to come before the Council at this time, the meeting was adjourned at 11:23 P.M.

CITY OF RAPID CITY

ATTEST:

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

\_\_\_\_\_  
Mayor

(SEAL)