

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

June 15, 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, June 15, 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, Deb Hadcock, Lloyd LaCroix, Patti Martinson, Ron Weifenbach, and Malcom Chapman; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: Bill Okrepkie.

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Growth Management Director Marcia Elkins, Police Chief Steve Allender, Community Resource Director Kevin Thom, Parks and Recreation Director Jerry Cole, City Engineer Dale Tech and Administrative Coordinator Amber Sitts.

ADOPTION OF AGENDA

The following items were added to the agenda:

- Introduction of the City's new HR Director
- Set for hearing on July 6, 2009 a Special Event Beer and Wine License for the Rapid City Area Chamber of Commerce for an event scheduled for July 14, 2009 at Dave Schmidt Insurance Agency, 2834 Jackson Blvd.
- Discussion on TIF 47, Alderman Costello
- Vickie Powers Park Build, Alderman LaCroix

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 Costello, and carried to approve the minutes for June 1, 2009 Regular Council Meeting and June 4, 2009 Special Council Meeting.

AWARDS AND RECOGNITIONS

Mayor Hanks presented the Veteran of the Month for June 2009 to Thomas Drumm and recognized his efforts and dedication to the service of his country and community.

Kevin Thom introduced Tammie Krumm as the City's new HR Director.

GENERAL PUBLIC COMMENT

Dennis Halterman explained that businesses downtown are challenged when streets are blocked for special events. He said they recently received a notice regarding the car show, but it did not state they would not have access to the front of their building. He pointed out that the downtown business owners create revenue, jobs, and pay taxes. He said the events are fun, but the primary purpose of downtown is for business owners and customers to have access to their businesses.

NON-PUBLIC HEARING ITEMS -- Items 3 - 72

Motion was made by Hadcock, second by LaCroix, and carried to open the public comment period. No comments were offered.

Motion was made by LaCroix, second by Costello, and carried to close the public comment period.

CONSENT ITEMS – Items 3 – 51

The following items were removed from the Consent Items:

26. Acknowledge the report regarding the Wally Byam sale.
27. No. LF061009-01 – Approve DUI Overtime and Special Event Program.
28. No. LF061009-02 – Approve DUI Enforcement Program.
51. No. 09PL016 – To Deny Without Prejudice a request by Renner & Associates for Gene Quinn for a **Layout Plat** on Lots 1 thru 3 of Blake Estates, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, legally described as Tract A of Government Lot 1 and Tract A of Government Lot 2, located in the W1/2 of the NW1/4, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, located at 6620 West Highway 44.

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

Vacations of Right-Of-Way Set for Hearing (July 20, 2009)

3. No. 09VR002 - A request by Olsen Development Company, Inc. for a **Vacation of Right-of-Way** 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.
4. No. 09VR003 - A request by Olsen Development Company, Inc. for a **Vacation of the Section Line Right-of-Way** 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.
5. No. 09VR004 - A request by Olsen Development Company, Inc. for a **Vacation of the Section Line Right-of-Way** 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.
6. 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.

Public Works Committee Consent Items

7. No. PW060909-01 – Approve Change Order No. 1 Final for Levee Storm Sewer Flap Gates, to Mainline Contracting, Inc., Project No. DR08-1736 / CIP No. 50732, for an increase of \$2,499.90.

8. No. PW060909-02 – Approve Change Order No. Final for East North Street Overlay, to Simon Contractors of SD, Inc., Project No. ST09-1784 / CIP No. 50445, for a decrease of \$10,700.38.
9. No. PW060909-03 – Approve Change Order No. 1 Final for East Anamosa Street Extension Project, to Heavy Constructors, Inc., Project No. 07-0393, for an increase of \$22,384.35.
10. No. PW060909-04 – Approve Change Order No. 2 Final for Wisconsin Avenue Water Main Reconstruction, to Mainline Contracting, Inc., Project No. W08-1744 / CIP No. 50740, for an increase of \$11,531.81.
11. No. PW060909-05 – Approve Change Order No. 1-A Final for Fairmont Boulevard / US Highway 16 Intersection Reconstruction, Project No. ST05-1251 for \$0.00 (Correct Funding Distribution).
12. No. PW060909-06 – Authorize Staff to Advertise for Bids for a New Current Model Year Backhoe for the Water Division. Replacement for John Deere 510 Backhoe. Estimated Cost: \$158,500.
13. No. PW060909-07 – Authorize Staff to Advertise for Bids for Landfill Leachate Removal and Remediation, Project No. LF07-1681 / CIP No. 50694. Estimated Cost of Project: \$246,000.00.
14. No. PW060909-08 – Authorize Mayor and Finance Officer to Sign an Agreement with Steve Becher for the right to harvest alfalfa from a certain property owned by the City of Rapid City in the amount of \$11,201.00.
15. No. PW060909-09 – Authorize Mayor and Finance Officer to Sign Amendment Number 1 to the agreement with Albertson Engineering, Inc. for the Block 75 Parking Structure Third Level Addition, Project No. IDP08-1725, in the amount of \$2,315.92.
16. No. PW060909-10 – Authorize Mayor and Finance Officer to Sign an Interruptible General Gas Service Agreement between the City of Rapid City Common Energy Plant and Montana-Dakota Utilities Company to have natural gas delivered.
17. No. PW060909-11 – Authorize Mayor and Finance Officer to Sign a Standard Agreement and Authorization for Services between the City of Rapid City and Simpson & Associates, Inc., Real Estate Appraisers, for a Market Value Appraisal for the property located at the NE Corner of Anamosa Street and Haines Avenue, Anamosa Street Reconstruction, Project No. ST07-1472 / CIP No. 50519, in the amount of \$7,500.00.
18. No. PW060909-12 – Authorize Mayor and Finance Officer to Sign an Agreement between the City of Rapid City and HDR Engineering, Inc. for the Water Reclamation Facility Non-Potable Water System Replacement, Project No. WRF08-1770 / CIP No. 50748, in the amount of \$89,802.00.
19. No. PW060909-13 – Authorize Mayor and Finance Officer to Sign an Agreement between the City of Rapid City and Britton Engineering and Land Surveying, Inc. for the Catron Boulevard / Highway 16B Sanitary Sewer Extension, Project No. SSW09-1782 / CIP No. 50396, in the amount of \$82,500.00.
20. No. PW060909-14 – Authorize Mayor and Finance Officer to Sign Supplemental Agreement No. 1 between the City of Rapid City and Stanley Consultants, Inc., to provide additional services for the Energy Plant Study Project, Project No. PW08-1741, in the amount of \$7,300.00.
21. No. 09VE002 - Owen Mann Tract – Deny without prejudice at the applicant's request the request by Code Works to consider an application for a **Vacation of Utility and Drainage Easement** on

Lots 1 and 2 of Lot C of Block 5 of Owen Mann Tract, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3220 West Main Street.

- 22. No. PW060909-16 – Authorize the Mayor and Finance Officer to sign a public utility easement granting a 20 foot wide sewer easement across Lot 2, Owen Hibbard Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.
- 23. No. PW060909-15 – Approve Change Order No. 001 for Vickie Powers Park, Project No. PR08-6002, to RCS Construction for an increase of \$10,301.00 for watermain revisions with cathodic protection.

Legal & Finance Committee Consent Items

- 24. No. LF061009-22 – Authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and SSST, LLC for the Completion of Subdivision Improvements Secured by Bond Number 105245299.
- 25. No. LF061009-23 – Authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and SSST, LLC for the Completion of Subdivision Improvements Secured by Bond Number 105245300.
- 29. No. LF061009-03 – Approve Travel Request for Kim Gerhardt to attend Fundamentals of Latent Prints Introductory Course in Fingerprints for Forensic Examiner in Hammond, IN, July 26-August 1, 2009, in the approximate amount of \$1,695.
- 30. No. LF061009-04 – Approve Travel Request for Steve Allender to attend International Association of Chiefs of Police Annual Conference in Denver, CO, October 2-7, 2009, in the approximate amount of \$1,760.
- 31. Authorize staff to apply for 2009 Assistance to Firefighters Grant from Homeland Security.
- 32. No. LF061009-05 – Approve Resolution Writing Off Uncollectible Ambulance Billing Accounts.

RESOLUTION #2009-077
 RESOLUTION WRITING OFF UNCOLLECTABLE AMBULANCE BILLING ACCOUNTS

WHEREAS, The City Finance Office has determined that certain ambulance billing accounts, shown on Appendix A, attached, and totaling \$25,554.38 are uncollectible; and

WHEREAS, It is necessary to relieve the accounts receivable of the City of Rapid City for these accounts.

NOW, THEREFORE BE IT RESOLVED, by the City of Rapid City, that the City Finance Officer be directed to remove such accounts from the active receivable of the City, said accounts being detailed in the official files of the City Finance Office.

Dated this 15th day of June, 2009.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

33. No. LF061009-24 – Approve Travel Request for Mark Rohlfing and Tim Kobes to attend Missouri Valley Fire Chiefs Conference in Overland Park, KS, July 8-10, 2009, in the approximate amount of \$2,340.
34. No. LF061009-25 – Approve Event Permit for the Rapid City Fire Department/ Pennington County Firefighter Association to use the metered parking spots in front of 603 Quincy Street and to block off 6th Street from the intersection of 6th Street and Quincy Street to just north of the alley access on June 12-13, 2009.
35. No. LF061009-06 – Approve Travel Request for Cameron Humphres and Ron Johnsen to attend AAAE/ALA Summer Legislative Issues Conference in Washington, DC July 12-16, 2009, in the approximate amount of \$4,221.
36. No. 09TI001 – Approve a request by Ferber Engineering Co., Inc. for North Street Fire Station, LLC to consider an application for a **Revised Project Plan for Tax Increment District No. 69** on that portion of the SE1/4 north of Interstate 90 less Tract A of the NE1/4 SE1/4 including that portion of vacated East Mall Drive being part of the outside edge of Lot H5; Lot B-1 of Lot B of SE1/4 NE1/4; Lot A of Lot 1 and the balance of Lot 1, Lot A & B of Lot 3 and Lot 3 less Lots A & B, Lot 2, all of Silver Strike Subdivision; that portion of SW1/4 north of Interstate 90 including vacated East Mall Drive within said SW1/4 less Lot 1 of NE1/4 SW1/4, less Lots 1 & 2 of NW1/4 SW1/4; Lot 1 of NE1/4 SW1/4 including vacated East Mall Drive within said lot; NW1/4 including vacated East Mall Drive located within said NW1/4, less lots AR, B, C less E1/2 NE1/4 NW1/4, less E1/2 NW1/4 NE1/4 NW1/4; Lots B & C of NW1/4; Lot AR; E1/2 NW1/4 NE1/4 NW1/4; SE1/4 NE1/4 NW1/4; NE1/4 NE1/4 NW1/4; that portion of Lot D located in the NW1/4 NE1/4; Lot A and Lot C in NW1/4 NE1/4; Right of way of East Mall Drive; Right of way of North Street; Right of way of Distribution Lane; all located in Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the Intersection of East Mall Drive and Dyess Avenue located in the western portion of Section 28 and the eastern portion of Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of U.S. Interstate 90, east of LaCrosse Street and west of Dyess Avenue.

RESOLUTION #2009-078

RESOLUTION APPROVING THE REVISED PROJECT PLAN FOR NORTH STREET FIRE STATION TAX INCREMENT DISTRICT NUMBER SIXTY NINE AS SUBMITTED BY THE RAPID CITY PLANNING COMMISSION

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

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

WHEREAS, there has been established North Street Fire Station Tax Increment District Number Sixty-Nine; and

WHEREAS this Revised Project Plan will replace the Project Plan previously approved by the City Council on July 21, 2008; and

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

WHEREAS, the Tax Increment District includes commercially zoned property thereby forming an economic development Tax Increment District; and

WHEREAS, the Revised Project Plan submitted helps make this development feasible by assisting in the development of commercial property located north of U.S. Interstate 90 and east of LaCrosse Street through regional public infrastructure improvements, and to assist in the development of a Fire Station; and

WHEREAS, the Revised Project Plan submitted will assist with the construction of E. North Street construction, interim sanitary sewer lift station, sewer force main, gravity sewer, box culvert, widening E. Mall Drive, traffic signal, drainage channel, environmental remediation and a Fire Station; and

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

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

WHEREAS, the Council has considered the Revised Project Plan submitted by the Planning Commission and determined that the Revised Project Plan for North Street Fire Station Tax Increment District Number Sixty-Nine is economically feasible; and

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

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

Dated this 15th day of June, 2009.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

- 37. Acknowledge the following volunteers for workmen’s compensation purposes: Lauren Peiffer and Brittney Seitz.
- 38. No. LF061009-08 – Declare three transformers surplus and authorize using these items as trade-ins.
- 39. No. LF061009-09 – Approve Resolution No. 2009-071 Declaring Property Surplus.

RESOLUTION #2009-071
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:

Streets

Snap-On diagnostic scanner, model MT2500, Inv. # 013258
Solarity 4 channel diagnostic scanner, S/N: AEA52504152

Water Reclamation

1993 Ford Areostar van, S/N: 1FTDA25X6PZB84589

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 15th day of June, 2009.

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

ATTEST:
s/ James F. Preston
Finance Officer

(SEAL)

- 40. No. LF061009-10 – Approve Resolution No. 2009-072 to Amend the Contract between AFSCME and the City of Rapid City by Establishing the Position of Equipment Maintenance Chief to the AFSCME Pay Scale.

RESOLUTION #2009-072
RESOLUTION TO AMEND THE CONTRACT BETWEEN AFSCME AND THE CITY OF RAPID CITY BY ESTABLISHING THE POSITION OF EQUIPMENT MAINTENANCE CHIEF TO THE AFSCME PAY SCALE

WHEREAS, the Public Works Director has requested that the position of Equipment Maintenance Chief should be established to provide the necessary services in Public Works for the City of Rapid City; and

WHEREAS, an evaluation established that the duties and responsibilities of the following position justify placing the classification within Grade 17 of the AFSCME pay scale;

Job Title	Grade	Wage
Equipment Maintenance Chief	17	\$18.46 to \$28.08/hr.

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

Dated this 15th day of June, 2009.

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

ATTEST:
s/ James F. Preston
Finance Officer

(SEAL)

41. No. LF061009-11 – Approve Travel Request for Tammie Krumm to attend Annual Public Sector Human Resources Professional Conference in Nashville, TN, September 11-16, 2009, in the approximate amount of \$2,897.
42. No. LF061009-12 – Authorize Mayor and Finance Officer to sign Agreement with Rapid City Racers Swim Club, Inc.
43. No. LF061009-13 – Approve Parks and Recreation Facilities Partnership Program Revisions.
44. No. LF061009-14 – Authorize Mayor and Finance Officer to sign Lease Agreement with Rapid City Lodge No. 1187 of the Benevolent and Protective Order of Elks for Property Located at the Southern Edge of the Wally Byam Site.
45. No. LF061009-15 – Authorize Mayor and Finance Officer to sign Covenant Agreement with Big D Oil Co.
46. No. LF061009-17 – Approve request from Sandra Curtis, d/b/a Granny's Goodies, for 2009 Ice Cream Vending License.
47. No. LF061009-18 – Approve Raffle Request for the Rapid City Arts Council.
48. No. LF061009-20 – Authorize Mayor and Finance Officer to sign Memorandum of Understanding with AFSCME regarding shift differential pay.

Growth Management Department Consent Items

49. Approve to authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of sidewalk along Cambell Street as they abut Lot 1, South Yard Subdivision, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (09EX058)
50. Approve to authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of sidewalk along South Valley Drive and East Saint Andrew Street as they abut Lot N of Tract A, Schlottman Addition, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (09EX064)

END OF CONSENT CALENDAR

Motion was made by Kooiker and seconded to acknowledge the report regarding the Wally Byam sale. Kooiker explained that the City is only selling the front portion of the site. Responding to Kooiker, Green stated that the sale has to be advertised twice in 10 days, and nothing will happen until the advertising is completed. He will also add information to the City website, and it will come back before the Council for approval. It was indicated that the parcel for sale is approximately 1.6 acres with an asking price of \$5.50 per square foot, and the purchaser will have to post surety for improvements that need to be done in order to meet requirements of the City subdivision ordinance. Responding to Hadcock, Green said there were budgeted funds as a result of this land sale included in the 2009 budget. Green said the sale will depend on buyers, but if a proposal is submitted, he will bring it to the Council. He said the funds from the sale would be deposited in the general fund and would be available. If the land is not sold in 2009, it may require the use of reserves or there may be unspent funds to absorb the shortfall. Motion carried.

Motion was made by Kooiker, second by LaCroix, to approve (No. LF061009-01) DUI Overtime and Special Event Program. Allender briefly described the DUI enforcement program. He discussed several media involvement areas, education efforts, and public partnerships, and he explained how accident fatalities have decreased in the City as DUI arrests increase. LaCroix commended the Police Department and said the prevention efforts are working. Responding to LaCroix, Allender said he would provide a cost breakdown related to one DUI arrest but confirmed it is not a moneymaker for the City. Allender also confirmed this would be a continuation of a grant already in place. Responding to Hadcock, Allender indicated they have applied for stimulus funds but will not know if they will receive the award until September. If they receive the funds, it will be 100% funding for three years. Hadcock said she will be asking for information during budget hearings regarding employees added through the COPS grant. Responding to a question from Weifenbach, Allender said because of the unusual reduction in DUIs the state believes this could be the low. He also confirmed that the DUI conviction rate in Rapid City is nearly 100%. Allender indicated that he does not know the number of arrests in Minnehaha County but offered to find out. Olson said they should also sign off on the fact that Rapid City believes in zero tolerance drinking and driving. She expressed her appreciation for the report and educational component. Costello said he does not see the City providing other alternatives for drinking and driving, and he wants people to know that the City is taking an active roll in providing an alternative. Motion carried.

Motion was made by Kooiker, second by Hadcock, and carried to approve (No. LF061009-02) DUI Enforcement Program.

Motion was made by Kroeger, second by Hadcock, and carried to deny without prejudice (No. 09PL016) A request by Renner & Associates for Gene Quinn for a **Layout Plat** on Lots 1 thru 3 of Blake Estates, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, legally described as Tract A of Government Lot 1 and Tract A of Government Lot 2, located in the W1/2 of the NW1/4, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, located at 6620 West Highway 44.

CONTINUED CONSENT ITEMS – Items 52 - 56

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

Continue the following items until July 6, 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.

53. No. 08PL143 - A request by Sperlich Consulting, Inc. for Joe Muth at Doeck, LLC for a **Preliminary Plat** on Lot 1R-2 of Block 3 of Rainbow Ridge Subdivision, located in E1/2 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1R of Block 3 of Rainbow Ridge Subdivision, located in the SE1/4 NE1/4, and a portion of the NE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest terminus of Bunker Drive.
54. 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.
55. 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.

Continue the following items until July 20, 2009:

56. 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.

END OF CONTINUED CONSENT ITEMS

NON-CONSENT ITEMS – Items 57 - 72

Motion was made by Hadcock, second by Olson and carried to open the public comment for Items 57 – 72. Randy Ross and Diana Zephner represented ATTA and presented documents to help move their Powwow Grounds project forward. They pointed out that this project is important for the growth of the city, and they assured the Council they will get this project on track.

Motion was made by LaCroix, second by Costello, and carried to close the public comment for Items 57 – 72.

Ordinances

Ordinance 5517 (No. 09OA002) An Ordinance Revising Permitted and Conditional Uses and Area Regulations within the Airport Zoning District by Amending Section 17.58 of the Rapid City Municipal Code. Motion was made by Kooiker, second by LaCroix and carried that Ordinance 5517 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 6, 2009

Ordinance 5516 (No. LF061009-07) An Ordinance Regarding Supplemental Appropriation No. 4 for 2009. Motion was made by Kooiker, second by LaCroix and carried that Ordinance 5516 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 6, 2009

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** of 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 was made by LaCroix, second by Olson, that Ordinance 5518 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, July 6, 2009. Responding to Kooiker, Elkins indicated that there are residences in the area and said there is a related comprehensive plan amendment pending as well. She said her recollection of the application is that it includes an initial and final development plan. She also said this is not in concurrence with the existing future land use plan, but there is a pending comprehensive plan amendment which will be reviewed before a recommendation is made to the Council. Motion carried.

Growth Management Department Items

Motion was made by Kroeger, second by LaCroix, and carried to approve (No. 08PL098) A request by Dream Design International Inc. for a **Preliminary Plat** on Lots 29 thru 33 of Block 3 of Homestead Plaza Subdivision, located in the S1/2 NW1/4 and in the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract A of F&N Subdivision, the balance of the E1/2 SW1/4 NW1/4, the balance of the SE1/4 NW1/4, located in the S1/2 NW1/4 and the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Timmons Boulevard, south of Neel Street and west of Big Sky Drive with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, Rapid Valley Sanitary District and the City of Rapid City shall enter into an agreement to allow the City of Rapid City to provide sanitary sewer and water service to those lots located within the Rapid Valley Sanitary District service boundary area; 2. Prior to Preliminary Plat approval by the City Council, a cost estimate of the required subdivision improvements shall be submitted for review and approval; 3. Prior to submittal of a Final Plat application, the plat document shall be revised to show the lots as Lots 1 thru 5 of Block 3 in lieu of Lots 29 thru 33 of Block 3; 4. 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; 5. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 6. The approved Preliminary 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.

Motion was made by Kroeger, second by LaCroix to approve (No. 09PL003) A request by Dream Design International, Inc. for a **Preliminary Plat** on Lot 1 of Block 2 of Hilltop Business Park Subdivision, formerly a portion of the SE1/4 of the NE1/4, located in the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Homestead Street and Elk Vale Road with the following stipulations: 1. Prior to Preliminary Plat approval by City Council, water system plans prepared by a Registered Professional Engineer verifying the source and demonstrating that sufficient quantities for domestic and fire flows be submitted for review and approval or a Variance to the Subdivision Regulations must be obtained; 2. Prior to Preliminary Plat approval by the City Council, plans for Elk Vale Road shall be submitted showing Elk Vale Road constructed with a minimum 36 feet wide paved surface, curb, gutter, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 3. Prior to Preliminary Plat approval by the City Council, a cost estimate for the subdivision improvements shall be submitted for review and approval; 4. Prior to Preliminary Plat approval by the City Council, an Erosion

and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval if necessary; 5. Upon submittal of a Final Plat application, surety shall be posted and subdivision inspection fees be paid as required; 6. Prior to the City's acceptance of the public improvements, a warranty surety be submitted for review and approval as required. Elkins stated that parts of this are in areas with detailed drainage basin master plans. Tech then explained how the storm water flows at this particular site. Motion carried.

Motion was made by Kroeger, second by LaCroix to approve (No. 09PL022) A request by Britton Engineering and Land Surveying for Fredrick and Arlene White for a **Layout Plat** on Lot 7R of Block 2 of Green Valley Estates, located in the SE1/4 of Section 23, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lots 7 and 8 of Block 2 of Green Valley Estates, located in the SE1/4 of Section 23, T1N, R8E, BHM, Pennington County, South Dakota, located at 5811 Green Tree Drive with the following stipulations: 1. Upon submittal of a Preliminary Plat application, the applicant shall identify and secure Major Drainage Easements as needed to limit development or encroachments into the 100 year Federally designated floodplain as per the City's adopted Flood Area Construction Regulations. In addition, a Floodplain Development Permit shall be obtained prior to the start of any construction within the 100 year Federally designated floodplain; 2. Upon submittal of a Preliminary Plat application, construction plans for Green Tree Drive shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with curb, gutter, sidewalk, street light conduit, water and sewer. In addition, the cul-de-sac bulb shall be located within a minimum 110 foot diameter right-of-way and constructed with a minimum 96 foot wide diameter paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained. The plat document shall also be revised to provide an additional five feet of right-of-way for the cul-de-sac bulb or a Variance to the Subdivision Regulations shall be obtained; 3. Upon submittal of a Preliminary Plat application, the plat document shall be revised to provide a shared approach for the existing driveway located between Lot 8 and Lot 9. In addition, the shared approach shall not exceed 40 feet by 40 feet or construction plans shall be submitted for review and approval showing the driveway constructed to City Street Design Standards with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer and located within a minimum 45 foot wide right-of-way or a Variance to the Subdivision Regulations shall be obtained; 4. 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. If a private water system is utilized, then an on-site water plan prepared by a Professional Engineer shall be submitted for review and approval. In addition, the water plans shall demonstrate that adequate fire and domestic flows are being provided. The plat document shall also be revised to provide utility easements as needed; 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. If individual on-site wastewater systems are utilized, then an on-site wastewater plan prepared by a Professional Engineer demonstrating that the soils are suitable for on-site wastewater systems shall be submitted for review and approval. In addition, information shall be provided identifying the condition and location of the existing wastewater system including flood proofing measures; 6. Upon submittal of a Preliminary Plat application, a utility master plan including existing and proposed public and private utilities shall be submitted for review and approval. In addition, the applicant shall demonstrate that water and sewer extensions are being provided through the property in accordance with the Green Valley Sanitary District's Master Utility Plan or a Variance to the Subdivision Regulations shall be obtained. In addition, the plat document shall be revised to provide utility easements as needed; 7. Upon submittal of a Preliminary Plat application, an Erosion and Sediment Control Permit in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval for any required subdivision improvements; 8. Upon submittal of a Preliminary Plat application, a drainage plan in compliance with Drainage Criteria Manual shall be submitted for review and approval for any subdivision improvements; 9. Upon submittal of a Preliminary Plat application, a cost estimate of the required subdivision improvements shall be submitted for review and approval if any subdivision improvements are required;

10. Prior to submittal of a Preliminary Plat application, the plat document shall be revised to provide a minimum 8 foot wide minor drainage and utility easement along all of the interior lot lines. In addition, the existing shed shall be relocated and/or removed in part to eliminate encroaching into this 8 foot wide area or the applicant shall obtain approval by the City Engineer to reduce the width of the easement for the area of the shed; 11. Prior to submittal of a Final Plat application, a reserve drainfield area for on-site wastewater treatment shall be shown on the plat or a note shall be placed on the plat indicating that at the time a Building Permit application is submitted, a reserve drainfield area for on-site wastewater treatment will be identified and held in reserve unless a public sewer system is provided; 12. Prior to submittal of a Final Plat application, the plat document shall be revised to show the Certificates of Title for a Final Plat in lieu of a Minor Plat; 13. 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; 14. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 15. 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. Elkins briefly explained the stipulations. Motion carried.

Motion was made by Kroeger, second by Hadcock, and carried to table (No. 07VE002) 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.

Motion was made by Kroeger, second by LaCroix, to approve (No. 09EX058) A request to waive the requirement to install sidewalk along Cambell Street as per City Ordinance No. 12.16.080 on Lot 1 South Yard Subdivision Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota contingent upon the applicant signing a Waiver of Right to Protest future sidewalk improvements along Cambell Street. Elkins described the area at the request of Costello, and she explained the stipulation indicating that the waiver of right to protest was acted on earlier in the agenda. Motion carried with one NO from Olson.

Legal & Finance Committee Items

Motion was made by Kooiker, second by LaCroix, to acknowledge receipt of the letter from ATTA and release \$150,000 of previously allocated 2012 funds. Responding to Hadcock, an ATTA representative said the \$100,000 from Stan Adelstein is for matching going into design and construction. Regarding the \$125,000 from BIA, she said it was provided over three years during which time she was not involved, so she does not know what it was spent on except operating costs and possibly the architect. Responding to Hadcock, Pat Wyss explained that they have an estimate of \$170,000 for design and said the idea of a match came up after the request for \$150,000.

Substitute motion was made by Hadcock, second by LaCroix, to acknowledge the letter from ATTA and release up to \$100,000 of 2012 funding that have been identified for design on a dollar for dollar match. Olson said she wants assurance that Exhibit A describes the project in total and Exhibit D addresses allocating the funds to move the project forward. LaCroix said he is comfortable with the match and wants to see this move forward. Weifenbach asked about the stipulations that were required of the soccer organization and said it does not seem there were any stipulations from Stan Adelstein on the \$100,000. Kroeger said his main concern would be if Mr. Adelstein is ok with using the funds for design and not working capital. Pat Wyss indicated that their schedule would be to have plans ready in October or November of this year but said most construction would take place in 2010 for a late fall opening. He said they will bring plans forward as they come. Martinson also suggested consistency or a formal

reporting plan for this type of situation. Responding to Kooiker, Green explained that they handle expenses incurred for the projects, so the City needs to see that funds were spent for the purposes identified. Kooiker indicated concern for the use of Stan Adelstein's funds, and Green said ATTA could come forward with request for design contract. At the time they come back to Council, they would provide their portion of the contract cost to the City and the City would pay their portion from existing City funds. The City would administer the contract. Kooiker said that ATTA has provided everything asked of them, so he asked why we are requiring a match from ATTA when a match was not required from soccer. He felt the matching requirement is grossly unfair. Hadcock called point of order stating that she wants to know what is unfair. Mayor said he was not sure there was a point of order, so the floor was given back to Alderman Kooiker. Kooiker reiterated that it is not right to add this stipulation for ATTA.

Amendment motion was made by Kooiker, second by Kroeger, to remove the stipulation of matching funds. LaCroix expressed his support for either the original or substitute motion without the amendment. Responding to Kroeger, Mayor Hanks indicated that the amendment motion would not get them the funds they need to proceed with the design. Hadcock explained that the substitute motion made sure they had enough money to take care of their issues up to \$200,000. Olson urged the Council to vote no to allow them to discuss this in its entirety. Upon roll call vote, the following voted AYE: Chapman and Kooiker; NO: Costello, Hadcock, LaCroix, Martinson, Weifenbach, Olson and Kroeger. Motion failed.

Chapman stated that they have complicated the issue, and he asked ATTA how they can use the funds from Stan Adelstein. A representative from ATTA said they have latitude to use the funds as necessary to move forward, and he believes Adelstein would be flexible with them. Chapman offered a second substitute motion, but Mayor Hanks stated that the motion is not in order since it was the same as the original motion. Costello stated that the funds from Adelstein were intended for initial working capital, so in his mind, they can be used for whatever is needed to get the ball rolling. LaCroix explained that he brought up the idea for matching funds in Legal and Finance, but he now urges the Council to approve the original motion. Hadcock was concerned that we may be distributing funds that are not needed right away and said they are protecting the taxpayer's money. Martinson stated that any questions of fairness should be taken up with the Vision 2012 committee. The question was called by Olson. Weifenbach objected. Weifenbach pointed out that Wyss said the design costs would be about \$150,000, and he reiterated they will have to bring receipts to receive payment from the City. Chapman pointed out that the funds from BIA are listed for operations, and he also said the money ATTA raises should go toward the construction phase or another phase. Upon vote being taken, the substitute motion failed.

Upon vote being taken, the original motion carried.

Allender expressed his recommendation that the Council deny the event permit for Ugly, Inc. d/b/a Sports Rock for Street Dances. Motion was made by Olson, second by Martinson, to deny (No. LF061009-19) an Event Permit for Ugly, Inc., d/b/a Sports Rock for Street Dances to be held on June 27, July 25, and August 29, 2009. Olson said the initial concern was security. She was concerned that they may be setting a precedence with this event, and she indicated she is not clear on how long will it last, noise issues, and security. Responding to Hadcock, Greg Cook indicated that they are planning to make a donation to the police reserve and hope some of them can help with security along with his 10 hired guards. He does not feel they are different than anyone else and encourages others to have events that bring revenue. Allender said street dances have a different atmosphere and the noise will disturb residents and hotel guests causing more police calls. Elkins then confirmed that an 11.6.19 application is in process. Cook explained that alcohol would only be allowed in the designated beer garden, not the entire street area. Chapman indicated there is a difference with other events that have been approved as they were not for profit. Green said this will be sited as precedence, so it will be more difficult for the Council to say no in the future. He also stated that he cannot think of time where this has been done in the past. Chapman said the current permits are not global enough to allow stakeholders to weigh in on the issue, and he suggested broadening the application. LaCroix pointed out that there were complaints

with another location's beer garden, so he said there needs to be more discussion with adjoining property owners. Olson suggested continuing the item.

Substitute motion by Kooiker, second by LaCroix, to deny the June 27 dance and continue discussion on the July 25 and August 29 dances to the July 1, 2009 Legal and Finance meeting and encourage the 11.6.19 process to proceed. Costello said street dances are great idea. To help him make a decision, he suggested that Cook contact surrounding businesses and write it down and also provide visuals on fencing and security. Cook stated that their intentions are to have the dance over at 10:00 PM with clean up completed by midnight. Chapman said the application does not apply universally, and before they get to the next application, this one needs to be reworked. Motion carried.

Motion was made by Kooiker, second by Olson, and carried to (No. LF061009-21) Approve abatement for Ardyth J. Peterson for 2008 in the amount of \$80.18

Motion was made by Kooiker, second by LaCroix, to (No. LF061009-16) Authorize Mayor and Finance Officer to sign Developer's Agreement with HDRK Properties, LLC for Tax Increment District No. 56. Motion carried with Chapman abstaining.

Public Works Committee Items

Motion was made by Kroeger, seconded and carried to (09EX064) Approve with a "waiver of right to protest" a request to waive the requirement to install sidewalk along South Valley Drive and East Saint Andrew Street as per City Ordinance No. 12.16.080 at Mel's Auto Body, 1755 South Valley Drive (Lot N of Tract A, Schlottman Addition) Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota.

Motion was made by Kroeger and seconded to acknowledge (No. CC061509-03) the Horace Mann Pool Update. Cole gave a brief presentation on the pool and its condition. Responding to LaCroix, Cole indicated that the task force can give the Council three options with cost estimates. LaCroix then said he would like plans presented to the public too, so they have ownership in the project. Hadcock said there are major issues with the pool, and the public needs to know what we need to do and what the options are. Olson pointed out that this pool serves competitive swimmers, the neighborhood and adult swimmers, and she said her preference is to meet the neighborhood needs first. Martinson asked about public comment related to 2012 projects and Mayor Hanks explained the process. Motion carried.

Motion was made by Kooiker, second by Olson, and carried to set for hearing on July 6, 2009 a Special Event Beer and Wine License for the Rapid City Area Chamber of Commerce for an event scheduled for July 14, 2009 at Dave Schmidt Insurance Agency, 2834 Jackson Blvd.

Bids

The following companies submitted bids for (No. CC061509-02.1) Fifteen (15) Transit Shelters for Rapid Transit Division opened on June 9, 2009: Columbia Equipment Company, Duo-gard and Brasco International. Staff reviewed the bids and recommends bid award to Duo-gard. Motion was made by LaCroix, seconded and carried to approve the bid award to the lowest responsible bidder meeting specifications, Duo-gard, for a total amount of \$59,565.00.

Council Items & Liaison Reports

Regarding the direction for the 2010 budget, Weifenbach asked what direction the Mayor is looking at with the economy the way it is, and he suggested a 3% to 5% cut across the board from all departments. He also explained that last year he did not vote to approve the budget due to the increase to property taxes. Hadcock said this is a good discussion to start having and urged the Council to look at last year's

budget to see what can be done different to make it easier for future needs. She would also like a better understanding of how we get a zero growth budget. LaCroix said Council has done well with the budget in the past. He said staff might consider what would happen if they had to reduce their budget by 1%. Chapman said it is good to start discussion but said it is too late for 2010 budget at this point. The Department Heads have already submitted proposed budgets, so he said as soon as they pass a budget for 2010 they need to begin thinking about 2011 budget. Mayor Hanks indicated that he intends to have budget hearings on July 14 and 15, 2009. Responding to Kooiker, Mayor Hanks indicated that there has not been a final determination, but he is looking at a 1% to 2% increase in sales tax revenue over 2009. Mayor Hanks stated that his intention will be to present a budget similar to last year as a no growth and non deficit spending budget without CPI. It was indicated that Department Heads would be asked to identify requests that were not met within the budget that were important to the City. Mayor Hanks also explained that the sales tax revenue assumption is a two year average and said as long as we do not over project for 2010 he does not foresee a cash flow problem. Kooiker said there needs to be more discussion on what it means to have a zero growth budget, and Mayor Hanks clarified that a no growth budget means there would be no growth on the expense side. Martinson expressed her interest in putting the budget on memory sticks, and Mayor explained that Excel spreadsheets will be provided and there will be a locked master copy. Weifenbach stated that it would be helpful to know the direction that was given to Department Heads, and Mayor Hanks explained that he told them it would be a no growth budget on the expense side. Motion was made by LaCroix, seconded and carried to acknowledge the report.

Alderman Costello asked about TIF 47 regarding sidewalk installation on Tower Road. Elkins explained that the original plan was revised once or twice, so she did not believe the sidewalk was included any longer. She explained that the cost of the road increased, so the developer needed to find money to finish the road. Elkins will evaluate the plan to see if there is room for construction of the sidewalk. If no money is available, the builder is responsible to put in the sidewalks if a building permit is issued or the City can order them in at any time. Elkins confirmed that Council voted to revise the project, and she offered to send a copy of the original and revised document to the Council. It was indicated that Growth Management keeps a master log of all TIFs, or they can be accessed through the Mayor's office. Elkins said they are not online due to unavailable staff time.

Alderman LaCroix addressed the Vickie Powers Park and pointed out that this is a community design and build park. He read the history of the park and commented that they still need volunteers. Chapman said it would be good to capture the construction on picture or video, and Martinson stated that there will be a live web cam.

PUBLIC HEARING ITEMS – Items 73 – 110

Motion was made by Chapman, seconded and carried to open the public comment for items 73 – 110.

John Skoverstad stated his concerns as the land owner for a piece of property that he leases to Verizon. He asked that the fence consideration, to be addressed in Item 110, and application be reconsidered by the Council. Rick Holt, a consultant for SWS, LLC, explained that they want to match the existing fence and bring it into compliance. He also said they sent a letter to address Mr. Skoverstad's concerns. Bill Cook said he manages the wireless services for Goldenwest and clarified that SWS, LLC is a partnership of 10 independent telephone companies in South Dakota.

CONTINUED PUBLIC HEARING CONSENT ITEMS – Items 73 – 75

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

Continue the following items until July 6, 2009:

73. 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.
74. 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.

Continue the following items until July 20, 2009:

75. 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.

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion was made by Costello, seconded and carried to close the public comment for items 73 – 110.

CONSENT PUBLIC HEARING ITEMS – Items 76 – 103

76. No. 09OA003 - A request by City of Rapid City for an **Ordinance Amendment to Amend the Off-street Parking Requirements to include Requirements for a Tire Sales and Service Facility by Amending Table 17.20.270 of the Rapid City Municipal Code.**

79. Late Harvest Inc. DBA Tally's Silver Spoon, 530 6th St, for a 2009 - 2010 Retail (on-off sale) Malt Beverage License, NO Video Lottery
80. Late Harvest Inc. DBA Tally's Silver Spoon, 530 6th St, for a Retail (on-off sale) Wine License
87. Khoury's Mediterranean Cuisine Inc. DBA Khoury's Mediterranean Cuisine, 1109 W Omaha Street Suite D for a Retail (on-off sale) Malt Beverage License, NO Video Lottery TRANSFER from Khoury's Mediterranean Cuisine, 2520 W Main St.
88. Khoury's Mediterranean Cuisine Inc. DBA Khoury's Mediterranean Cuisine, 1109 W Omaha Street Suite D for a Retail (on-off sale) Wine License TRANSFER from Khoury's Mediterranean Cuisine, 2520 W Main St.
92. Khoury's Mediterranean Cuisine Inc. DBA Khoury's Mediterranean Cuisine, 1109 W Omaha Street Suite D for a Retail (on-off sale) Malt Beverage License, NO Video Lottery

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

Growth Management Items

76. No. 09FV006 - Mall Drive Subdivision – A request by Eric Lytle for Upper Deck Architects, Inc. to consider an application for a **Fence Height Exception to allow a 12 foot high fence in lieu of an 8 foot high fence in the Light Industrial Zoning District** on Lot 3A of Mall Drive Subdivision, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3440 E. Mall Drive.
77. No. 09CA008 - A request by James L. Scull, Jr. for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial to Light Industrial with a Planned Industrial Development** on a parcel of land, located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota. The Point of Beginning of said parcel being identical with the northwesterly corner of Lot 2 of SSJE Subdivision recorded at the Pennington County Register of Deeds Office in Plat Book 29 Page 167, said corner being marked with a 5/8" rebar with survey cap said corner being the Point of Beginning: Thence First Course: along the northerly line of said Lot 2 a bearing of S89°56'10"E and a distance of 273.99 feet to 5/8" iron rod; Thence Second Course: along a line bearing S89°57'50"E and a distance of 617.49 feet to a the northeasterly corner of said Parcel and an intersection with the Section 1/16th line of said Section 32; Thence Third Course: along said Section 1/16th line a bearing of S00°07'24"W and a distance of 813.51 feet to the West 1/16 corner of said Section 32 which is marked with a magnetic nail with flasher marked "LS 4371"; Thence Fourth Course: along the southerly section line of said Section 32 a bearing of N89°52'58"W and a distance of 630.09 feet to a 5/8' rebar with survey cap marked "LS 4371"; Thence Fifth Course: continuing along the southerly section line of said Section 32 a bearing of N89°52'47"W and a distance of 170.11 feet to the southwesterly corner of Lot 7 of said SSJE Subdivision marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Sixth Course: along the westerly line of said Lot 7 a bearing of N00°09'09"E and a distance of 205.41 feet to the northwesterly corner of said Lot 7 and an intersection with the southerly right-of-way line of Jess Street marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Seventh Course: along a line with a bearing of N49°19'44"W and a distance of 87.31' to an intersection with the northerly right-of-way line of Jess Street and the southwesterly corner of Lot 2 of Lot A of D.D.E. Subdivision as recorded in Plat Book 29, Page 68; Thence Eighth Course: along the westerly line of said Lot 2 of Lot A a bearing of N00°00'30"E and a distance of 150.00 feet; Thence Ninth

Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of S89°53'09"W and a distance of 25.00 feet; Thence Tenth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of N00°09'42"E and a distance of 52.51 feet to the southwesterly corner of Lot 1 of said SSJE Subdivision marked with a 5/8' rebar; Thence Eleventh Course: along the westerly line of said Lot 1 a bearing of N00°26'40"E and a distance of 119.65 feet to the southwesterly corner of Lot 2 of said SSJE Subdivision marked with a 5/8' rebar; Thence Twelfth Course: along the westerly line of said Lot 2 a bearing of N00°00'48"E and a distance of 228.14 feet to the Point of Beginning. Basis of Bearings established by GPS observations, base located at the northeasterly corner of Lot K-2 S. Said Parcel of Land Contains 16.043 acres, more or less, located adjacent to Kermit Lane east and west, south of Jess Street.

RESOLUTION #2009-074
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 4th day of June, 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 General Commercial to Light Industrial with a Planned Industrial Development on property located in the SW¼ SW¼ of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, and more fully described as: the Point of Beginning of said parcel being identical with the northwesterly corner of Lot 2 of SSJE Subdivision recorded at the Pennington County Register of Deeds Office in Plat Book 29 Page 167, said corner being marked with a 5/8" rebar with survey cap said corner being the Point of Beginning: Thence First Course: along the northerly line of said Lot 2 a bearing of S89°56'10"E and a distance of 273.99 feet to 5/8" iron rod; Thence Second Course: along a line bearing S89°57'50"E and a distance of 617.49 feet to a the northeasterly corner of said Parcel and an intersection with the Section 1/16th line of said Section 32; Thence Third Course: along said Section 1/16th line a bearing of S00°07'24"W and a distance of 813.51 feet to the West 1/16 corner of said Section 32 which is marked with a magnetic nail with flasher marked "LS 4371"; Thence Fourth Course: along the southerly section line of said Section 32 a bearing of N89°52'58"W and a distance of 630.09 feet to a 5/8' rebar with survey cap marked "LS 4371"; Thence Fifth Course: continuing along the southerly section line of said Section 32 a bearing of N89°52'47"W and a distance of 170.11 feet to the southwesterly corner of Lot 7 of said SSJE Subdivision marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Sixth Course: along the westerly line of said Lot 7 a bearing of N00°09'09"E and a distance of 205.41 feet to the northwesterly corner of said Lot 7 and an intersection with the southerly right-of-way line of Jess Street marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Seventh Course: along a line with a bearing of N49°19'44"W and a distance of 87.31' to an intersection with the northerly right-of-way line of Jess Street and the southwesterly corner of Lot 2 of Lot A of D.D.E. Subdivision as recorded in Plat Book 29, Page 68; Thence Eighth Course: along the westerly line of said Lot 2 of Lot A a bearing of N00°00'30"E and a distance of 150.00 feet; Thence Ninth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of S89°53'09"W and a distance of 25.00 feet; Thence Tenth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of N00°09'42"E and a distance of 52.51 feet to the southwesterly corner of Lot 1 of said SSJE Subdivision marked with a 5/8' rebar; Thence Eleventh Course: along the westerly line of said Lot 1 a bearing of N00°26'40"E and a distance of 119.65 feet to the southwesterly corner of Lot 2 of said SSJE Subdivision marked with a 5/8' rebar; Thence Twelfth Course: along the westerly line of said Lot 2 a bearing

of N00°00'48"E and a distance of 228.14 feet to the Point of Beginning. Basis of Bearings established by GPS observations, base located at the northeasterly corner of Lot K-2 S. Said Parcel of Land Contains 16.043 acres, more or less, more generally described as being located adjacent to Kermit Lane east and west, south of Jess 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 General Commercial to Light Industrial with a Planned Industrial Development on property located in the SW¼ SW¼ of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, and more fully described as: the Point of Beginning of said parcel being identical with the northwesterly corner of Lot 2 of SSJE Subdivision recorded at the Pennington County Register of Deeds Office in Plat Book 29 Page 167, said corner being marked with a 5/8" rebar with survey cap said corner being the Point of Beginning: Thence First Course: along the northerly line of said Lot 2 a bearing of S89°56'10"E and a distance of 273.99 feet to 5/8" iron rod; Thence Second Course: along a line bearing S89°57'50"E and a distance of 617.49 feet to a the northeasterly corner of said Parcel and an intersection with the Section 1/16th line of said Section 32; Thence Third Course: along said Section 1/16th line a bearing of S00°07'24"W and a distance of 813.51 feet to the West 1/16 corner of said Section 32 which is marked with a magnetic nail with flasher marked "LS 4371"; Thence Fourth Course: along the southerly section line of said Section 32 a bearing of N89°52'58"W and a distance of 630.09 feet to a 5/8' rebar with survey cap marked "LS 4371"; Thence Fifth Course: continuing along the southerly section line of said Section 32 a bearing of N89°52'47"W and a distance of 170.11 feet to the southwesterly corner of Lot 7 of said SSJE Subdivision marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Sixth Course: along the westerly line of said Lot 7 a bearing of N00°09'09"E and a distance of 205.41 feet to the northwesterly corner of said Lot 7 and an intersection with the southerly right-of-way line of Jess Street marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Seventh Course: along a line with a bearing of N49°19'44"W and a distance of 87.31' to an intersection with the northerly right-of-way line of Jess Street and the southwesterly corner of Lot 2 of Lot A of D.D.E. Subdivision as recorded in Plat Book 29, Page 68; Thence Eighth Course: along the westerly line of said Lot 2 of Lot A a bearing of N00°00'30"E and a distance of 150.00 feet; Thence Ninth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of S89°53'09"W and a distance of 25.00 feet; Thence Tenth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of N00°09'42"E and a distance of 52.51 feet to the southwesterly corner of Lot 1 of said SSJE Subdivision marked with a 5/8' rebar; Thence Eleventh Course: along the westerly line of said Lot 1 a bearing of N00°26'40"E and a distance of 119.65 feet to the southwesterly corner of Lot 2 of said SSJE Subdivision marked with a 5/8' rebar; Thence Twelfth Course: along the westerly line of said Lot 2 a bearing of N00°00'48"E and a distance of 228.14 feet to the Point of Beginning. Basis of Bearings established by GPS observations, base located at the northeasterly corner of Lot K-2 S. Said Parcel of Land Contains 16.043 acres, more or less, more generally described as being located adjacent to Kermit Lane east and west, south of Jess Street, as attached to the original hereof be filed with the City Finance Office.

Dated this 15th day of June, 2009.

ATTEST:
s/ James F. Preston
Finance Officer

CITY OF RAPID CITY
s/ Alan Hanks, Mayor

(SEAL)

Alcohol Licenses

81. Rushmore German Club for a Special Event Beer License for events scheduled August 21 through 29, 2009 at the Central States Fair, 800 San Francisco
82. Rapid City Regional Hospital Foundation for a Special Event Wine License for an event scheduled June 20, 2009 at The Golf Club at Red Rock, 6520 Birkdale Dr.
83. Black Hills Heritage Festival for a Special Event Beer and Wine License for events scheduled July 1 through 4, 2009 at Memorial Park
84. Ugly Inc DBA Budd Ugly's, 321 7th Street, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
85. Kelly Remily DBA Delmonico Grill, 609 Main Street, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
86. Kelly Remily DBA Delmonico Grill, 609 Main Street, for a Retail (on-off sale) Wine License

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

89. Coco Palace LLC DBA Coco Palace, 1900 N. Maple Ave., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
90. Mae Jean Adams DBA The Corn Exchange, 727 Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
91. Sergio and Ana Line Munoz DBA Sabor A Mexico, 208 E North Street for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
93. Bach Investment Inc DBA Hideaway Casino, 1575 N LaCrosse Street Suite D for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
94. Northstar Inc. DBA Hunan Chinese Restaurant, 1720 Mt. Rushmore Rd. for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
95. Chrisbro LLC DBA Hampton Inn, 1720 Rapp Street for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
96. Northcott Company DBA Perkins Restaurant and Bakery, 2305 Mt. Rushmore Rd. for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
97. Northcott Company DBA Perkins Restaurant and Bakery, 1715 N LaCrosse St. for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
98. Kelly Remily DBA Delmonico Grill, 609 Main Street, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery

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

99. Nash Finch Company DBA Family Thrift Center #253, 1516 E St. Patrick St. for a Package (off-sale) Malt Beverage License

100. Nash Finch Company DBA Family Thrift Center #254, 855 Omaha St. for a Package (off-sale) Malt Beverage License
101. I-90 Service Center Inc. DBA I-90 Service Center, 2213 N LaCrosse St. for a Package (off-sale) Malt Beverage License
102. Wal-mart Stores Inc. DBA Wal-mart Supercenter 1604, 1200 N LaCrosse St. for a Package (off-sale) Malt Beverage License
103. Burnell Lutz DBA One Stop Shop and Laundry, 1903 N Maple for a Package (off-sale) Malt Beverage License

END OF CONSENT PUBLIC HEARING CALENDAR

Motion was made by Kroeger, second by LaCroix, and carried to deny without prejudice (No. 09OA003) A request by City of Rapid City for an **Ordinance Amendment to Amend the Off-street Parking Requirements to include Requirements for a Tire Sales and Service Facility by Amending Table 17.20.270 of the Rapid City Municipal Code.**

Motion was made by Kooiker, seconded and carried to continue to the July 6, 2009 City Council meeting Late Harvest Inc. DBA Tally's Silver Spoon, 530 6th St, for a 2009 - 2010 Retail (on-off sale) Malt Beverage License, NO Video Lottery; Late Harvest Inc. DBA Tally's Silver Spoon, 530 6th St, for a Retail (on-off sale) Wine License; Khoury's Mediterranean Cuisine Inc. DBA Khoury's Mediterranean Cuisine, 1109 W Omaha Street Suite D for a Retail (on-off sale) Malt Beverage License, NO Video Lottery TRANSFER from Khoury's Mediterranean Cuisine, 2520 W Main St. ; Khoury's Mediterranean Cuisine Inc. DBA Khoury's Mediterranean Cuisine, 1109 W Omaha Street Suite D for a Retail (on-off sale) Wine License TRANSFER from Khoury's Mediterranean Cuisine, 2520 W Main St.; and Khoury's Mediterranean Cuisine Inc. DBA Khoury's Mediterranean Cuisine, 1109 W Omaha Street Suite D for a Retail (on-off sale) Malt Beverage License, NO Video Lottery.

NON-CONSENT PUBLIC HEARING ITEMS – Items 104 – 110

Ordinance 5512 (No. 09RZ022) 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 Low Density Residential District** of that portion of Lot 15 Revised of Hillsvieview Subdivision described as follows: Commencing at the northeast corner of Lot 15 Revised; thence South 149.83 feet, more or less, to the Point of Beginning, the northwest corner of said portion; thence S 89° 52' 07" E 160.30 feet, more or less; thence S 0° 03' 04" W 199.84 feet, more or less; thence N 89° 50' 46" W 160.12 feet, more or less; thence North 199.78 feet, more or less to the Point of Beginning; located in the NE¼SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Staff recommends that the Rezoning from No Use District to Low Density Residential District be denied for the remaining balance of the north 350 feet of Lot 15 Revised of Hillsvieview Subdivision and the south 293 feet of Lot 6 of Marshall Subdivision, all located SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota having passed its first reading on April 20, 2009; motion was made by Kroeger, second by LaCroix, that the title be read a second time. The following voted: AYE: Kooiker, Olson, Kroeger, Costello, Hadcock, LaCroix, Martinson, Weifenbach, and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance 5512 was declared duly passed upon its second reading.

Ordinance 5515 (No. 09RZ025) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by A request by James L. Scull, Jr. for a **Rezoning from General Commercial District to Light Industrial District** of a parcel of land,

located in the SW¼ SW¼ of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota. The Point of Beginning of said parcel being identical with the northwesterly corner of Lot 2 of SSJE Subdivision recorded at the Pennington County Register of Deeds Office in Plat Book 29 Page 167, said corner being marked with a 5/8" rebar with survey cap said corner being the Point of Beginning: Thence First Course: along the northerly line of said Lot 2 a bearing of S89°56'10"E and a distance of 273.99 feet to 5/8" iron rod; Thence Second Course: along a line bearing S89°57'50"E and a distance of 617.49 feet to a the northeasterly corner of said Parcel and an intersection with the Section 1/16th line of said Section 32; Thence Third Course: along said Section 1/16th line a bearing of S00°07'24"W and a distance of 813.51 feet to the West 1/16 corner of said Section 32 which is marked with a magnetic nail with flasher marked "LS 4371"; Thence Fourth Course: along the southerly section line of said Section 32 a bearing of N89°52'58"W and a distance of 630.09 feet to a 5/8' rebar with survey cap marked "LS 4371"; Thence Fifth Course: continuing along the southerly section line of said Section 32 a bearing of N89°52'47"W and a distance of 170.11 feet to the southwesterly corner of Lot 7 of said SSJE Subdivision marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Sixth Course: along the westerly line of said Lot 7 a bearing of N00°09'09"E and a distance of 205.41 feet to the northwesterly corner of said Lot 7 and an intersection with the southerly right-of-way line of Jess Street marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Seventh Course: along a line with a bearing of N49°19'44"W and a distance of 87.31' to an intersection with the northerly right-of-way line of Jess Street and the southwesterly corner of Lot 2 of Lot A of D.D.E. Subdivision as recorded in Plat Book 29, Page 68; Thence Eighth Course: along the westerly line of said Lot 2 of Lot A a bearing of N00°00'30"E and a distance of 150.00 feet; Thence Ninth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of S89°53'09"W and a distance of 25.00 feet; Thence Tenth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of N00°09'42"E and a distance of 52.51 feet to the southwesterly corner of Lot 1 of said SSJE Subdivision marked with a 5/8' rebar; Thence Eleventh Course: along the westerly line of said Lot 1 a bearing of N00°26'40"E and a distance of 119.65 feet to the southwesterly corner of Lot 2 of said SSJE Subdivision marked with a 5/8' rebar; Thence Twelfth Course: along the westerly line of said Lot 2 a bearing of N00°00'48"E and a distance of 228.14 feet to the Point of Beginning. Basis of Bearings established by GPS observations, base located at the northeasterly corner of Lot K-2 S. Said Parcel of Land Contains 16.043 acres, more or less, located adjacent to Kermit Lane east and west, south of Jess Street having passed its first reading on June 1, 2009; motion was made by Kroeger, second by LaCroix, that the title be read a second time. The following voted: AYE: Kooiker, Olson, Kroeger, Costello, Hadcock, LaCroix, Martinson, Weifenbach, and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance 5515 was declared duly passed upon its second reading.

The Mayor presented (No. 09FV005) A request by Don and Lori Ebsen to consider an application for a **Fence Height exception to allow a six foot high fence in the front yard setback** on Lot 21 of Block 2 of South Pointe Subdivision, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4827 Mandalay Lane. Motion was made by Kroeger, second by Hadcock, to approve the request with the following stipulations: 1. Prior to approval by City Council, approval in writing by the City Engineer to allow the fence to be located in the existing 8 foot minor drainage and utility easements shall be obtained; 2. The fence shall be relocated outside of the public right-of-way within six months of City Council action on the fence height exception; 3. A five foot high fence that is not more than thirty percent solid be allowed as per Section 17.50.355 of the Rapid City Municipal Code within the front yard setback. Olson clarified that this will be a shorter chain link fence. Motion carried.

The Mayor presented (No. 09SE004) A request by Black Hills Heritage Festival 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 north of Omaha Street between North Mount Rushmore Road and Fifth Street in Memorial Park. Motion was made by Kroeger, second by LaCroix, and carried to approve with the following stipulations: 1. That the event will be stopped and the structures removed if

ordered by the Police Chief, Fire Chief, Mayor, Emergency Management Director or the Public Works Director; and, 2. That the structures for the event be removed that evening after the event has ceased.

Motion was made by Kroeger, second by Costello and carried to authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of water along Elk Vale Road as they abut a portion of the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (09SV002)

The Mayor presented (No. 09SV002) A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install water and sewer along Elk Vale Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 of Block 2 of Hilltop Business Park Subdivision, formerly a portion of the SE1/4 of the NE1/4, located in the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SE1/4 of the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Homestead Street and Elk Vale Road. Motion was made by Kroeger, second by Costello and carried to approve the Variance to the Subdivision Regulations to waive the requirement to install water along Elk Vale Road as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulation: Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and Deny without Prejudice the Variance to the Subdivision Regulations to waive the requirement to install sewer along Elk Vale Road as per Chapter 16.16 of the Rapid City Municipal Code.

The Mayor presented (No. 09FV007) A request by Site Dynamics, Inc. for SWS, LLC to consider an application for a **Fence Height Exception to allow a 9 foot high fence in lieu of a six foot high fence in a Office Commercial Zoning District** on Lot 1, Vista Lake Subdivision #2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4616 Jackson Boulevard. Motion was made by Kroeger, second by LaCroix, to approve the request with the following stipulations: 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. Elkins confirmed part of the fence is in but the provider needs to expand. This request will take care of existing fence that did not get the required exception and expansion. She also explained that there is a tree missing from the site and there are other minor improvements that need to be addressed which will be considered by the Planning Commission. Responding to Weifenbach, Skulvorstad confirmed he had not seen a copy of the email from SWS, LLC and said the email does not resolve the issues. Responding to Olson, Elkins explained the history of the fence. Hadcock pointed out that part of their job is to make sure people understand the customer service and how it works. Elkins confirmed that the Planning Commission's decision is potentially appealable to the Council. Olson pointed out that the fence height exception may have something to do with the cabinets in which the items are kept. Motion carried with Kooiker abstaining.

BILLS

The following bills having been audited, 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.

Payroll Ending 06/06/2009, Paid 06/12/2009	890,411.06
Payroll Ending 06/06/2009, Paid 06/12/2009	3,592.80
Pioneer Bank & Trust, Paid 06/12/2009	208,122.68
Pioneer Bank & Trust, Paid 06/12/2009	254.10
SD Retirement System, Paid 06/02/2009	462,505.17
SD Retirement System, Paid 06/02/2009	646.71
First Administrators, Paid 06/02/2009	83,632.95

CITY COUNCIL

JUNE 15, 2009

First Administrators, Paid 06/02/2009	38,226.92
Berkley Risk Administrators, Paid 06/01/2009	39,078.11
Black Hills Electric Cooperative, Paid 06/08/2009	542.04
Black Hills Power and Light, Paid 06/08/2009	40,723.25
Montana Dakota Utilities, Paid 06/08/2009	2,575.83
West River Electric, Paid 06/08/2009	28,698.54
US Bank, Paid 06/02/2009	7,163.70
Computer Bill List	4,756,655.72
Subtotal	6,562,829.58
Payroll Ending 06/06/2009, Paid 06/12/2009	2,824.60
Pioneer Bank & Trust, Paid 06/12/2009	216.08
SD Retirement System, Paid 06/02/2009	484.11
City of Rapid City-Health Insurance	962.50
Ikon Financial	4.29
Metropolitan Life Insurance	6.42
Angie Weeks	493.97
Wright Express	145.75
Total	6,567,967.30

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

Motion was made by Kooiker, second by Costello and carried to go into Executive Session at 10:29 P.M. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 10:49 P.M. with all members present. No action was taken.

ADJOURN

As there was no further business to come before the Council at this time, the meeting was adjourned at 10:50 P.M.

ATTEST:

CITY OF RAPID CITY

Finance Office

Mayor

(SEAL)