

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

May 18, 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, May 18, 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, Bill Okrepkie and Malcom Chapman; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Public Works Director Robert Ellis, Growth Management Director Marcia Elkins, Fire Chief Mark Rohlfing, Police Chief Steve Allender, Community Resource Director Kevin Thom, Development Services Coordinator Bob Dominicak and Administrative Coordinator Amber Sitts.

### **ADOPTION OF AGENDA**

The following items were added to the agenda:

- Discussion to set a date for the presentations for the parking ramp
- Thank you to City Departments, Alderman Costello
- Request from Green Cities for a Special Meeting, Alderman Olson

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

### **APPROVE MINUTES**

Motion was made by Okrepkie, seconded and carried to approve the minutes for the May 4, 2009 Regular Council Meeting and April 28, 2009 and May 6, 2009 Special Council Meetings

### **AWARDS AND RECOGNITIONS**

Mayor Hanks presented the Veteran of the Month for May 2009 to Harold "Had" Taylor and recognized his efforts and dedication to the service of his country and community.

At 7:20 P.M. the Chair recessed the proceedings for repair of the audio visual system and reconvened at 7:25 P.M.

David Hillard, Rapid City Economic Development, gave a presentation outlining the process for new business prospects and listed several current prospects. He described the Revolving Loan Committee, gave an update on the President search, and listed a number of upcoming initiatives. He also reported that they recently created a task force to respond to requests for assistance. Responding to Okrepkie, Mayor Hanks explained that the committee was set up in response to the recent large business closings, and they also put together a quick response team to help businesses who are in trouble. He pointed out that companies, such as Merillat and SCI, are not ready for help. Hillard also stated that they are fielding many calls this year regarding business relocation to this area, and Okrepkie requested that Hillard share his bottom line information. LaCroix expressed his appreciation to Terri Haverly for her responsiveness regarding the recent business closing announcements, and he also said he would be interested in learning more about the task force meetings.

**GENERAL PUBLIC COMMENT**

Lief Hey Running briefly discussed printing our own currency, community gardens, adversaries to the homeless, and recycling.

**NON-PUBLIC HEARING ITEMS** – Items 4 - 181

Motion was made by Olson, seconded and carried to open the public comment for Items 4 – 160.

Ed Thompson, George Brown and Cory Singaas stated their opposition to the substation in their neighborhood and requested a public meeting.

Motion was made by Olson, seconded and carried to close the public comment for Items 4 – 160.

**CONSENT ITEMS** – Items 4 - 160

The following items were removed from the Consent Items:

120. Recommend that City Council hold a neighborhood meeting with BHP and the neighbors so the issues can be discussed regarding No. 09FV003 – South Boulevard Addition; asking the Mayor's Office to coordinate a time for the meeting and notice it as a Special Council Meeting in case there is a quorum, but not expect a quorum to attend.
133. No. LF051309-26 – Authorize purchase of 26 Philips FRx Defibrillators from Respond First Aid System in the amount of \$39,754 (\$19,877 paid by the City and \$19,877 paid by the Police Department).
145. No. LF051309-18 – Authorize Mayor and Finance Officer to sign an Agreement for Independent Contractor Services between Hayman & Associates and the City of Rapid City.
148. No. LF042909-23 – Approve Resolution (No. 2009-060) Relating to Council Members Serving on a Board in the Capacity of a Voting Member.

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

***Alcoholic Beverage License Applications Set for Hearing (June 1, 2009)***

4. Late Harvest Inc. DBA Tally's Silver Spoon, 530 6<sup>th</sup> St, for a Retail (on-off sale) Wine License
5. La Grand Station LLC DBA La Grand Station, 3851 Eglin St, for a Package (off sale) Malt Beverage License and SD Farm Wine License
6. Rapid City Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled June 9, 2009 at Storybook Island.
7. Dahl Arts Center for a Special Event Beer License for events scheduled June 5, 2009 and June 19, 2009 at the Art Museum, 713 7<sup>th</sup> St.
8. Rushmore German Club for a Special Event Beer License for events scheduled August 14 through 22, 2009 at the Central States Fair, 800 San Francisco

9. CMS LLC DBA The Hall Inn, 214 E St. Joseph St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery TRANSFER from SCL Inc DBA The Hall Inn, 214 E St. Joseph St.
10. Cimarron Casino Inc DBA Royal Casino I, 2530 W Main St. Ste. I, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery TRANSFER from Western Dakota Gaming DBA Valley Sports Bar, 1865 S Valley Dr.
11. MG Oil Company DBA Clock Tower Lounge, 2525 W Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery TRANSFER from MG Oil Company DBA Chances Casino, 110 Cambell St. #E
12. Jenney Sartorius DBA Unique Ink Promos, 3300 N Deadwood Ave., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery TRANSFER from Lee Ann Emme DBA S & E Investments, 3300 N Deadwood Ave.

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

13. Century Motels Inc. DBA Howard Johnson Express Inn & Suites, 950 North St, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
14. Michael O Wieseler DBA Horseshoe Bar, 1407 ½ E North St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
15. Rapid City Softball Association, 1511 Sedivy Lane, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
16. Robbinsdale Rec Center Inc DBA Robbinsdale Rec Center, 805 E St. Patrick St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
17. Entertainment Inc. DBA Nu Robbinsdale Casino, 803 E. St. Patrick St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
18. Black Hills Amateur Baseball Inc DBA Black Hills Amateur Baseball, 2819 Canyon Lake Dr., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
19. Fox Family Enterprises Inc DBA Rodeway Inn, 2208 Mt. Rushmore Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
20. CMS LLC DBA The Hall Inn, 214 E St. Joseph St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
21. Dave M & Linda Handley DBA Hot Spot Casino, 420 E St. Patrick St. #107, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
22. Gab Denk Kwak & Kaz Campillo DBA Hana Restaurant, 2328 W Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
23. Nifty Fifties Inc DBA Parkway Restaurant, 312 East Blvd N, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
24. Piesanos Pacchia Inc DBA Piesano's Pacchia, 3618 Canyon Lake Dr. #121, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery

25. Black Hills Coffee Company DBA Black Hills Coffee, 5955 S Highway 16 G, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
26. Wine Cellar Restaurant LLC DBA Wine Cellar Restaurant, 513 6th St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
27. Walter Banovic DBA Picasso Barn Pizzeria, 325 Omaha St. #6, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
28. Mae Jean Adams DBA The Corn Exchange, 727 Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
29. Linda & Frank Morrison DBA Thirstys, 819 Main St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
30. Omaha Players Company DBA Happy Jacks-Omaha, 1109 W Omaha St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
31. South Dakota Vending Inc DBA Happy Jack's West, 1925 W Main St. Ste. 1, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
32. South Dakota Vending Inc DBA Happy Jack's Valley, 747 Timmons Blvd. Ste. B, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
33. South Dakota Vending Inc DBA Happy Jacks Too, 909 St. Patrick ST. #21, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
34. South Dakota Vending Inc DBA Happy Jack's East, 909 E St. Patrick St. #20, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
35. South Dakota Vending Inc DBA Happy Jacks-Downtown, 713 Omaha St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
36. South Dakota Vending Inc DBA Happy Jacks-Cambell, 1601 Cambell St. #3, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
37. Two Lefties and Panchos DBA Pancheros Mexican Grill, 1221 W Omaha St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
38. World Class Golf Inc DBA World Class Golf, 2130 Jackson Blvd., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
39. Central States Fair Inc DBA Central States Fair, 800 San Francisco St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
40. Botticellis Ristorante Italiano Inc DBA Botticellis Ristorante Italiano, 523 Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
41. CEC Entertainment Inc DBA Chuck E Cheese's, 30 Knollwood Dr., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
42. Mai T Goodsell DBA Saigon Restaurant, 221 E North St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery

43. Cimarron Casino Inc DBA Royal Casino I, 2530 W Main St. Ste. I, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
44. NPC International Inc DBA Pizza Hut #2777, 2005 Mt. Rushmore Rd., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
45. NPC International Inc DBA Pizza Hut #2776, 2604 W Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
46. Rapid City Elks Lodge #1187 DBA Elks Lodge, 3333 E 39<sup>th</sup> St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
47. Cimarron Casino Inc DBA Eastside Plaza Casino, 1000 Cambell St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
48. Cimarron Casino Inc DBA Chicago St. Casino, 3609 Sturgis Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
49. Wyngard Pot-O-Gold Casino Inc DBA Pot-O-Gold Casino, 1300 Centre St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
50. Wyngard Pot-O-Gold Casino Inc DBA Lucky D's Casino, 1330 E St. Patrick St. #1, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
51. Wyngard Pot-O-Gold Casino Inc DBA Lucky D's Casino, 1330 E St. Patrick St. #2, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
52. Dadah Kids Corp. DBA Pauly's Pizzeria & Sub Co., 1624 E St. Patrick St. #101, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
53. MG Oil Company DBA Clock Tower Lounge, 2525 W Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
54. Black Hills QMG LLC DBA Qdoba Mexican Grill, 741 Mountain View Rd, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
55. Continental Leisure Inc DBA Carousel Casino, 2050 W Main St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
56. Lybecks Twenty-First Century Inc DBA Shenanigan's Casino, 3788 E Hwy. 44, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
57. MG Oil Company DBA Uncle Sam's South, 2110 Jackson Blvd, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
58. MG Oil Company DBA Uncle Sam's East, 1120 E North St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
59. MG Oil Company DBA Uncle Sam's West, 2730 W Main St, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery

60. MG Oil Company DBA BP Casino, 609 Mt. View Ste. C-1, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
61. MG Oil Company DBA Rushmore Casino, 1808 Mt. Rushmore Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
62. MG Oil Company DBA LaCrosse Street Casino #2, 720 N LaCrosse St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
63. MG Oil Company DBA LaCrosse Street Casino #1, 720 N LaCrosse St. #A, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
64. MG Oil Company DBA Market Square Casino, 1624 E St. Patrick St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
65. MG Oil Company DBA Haines Ave. Casino, 1735 Haines Ave., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
66. MG Oil Company DBA East North Casino, 230 E North St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
67. MG Oil Company DBA Warehouse Bar & Casino, 200 E Main St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery, INACTIVE
68. Harbry Enterprises Inc DBA Buck-N-Gator, 4095 Sturgis Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
69. Orris Enterprises Inc DBA Vino 100, 520 7<sup>th</sup> St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
70. Carolyn's Casinos Inc DBA Carolyn's Too, 1141 Deadwood Ave. Ste. 2, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
71. Carolyn's Casinos Inc DBA Carolyn's Too, 1141 Deadwood Ave. Ste. 2, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery, INACTIVE
72. S&Y Inc DBA Golden Phoenix Restaurant, 2421 W Main St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
73. Poker Joe's Inc DBA Poker Joe's, 211 Cambell St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
74. Uncork'd Wine & Tapas Bar LLC DBA Uncork'd Wine & Tapas Bar, 5734 Sheridan Lake Rd. #107, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
75. Bosselman Inc of South Dakota DBA Bosselman Travel Center, 2783 Deadwood Ave., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
76. D&S Time Square Inc. DBA Breakroom Casino, 355 11<sup>th</sup> St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
77. Dean'O's Casino Inc. DBA Dean'O's Casino, 903 E North St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery

78. United Food Inc DBA Toby's Casino, 720 E North St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
79. United Food Inc DBA Toby's Casino South, 710 Cleveland St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
80. Barbecsul Inc DBA Sandtrap Grill & Bar, 3625 Jackson Blvd, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
81. Barbecsul Inc DBA Executive Golf Course, 200 12<sup>th</sup> St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
82. Jenney Sartorius DBA Unique Ink Promos, 3300 N Deadwood Ave., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
83. CCKT Inc DBA Queen of Hearts Casino, 316 E Boulevard, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
84. CCKT Inc DBA King of Hearts Casino, 3030 West Main St. Ste. A, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
85. Rapid Bowl Inc DBA Meadowood Lanes, 3809 Sturgis Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
86. Cimarron Casino Inc DBA Main St. Gap Casino, 1727 W Main St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
87. MG Oil Company DBA East St Patrick Casino, 1226 E St Patrick St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery

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

88. Safeway Stores 46 Inc. DBA Safeway Store 581, 2120 Mt. Rushmore Rd., for a Package (off sale) Malt Beverage License
89. Safeway Stores 46 Inc. DBA Safeway Store 1554, 730 Mt. View Rd., for a Package (off sale) Malt Beverage License
90. Carol Enterprises DBA Don's Valley Express, 4030 Cheyenne Blvd, for a Package (off sale) Malt Beverage License
91. Mini Mart Inc DBA Mini Mart #451, 4260 Canyon Lake Dr., for a Package (off sale) Malt Beverage License
92. Mini Mart Inc DBA Mini Mart #444, 1627 Mt. Rushmore Rd., for a Package (off sale) Malt Beverage License
93. Mini Mart Inc DBA Mini Mart #447, 1601 N Haines Ave., for a Package (off sale) Malt Beverage License
94. Mini Mart Inc DBA Mini Mart #443, 3106 W Main St., for a Package (off sale) Malt Beverage License

95. Robert L. Stiehl DBA Circle S Convenient Mkt, 310 E Fairmont Blvd, for a Package (off sale) Malt Beverage License
96. MG Oil Company DBA Corner Pantry #14, 501 Deadwood Ave., for a Package (off sale) Malt Beverage License
97. MG Oil Company DBA Corner Pantry #10, 1818 Mt. Rushmore Rd., for a Package (off sale) Malt Beverage License
98. MG Oil Company DBA Corner Pantry #9, 1220 E St. Patrick St., for a Package (off sale) Malt Beverage License
99. MG Oil Company DBA Corner Pantry #8, 302 E North St., for a Package (off sale) Malt Beverage License
100. Superpumper Inc DBA Superpumper #16, 3275 S Hwy. 79, for a Package (off sale) Malt Beverage License
101. Superpumper Inc DBA Superpumper #27, 2215 Haines Ave., for a Package (off sale) Malt Beverage License
102. B&L Inc DBA Boyds Liquor Mart, 909 E St. Patrick St., for a Package (off sale) Malt Beverage License
103. B&L Inc DBA Boyds Liquor Mart, 655 Mountain View Rd., for a Package (off sale) Malt Beverage License
104. Fresh Start Convenience Stores Inc DBA Fresh Start – Rapid City, for a Package (off sale) Malt Beverage License
105. Big D Oil Co. DBA Big D Oil Co. Store #42, 850 E North St., for a Package (off sale) Malt Beverage License
106. Big D Oil Co. DBA Big D Oil Co. Store #41, 1160 LaCrosse St., for a Package (off sale) Malt Beverage License
107. Big D Oil Co. DBA Big D Oil Co. Store #17, 3540 Sturgis Rd., for a Package (off sale) Malt Beverage License
108. Big D Oil Co. DBA Big D Oil Co. Store #8, 2303 Jackson Blvd., for a Package (off sale) Malt Beverage License

***Public Works Committee Consent Items***

109. Acknowledge the report on E North Street.
110. No. PW051209-06 – Acknowledge the report on St. Patrick Street and Mt. Rushmore Road ADA and Vehicle Traffic Safety.
111. No. CC050409-02.7 – Award Cationic Polymer-Coagulant for the Water Division (Opened on April 28, 2009; continued from the May 4, 2009, City Council meeting) to Kemira Water Solutions, Inc. in the amount of \$26,000.00.

112. No. CC050409-02.1 – Award One (1) New Current Model Year Sander Truck with Plow for the Street Division (Opened on April 28, 2009; continued from the May 4, 2009, City Council Meeting) to Sanitation Products, Inc. in the amount of \$106,112.00.
113. No. CC050409-02.5 – Reject all bids for Transportation Natural Gas (Opened on April 28, 2009; continued from the May 4, 2009, City Council meeting)
114. No. PW051209-01 – Approve Change Order #1F for Fairmont Boulevard / US Highway 16 Intersection Reconstruction, to Hills Materials Company, Project No. ST05-1251 / CIP No. 50402, for a decrease of \$10,207.00.
115. No. PW051209-02 – Authorize Mayor and Finance Officer to Sign Amendment Number 2 to the Professional Services Agreement between the City of Rapid City and Geiger Architecture for the Police Evidence - Traffic - Transit Building Improvements, Project No. IDP07-1637, in the amount of \$15,000.00.
116. No. PW051209-03 – Authorize Mayor and Finance Officer to Sign an Agreement between the City of Rapid City and CETEC Engineering Services, Inc. for the Kepps Watermain Extension and Control Valve Installation, Project No. W08-1702 / CIP No. 50625, in the amount of \$117,224.00.
117. No. PW051209-04 – Authorize Mayor and Finance Officer to Sign a Permanent Utility Easement between the City of Rapid City and Black Hills Power, Inc. in, on, over, under, and across the following described real property: A portion of Lot One (1) of New Park Subdivision located in the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of Section Twenty-four (24), Township Two North (T2N), Range Seven East (R7E) of the Black Hills Meridian, Pennington County, South Dakota.
118. No. PW051209-05 – Approve Request for Authorization to seek Proposals for Engineering Services for Catron/Hwy 16B Sanitary Trunk Sewer Extension and Utility Relocation, Project SS09-1782 / CIP No. 50396. Estimated design and construction costs: \$1,950,000.00.
119. No. 09VE004 - Acknowledge the applicant's request to withdraw a request by CETEC Engineering for Rushmore Construction, Inc. to consider an application for a **Vacation of a Minor Drainage and Utility Easement** Lot 9 of Block 22 of Red Rock Estates, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 6416 Brandon Lane.
121. No. 09FV004 - South Park Addition – Deny without prejudice a request by Zane Tibke to consider an application for a **Fence Height Exception to allow a seven foot high fence in the Medium Density Residential District** on Lots 37 and 38 of Block 14 of South Park Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2132 Wisconsin Avenue.
122. No. 09EX056 – Approve with a “waiver of right to protest” a request to waive the requirement to install sidewalk along East Minnesota Street and Biernbaum Lane as per City Ordinance No. 12.16.080 on Lot 1 South Yard Subdivision (referred to as Lot B – west lot) located in the unplatted balance of the NW1/4 SW1/4, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (Pin Number 38-17-301- 007)
123. No. 09EX057 – Approve with a “waiver of right to protest” a request to waive the requirement to install sidewalk along East Minnesota Street and Biernbaum Lane as per City Ordinance No.

12.16.080 on Lot A – east lot located in the unplatted balance of the NW1/4 SW1/4, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (Pin Number 38-17-301-008)

- 124. Approve a Resolution of Necessity for the Acquisition of the Public Right of Way Easement and Permanent Drainage Easement for Creek Drive through the Exercise of Eminent Domain; and a Declaration of Taking.

RESOLUTION #2009-069

RESOLUTION OF NECESSITY FOR THE ACQUISITION OF PUBLIC RIGHT OF WAY EASEMENT AND PERMANENT DRAINAGE EASEMENT FOR CREEK DRIVE THROUGH THE EXERCISE OF EMINENT DOMAIN

WHEREAS, the City of Rapid City has determined that it is necessary to replace the bridge at Creek Drive and to install a water sleeve in order to facilitate public travel and development; and,

WHEREAS, the City of Rapid City has determined that the acquisition of a right of way easement for public use and a permanent drainage easement are necessary before the bridge replacement and water sleeve installation at Creek Drive can take place; and,

WHEREAS, the City of Rapid City is authorized to appropriate or damage private property for public purposes under payment of just compensation as set forth in various provisions of state law including but not limited to SDCL 9-12-1(2), 9-27-1, 31-19-23.

NOW, THEREFORE, IT BE RESOLVED by the City of Rapid City that the City finds it necessary to take for public purposes the following described real property:

A tract of land to be designated Lot H1 of Lot La of Lot L in the Northwest Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Five (5), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as shown on Exhibit "A", attached hereto and incorporated herein by reference; and,

A major drainage easement on, over, under and across a tract of land to be designated Lot PE1 of Lot La of Lot L in the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Five (5), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as shown on Exhibit "B", attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that said real property be and hereby is condemned and taken for public purposes.

BE IT FURTHER RESOLVED that the City of Rapid City hereby authorizes and directs the City Attorney to undertake legal proceedings to implement this Resolution of Necessity and to determine just compensation to be paid.

Dated this 18th day of May, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

**Legal & Finance Committee Consent Items**

125. No. LF042909-20 - Authorize Mayor and Finance Officer to sign Lease Agreement between the City of Rapid City and Martinez Boxing Club, Inc. (*Continued from May 4, 2009*)
126. No. LF051309-24 – Confirm appointment of Dana Kuecker to the Rapid City Regional Airport Board.
127. No. LF051309-25 – Confirm reappointment of Jerry Austin (representing the industrial safety industry) to a four year term on the Fire Code Board of Appeals and Bob Brandt (representing the general/business industry) to a four year term on the Fire Code Board of Appeals.
128. No. LF051309-29 – Approve Event Permit for Rapid City School District for State Track Meet commencing on May 30, 2009.
129. Acknowledge report on Game Fish & Parks Outdoor Campus West.
130. No. LF051309-01 – Approve Event Permit for American Cancer Society to hold kickoff for the Relay for Life on June 4, 2009 beginning at 4:00 p.m. on Seventh Street between Main Street and St. Joseph Street.
131. No. LF051309-22 – Authorize Mayor and Finance Officer to sign Agreement for Independent Contractor Services with Dr. Robert Looyenga.
132. No. LF051309-23 – Approve Parade Permit for NAJA Shriners Parade to be held on May 30, 2009.
134. No. LF051309-27 – Approve purchase of 2009 Ford Escape from McKie Ford matching State bid price in the sum of \$20,752.
135. No. LF051309-02 – Approve Travel Request for Steve Burgad and Chris Weinert to attend School of Ice Technologies in Newark, NJ, June 7-13, 2009, in the approximate amount of \$4,070.
136. No. LF051309-19 – Authorize Mayor and Finance Officer to sign Amendment No. 1 to the State of South Dakota Historical Preservation Allocation Award between State Historical Preservation Office, Office of History and Rapid City Historic Preservation Commission Project SD-08-16 changing the completion date from May 30, 2009 to July 31, 2009.
137. No. LF051309-20 – Recommend to the City Council that the Residential Contractor Board hold a public hearing within 30 days regarding a requested ordinance amendment to the 2006 International Residential Code to remove the requirement to field treat cut, notched and bored ends of treated wood, and to change the design requirements allowing walls more than 10 feet in height and up to 12 feet in height to be constructed using a prescriptive design and bring a report back to the Legal and Finance Committee.
138. No. LF051309-03 – Approve Change Order to Professional Service Agreement with Casey Peterson and Associates for additional work performed on the FY 2007 audit in the amount of \$8,000.
139. Acknowledge the following volunteers for workmen's compensation purposes: Julia Monczunski, Nate Drake, and Tiffany Iverson.

- 140. Acknowledge report on reimbursement from Franklin Street property owners for replacement of sewer line expenditures.
- 141. No. LF051309-04 – Approve Resolution Declaring Property Surplus.

RESOLUTION # - 2009-061  
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:

Fire

- Basement of Station 7
- 4 Brown fabric office chairs
- 4 Recliners, 3 brown, 1 blue
- 2 Black leather kitchen chairs
- 1 5-drawer Filing Cabinet
- 1 Bow Flex
- 1 Powerhouse weight bench
- 1 Bodyguard treadmill
- 1 Arm curl machine
- 1 Leg press machine
- 1 Partial printer table, no table top
- 1 Printer table
- 1 Metal office desk
- 2 4' fluorescent light fixtures
- HP 290 printer/fax
- HP 28FB186D printer/fax
- HP ADF scanner
- HP Scanjet 5300C scanner
- HP D2345 printer
- HP Deskjet 952C printer
- 5 Gateway EV700 monitors
- HP S70 monitor
- Samsung flat screen sync master 920W monitor
- 11 Gateway computer CPUs
- 8 Key Boards
- 3 Docking Stations
- 1 sealed box "Compag Ipaq"
- Gateway tape drive 820LTO
- IBM Selectric II typewriter
- Sony Hi/Fi stereo VCR
- Emerson VSTS 19" color television
- 2) 275 gallon totes

Station 5

- 1 1979 Qualair Air Compressor, 200psi, 80 gal
- 1 Weight bench with curl & leg Extension

## Station 1

1 Electrical Service Panel  
 1 Office/bar stool  
 1 Electric Smoke Ejector Fan 20"  
 1991 Chevy Lumina VIN 2G1WL54R1M9196851  
 1 14' aluminum ladder  
 2 mobile computer mounts  
 2 load locks  
 2 mop buckets  
 3 mops

## Station 6- Prevention

Black & White copier Canon Model # 6025  
 Building plan filing cabinet

## ACE

HP Deskjet color printer, model 1220, S/N: SG18R13097  
 Panasonic cordless telephone Model KX-TG2431  
 HP laserjet printer, model 4050, Inv. #015778  
 DVE\T computer speakers, model S3298  
 Boston computer speakers, S/N: 1410399  
 5) folding chairs  
 Gateway EV700 computer monitor, S/N: LIC04206351  
 Corner computer desk w/hutch

## Code Enforcement

Gateway computer CPU, System S0583  
 Gateway computer CPU, System S0584  
 2) Gateway keyboards, S/N: A561376 & B549458  
 2) Gateway mouse, S/N: LZE22158312 & LZE22158393  
 Cambridge Soundworks computer speakers, model SBS52, S/N: SW00520132002941  
 Cambridge Soundworks computer speakers, model SBS36, S/N: SW00361222000919  
 Altec Lansing computer speakers, model GCS100, S/N: FMW0799813

## Energy Plant

1992 Chevrolet S10 Blazer, S/N: 1GNCT1828N0114162, Inv. #004047

## Police IT

Dell 17" monitor, S/N: CN-01MC040641805CC82L  
 HP Laptop Compaq nx9010, S/N: CNF42412GS  
 HP Compaq Desktop computer, S/N: USU32405GG  
 White Desktop computer, S/N: 61226177  
 Black Desktop Computer, S/N: 625649-11  
 HP Compaq Desktop computer, S/N: USU3240B3H  
 HP Compaq Desktop computer, S/N: USU32405WX  
 White Desktop computer  
 Dell 17" monitor, S/N: CN- OMC0406418050C05IL  
 Hansol 17" monitor, S/N: N0336002207  
 Gateway Desktop computer, S/N: 0013036716  
 Gateway Desktop computer, S/N: 0022654939  
 HP Color LaserJet 4600hdn printer, S/N: JPGMB51605  
 HP LaserJet printer 5N, S/N: USKC066363, Inv. #016693  
 Lexmark LaserJet C510 printer, S/N: 580258K

Gateway server ALR9200  
 Gateway Desktop computer, S/N: 0026342495  
 Black Desktop computer, S/N: 625649-05  
 Micron Desktop computer, S/N: 2010544-0001, Inv. #016947  
 15" CRT monitor, S/N: HCA72205339  
 Black Desktop computer, S/N: 625649-12  
 Black Desktop computer, S/N: 625649-01  
 Black Desktop computer, S/N: 625649-07  
 NEC 17" CRT monitor, S/N: 1805543TA  
 Gateway Desktop computer, S/N: 0026342494  
 Gateway Desktop computer, S/N: 0023642499

## Water

2) Gateway CPU, model GP6-350  
 2) Compaq Deskpro 386-25E computers  
 Compaq keyboard  
 Gateway keyboard  
 Epson LQ-1070 printer  
 HP Deskjet 820Cxi printer  
 Epson LQ-1050 printer  
 14" AOC Color monitor  
 14" Samtron monitor  
 Snapper model 522 5 h.p. snowblower  
 Arrow Stomper, Arrow MG1250, Hammer HJ1250, model 203500, S/N: M3338A-3,  
 Inv. #005865  
 HP Scanjet 5200C, S/N: SG964130MZ  
 15" Gateway EV700 monitor, model YE0711-01, S/N: M15419574998  
 15" Gateway EV700 monitor, model U7003-01, S/N: HDE2K6005599  
 15" Gateway EV700 monitor, model 700-069EV, S/N: 17004C097160  
 15" Gateway EV700 monitor, model EV700B, S/N: MU17026C0403592  
 15" Gateway VX730 monitor, model VX730, S/N: MU17089A0028754  
 Gateway 2000 keyboard, model 2194014, S/N: 00269949  
 Gateway keyboard, model SK-9921, S/N: B158621  
 Microsoft USB port mouse  
 Logitech USB port mouse, S/N: LNA23601579  
 Logitech serial port mouse, S/N: HCA24509703  
 HP Jet Direct 170X modem, model J3258B, S/N: SG03243450  
 Printronix 500P printer w/stand  
 Kensington under desk keyboard tray  
 Ring King under desk keyboard tray  
 Sharp typewriter w/6 ribbons, model ZX-410, S/N: 40124562  
 12 drawer cabinet  
 4 drawer cabinet  
 Sliding door cabinet  
 Side table  
 Black halogen desk light  
 Tripp Lite flat panel heater, model CL  
 Pelonis small floor heater, model HC-45, S/N: P4450404027  
 Midland radio w/mic & mounting bracket, model 70-340B, S/N: 202077  
 1996 Ford F150 ½ ton pickup, S/N: 1FTEF15N9TLB83173, Inv. #004334

## Civic Center

19" Panasonic television

2) Handicap mart carts, electric 12v battery operated  
 Garland 6 burner electric range  
 11) Protel Pay phones  
 11) Pay phone enclosures  
 2) Posts for pay phones  
 8) Tires/wheels – L78-15LT, chrome 8 hole wheels, mud & snow w/studs  
 4) White wheel spokes rims only, 8 hole 8-1/4 x 16.5  
 Hawk 60" snow blower  
 Bobcat 24hp Kohler engine, model K5825, S/N: 2723508695, mount only  
 Cushman 60" lawn mower, 4 wheel w/bagger, Diesel engine model 989807-9010  
 1987 Ford 21 passenger bus, S/N: 1FDKE30I8HHB65275  
 1987 Ford 21 passenger bus, S/N: 1FDKE30IXHHB65276

## GIS

60x30x29 metal desk w/wood colored top  
 37x36x25 2 door wooden cabinet

## Growth Management

Gateway Solo 5300 Laptop computer, S/N: BQB00440462, System S0496, Inv. #015749  
 Gateway GP7-500 Desktop computer, S/N: 0016607625, System S0439, Inv. #015652  
 Gateway M1000 Desktop computer, S/N: 0024376613, System S0542, Inv. #015820  
 2) Gateway keyboards, S/N: A098377 & 90610776  
 2) Microsoft PS-2 IntelliMouse  
 Modesty panels for modular desks; all light gray color  
 Quantity Length x Width  
 9 21 x 11  
 1 59 x 11  
 4 46.5 x 11  
 6 45 x 11  
 15 42 x 11  
 2 35 x 11  
 1 30 x 11  
 2 33 x 11  
 1 – Panel Base 59.5 x 3.75, light gray color  
 Gateway Pentium Desktop Computer, S/N: 0023032196, System S0528, Inv. #015802  
 Gateway 600 XL Notebook computer, S/N: 0031797220  
 Palm Pilot 515 w/sinc cable

## Finance

Gateway GP6-350 computer w/monitor, keyboard & mouse, System S0361  
 2) Sharp CS2194H calculators  
 HP JetDirect 170X router, S/N: SG04048591  
 Gateway GP CPU, System S0467  
 HP ColorJet 4500 printer w/cables, Inv. #015732  
 2) Adjustable arm Computer monitor stands  
 2) Under desk keyboard trays, 1 w/mouse pad  
 Desk lamp w/adjustable arm  
 Blue secretary chair  
 3) Mauve chairs w/arms  
 Samsung ER4915 cash register  
 Samsung microwave, model RE5150, S/N: 50203983, Inv. #009181  
 Sharp Compet SC2061 calculator, Inv. #008246  
 8) Hanging file frames

Wire paper catches for printer stands  
 Data binder hanging file cart  
 Data binder folders for green bar printouts  
 Wooden computer stand w/pull-out keyboard tray  
 Metal bookshelf  
 Blue sky, bird & ocean framed picture, Inv. #011932  
 #114 Shapiro water scene framed picture  
 Albert Guida, Serigraph framed picture, titled August Moon, printed 12/1986, w/Certificate of Information, Inv. #012461  
 Albert Guida, Serigraph framed picture, titled Venus Rising, printed 12/1986 w/Certificate of Information, Inv. #012462

#### Airport

IVR computer, voice response flight information system  
 9) 16" Lathem single sided clocks, model 5515RSA  
 2) 16" Lathem double sided clocks  
 16" American double sided clock  
 2) 12" Lathem single sided clocks  
 90) Cement culverts various sizes  
 65) Natural colored landscape blocks, 19x8  
 Natural colored wooden office desk  
 15) 8x72 wooden fence posts  
 2) 80x62 gray room dividers  
 500 gallon plastic water tank attached to metal frame for mounting in truck bed  
 HP 1100 printer  
 Dell Optiflex computer, System S0623, Inv. #018605  
 1989 Jacobsen Turf-Cat II mower, S/N: 66077-3544  
 1981 Jeep CJ-7, S/N: 1JCCE87EIBT061842, Inv. 001448

#### Parks

NAPA 3-1/2 ton hydraulic floor jack, model 791-6420

#### Sanitation

Bobcat S220 Skid steer, S/N: 526211722  
 Bobcat S220 Skid steer, S/N: 526211723

#### Air Quality

Gateway Pentium 4 desktop computer, S/N: 0023033919, System S0531, Inv. #015805

#### Government Buildings

2) Metal book shelves  
 5) 30"x60" tables w/fixed legs  
 3) chairs w/wheels  
 7' tall x 5' wide grey partition  
 3' tall x 30" wide burgundy partition  
 2) 19" color televisions  
 30 Metal coat racks  
 3 tier cart  
 2) VCR's

#### Utility Billing

Dark brown executive desk, 6'x11.6'

Water Reclamation  
Gateway laptop computer, System S0462, Inv. #015707  
Polaroid camera, Inv. # 00224

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 18th day of May, 2009.

ATTEST: CITY OF RAPID CITY  
s/ James F. Preston s/ Alan Hanks, Mayor  
Finance Officer

(SEAL)

- 142. No. LF051309-06 – Authorize Mayor and Finance Officer to sign Agreement between State of South Dakota Department of Transportation and Rapid City, South Dakota for use of fiber optic cable.
- 143. No. LF051309-07 – Authorize Mayor and Finance Officer to sign Health Care Plan Renewal.
- 144. No. LF051309-08 – Approve Resolution No. 2009-063 to amend the City of Rapid City Compensation Plan by Making the Following Changes to the Position of Library Associate.

RESOLUTION #2009-063  
RESOLUTION TO AMEND THE CITY OF RAPID CITY COMPENSATION PLAN BY MAKING  
THE FOLLOWING CHANGES TO THE POSITION OF LIBRARY ASSOCIATE

WHEREAS, a review of a position for the Rapid City Public Library was conducted; and

WHEREAS, it appears that the position Library Associate should be titled as Library Associate I.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the compensation plan by revising the following job title.

| Job Title           | Grade | Salary          |
|---------------------|-------|-----------------|
| AFSCME-Library      |       |                 |
| FROM:               |       |                 |
| Library Associate   | 14    | \$15.91 \$24.22 |
| TO:                 |       |                 |
| Library Associate I | 14    | \$15.91 \$24.22 |

Dated this 18th day of May, 2009.

ATTEST: CITY OF RAPID CITY  
s/ James F. Preston s/ Alan Hanks, Mayor  
Finance Officer

(SEAL)

- 146. No. LF051309-30 – Approve Amendment #2 to the FY 2008 Community Development Block Grant Annual Action Plan to include Community Development Block Grant Recovery funds in the amount of \$132,734.
- 147. Approve request from the Parks and Recreation Department to close the parking lot at 6th & Main Street on Sunday, May 24th from 11:00 am to 4:00 p.m. for a skateboard exhibition to be held during the Criterium Bicycle Road Race.
- 149. No. LF051309-09 – Approve Resolution of Intent to Enter into Lease Agreement with Rapid City Lodge No. 1187 of the Benevolent and Protective Order of Elks.

RESOLUTION 2009-067

A RESOLUTION OF INTENT TO ENTER INTO LEASE OF LAND WITH RAPID CITY LODGE NO. 1187 OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS 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 Rapid City Lodge No. 1187 of the Benevolent and Protective Order of Elks which property is described as follows:

A portion of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Nine (9), T1N, R8E, BHM, Pennington County, South Dakota consisting of twenty (20) acres, more or less.

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 1st day of June, 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 18th day of May, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 150. No. LF051309-10 – Authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and Triple Z Real Estate Development, LLLP, Regarding the Use of .16 Funds for the Construction of the Jolly Lane Lift Station Expansion.
- 151. No. LF051309-11 – Authorize Mayor and Finance Officer to sign Covenant Agreement between the City of Rapid City and SSST, LLC, Regarding the Timing of the Construction of Minnesota Street before Issuance of Certificates of Occupancy.

152. No. LF051309-12 – Authorize Mayor and Finance Officer to sign Covenant Agreement between the City of Rapid City and Triple Z Real Estate Development, LLLP, Regarding the Timing of the Construction of Minnesota Street before Issuance of Certificates of Occupancy.
153. No. LF051309-13 – Authorize Mayor and Finance Officer to sign Covenant Agreement between the City of Rapid City and Triple Z Real Estate Development, LLLP, Regarding Jolly Lane Lift Station Upgrades before Issuance of Certificates of Occupancy.
154. No. LF051309-14 – Authorize Mayor and Finance Officer to sign Covenant Agreement between the City of Rapid City and SSST, LLC, Regarding Jolly Lane Lift Station Upgrades before Issuance of Certificates of Occupancy.
155. No. LF051309-15 – Acknowledge request from the Black Hills Fat Tire Festival to hold a raffle from May 22nd through May 26th, 2009.
156. No. LF051309-16 – Acknowledge raffle request from Family Child Care Professionals of South Dakota, Inc.
157. No. LF051309-17 – Approve property tax abatement for Jody Crawford for 2008 in the amount of \$2,183.90.

***Growth Management Department Consent Items***

158. Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of sidewalk along East Minnesota Street and Biernbaum Lane as they abut Lot 1 of South Yard Subdivision, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (09EX056)
159. Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of sidewalk sidewalk along East Minnesota Street and Biernbaum Lane as they abut the unplatted balance of the NW1/4SW1/4, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (09EX057)
160. Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the existing Century Road right-of-way located along the east lot line of the property as they abut Tract 1 of Century 21 Subdivision, located in the NW1/4, Section 32, T2N R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of East North Street and East Anamosa Street. (09SV011)

**END OF CONSENT CALENDAR**

Motion was made by Kroeger and seconded to hold a neighborhood meeting on June 10, 2009 at 6:00 p.m. and ask that postcard notices are sent by first class mail to property owners within 500 feet. This meeting will be with BHP and neighbors so issues can be discussed regarding (No. 09FV003) South Boulevard Addition. Kooiker mentioned a similar issue in the past and would like information on that situation brought forward as well. Elkins said they will contact the power company regarding hums and vibrations. Costello suggested that the meeting is held in the local area, such as South Middle School. Motion carried.

Motion was made by Kooiker and seconded to (No. LF051309-26) authorize purchase of 26 Philips FRx Defibrillators from Respond First Aid System in the amount of \$39,754 with \$19,877 paid by the Council

contingency fund and \$19,877 paid by the Police Department. Green said the price of the defibrillators is less than the state bid price so the City is authorized to purchase without further bidding. Motion carried.

Motion was made by Kooiker and seconded to (No. LF051309-18) Authorize Mayor and Finance Officer to sign an Agreement for Independent Contractor Services between Hayman & Associates and the City of Rapid City. Responding to Costello, Green explained that the amount of the contract is below the amount required by the consultant selection process. He also stated that this company has been used in the past with good success. Kooiker suggested considering bidding the project to save money the next time this comes up, and he said a continuation motion might be in order. Olson said it seems this person provides a good service and said it is important to move this forward. Motion carried.

Motion was made by LaCroix and seconded to (No. LF042909-23) approve Resolution (No. 2009-060) Relating to Council Members Serving on a Board in the Capacity of a Voting Member. Olson said this motion provides thoughtful commentary without interfering with other issues, and this allows flexibility while allowing an appropriate level of oversight. Responding to Weifenbach, Green said the item came about due to discussion at the Council level about the capacity of Alderman on boards. His recommendation was that the issues are taken up on a case by case basis and explained that criteria are identified in the resolution. He further clarified that this resolution only applies to boards to which Alderman serve as a result of their office, so a church or private business board would not apply. This would also not change any current status for existing boards. Green clarified that when the new Council is set they could vote on the appointments individually but this is not required. Conflicts of interest were briefly discussed, and it was pointed out that the Council is on the board to represent the taxpayers. Kroeger indicated they will not get the participation from Council to attend meetings if Council members are not voting members. LaCroix suggested Council leadership go over all of the committee assignments to determine liaisons and voting members at the beginning of each year. Kooiker stated that he understands why the Humane Society cannot have a voting member from the Council, and he also suggested adding the position of Mayor to the Resolution. Green explained that under state law the Mayor is charged with appointing many committees and the Council confirms them. It is a different discussion, and Green advised keeping the Mayor out of this resolution. Kooiker said this resolution does not add much and is concerned about how it could be interpreted in the future. Responding to Okrepkie, Mayor Hanks explained the conflict with having a voting member on the Humane Society Board. Okrepkie then said taking away the potential of stopping voting members on committees would be a disservice to the community. Chapman pointed out that Green explained how and why this came forward and said the Council directed the Attorney to draft this resolution. It does not change the relationship but allows the Council to look at it on a case by case basis.

Motion was made by Hadcock and seconded to table the resolution. Upon a roll call vote, the following voted AYE: Kroeger, Costello, Hadcock, Weifenbach, Okrepkie and Kooiker; NO: Olson, LaCroix and Chapman. Motion carried.

At 8:19 p.m. the Chair recessed the proceedings for internet connectivity repair and reconvened at 8:31 p.m.

### **NON-CONSENT ITEMS** – Items 161 -181

Motion was made by Costello, second and carried to open the public comment for Items 161 – 181.

Rob Schlimgen requested that his design group is given time to pursue the project on 6th and St. Joseph Street. They were not aware of the project until days before the meeting held on May 6, 2009 and said 90 to 120 days would allow them to bring large players to the table for project financing. Jim Didier spoke about the renewal of the downtown development project. He too said that they need additional time to put together their project and stated that their project will benefit the downtown area and western South Dakota.

Bart Banks addressed the City resolution regarding sewer clean up and explained the issue his client has. He asked the City to amend the resolution to allow payment directly to a contractor whereas the owner has already released the City.

Motion was made by Hadcock, second and carried to close the public comment for Items 161 – 181.

### **Ordinances**

Ordinance 5509 (No. LF042909-22) An Ordinance No. 5509, An Ordinance to Provide an Exemption to Trash Collection Requirements for Certain Multi-Family Dwelling Units by Amending Section 8.08.030 of the Rapid City Municipal Code having passed its first reading on May 4, 2009; motion was made by Kooiker and seconded that the title be read the second time. Responding to Weifenbach, Green explained the Ordinance allows owners of certain four-plexes to use private garbage instead of City garbage service. Ellis explained it would be for town homes located on private streets and said they have pads for community garbage to prevent trash from blowing around. He said the Ordinance makes sense to him. They would be able to receive service with a type of container that the City does not provide. Kroeger explained the background on the situation from two to three years ago. Ellis explained that the City is currently going to the site two to three times a week, and he said he was not in support until he actually saw the units. He pointed out that the site is not very susceptible to good trash pick up from the City. He said they would still accept their recyclable materials at MRF free of charge if their private hauler will provide that service. Olson pointed out there are also a number of residential areas that use private haulers. Upon vote being taken, the following voted AYE: Kooiker, Olson, Kroeger, Costello, Hadcock, LaCroix, Martinson, Okrepkie, Weifenbach and Chapman; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5509 was declared duly passed upon its second reading.

Ordinance 5514 (No. 09RZ024) 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 all of the SE1/4 NE1/4 including the west half of Valley Drive right-of-way adjacent to the SE1/4NE1/4, less Lot 5 of Marshall Subdivision, less the south 25 feet of Homestead Street right-of-way adjacent to Lot 5 of Marshall Subdivision, and less the south 293 feet of Lot 6 of Marshall Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, all of the NE1/4 SE1/4 lying north of S.D. Highway 44 including the west half of Valley Drive right-of-way, less Lots 4, 5, 14, 15 Revised and 17 of Hillsvieview Subdivision and less the western most 33 feet of Valley Drive right-of-way lying south of Lot 13 of Hillsvieview Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44. Motion was made by Kooiker, seconded and carried that Ordinance 5514 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, June 1, 2009.

### **Growth Management Department Items**

Motion was made by Kooiker, seconded and carried to continue Items 163 - 171 and 174 to the June 1, 2009 City Council meeting.

163. 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.

164. No. 08PL116 - A request by Sperlich Consulting, Inc. for Zandstra Real Estate Holdings for a **Preliminary Plat** on Lots 8 thru 12 of Block 8, Lots 5 thru 9 of Block 9, Lots 17 thru 23 of Block 10, Lots 4 thru 18 of Block 11 and Lots 1 thru 10 of Block 13 of Elks Country Estates, located in a portion of Tract 1 of the E1/2, Section 16, T1N, R8E, BHM, located in the SE1/4, Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 1 of the E1/2, Section 16, T1N, R8E, BHM, located in the SE1/4, Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the north and south sides of the intersection of Jolly Lane and Padre Drive and adjacent to Forest Oaks Court.
165. 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.
166. 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.
167. 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.
168. 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.

169. No. 09PL004 - A request by D.C. Scott Co. Land Surveyors for Herbert Jones for a **Preliminary Plat** on Lots 11AR of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 11A and the east 20 feet of Lot 11 of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located at 5581 Corbin Drive.
170. No. 09PL008 - A request by Matt Benne for Angie Charlson for a **Preliminary Plat** on Lots A, B, C and D of Lot 4R of Block 15 of Canyon Lake Heights Subdivision, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 4R in Block 15 of Canyon Lake Heights Subdivision, as shown in the plat filed in Plat Book 28, Page 87 and as corrected by Affidavit recorded December 17, 1997 in Book 69, Page 9640, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4560 Cliff Drive.
171. 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.
174. 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.

Motion was made by Kooiker, seconded and carried to continue to the June 15, 2009 City Council meeting (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.

Motion was made by Kooiker, seconded and carried to approve (No. 09PL017) A request by Centerline, Inc. for Action Development, Inc. for a **Preliminary Plat** on Lots 2 thru 7, 9, and 10 of Anamosa Crossing Subdivision, located in the NW1/4, Section 32, T2N R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract 1 of Century 21 Subdivision, located in the NW1/4, Section 32, T2N R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of East North Street and East Anamosa Street with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, construction plans for E. North Street shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with sewer and sidewalk or a Variance to the Subdivision Regulations shall be obtained; 2. Prior to Preliminary Plat approval by the City Council, construction plans for the existing Century Road right-of-way located along the west lot line of the property shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, 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, the plat document shall be revised to show non-access easements as per the Street Design Criteria Manual or an Exception shall be obtained; 4. Prior to submittal of a Final Plat application, a Final Plat for Phase One of the development shall be approved or this plat document shall be revised to include the internal street rights-of-way for Century Road and Lando Lane; 5. Prior to submittal of a Final Plat application, the existing Century Road right-of-way

located along the east lot line shall be renamed and the plat document shall be revised to show the approved street name; 6. Prior to submittal of a Final Plat application, the plat document shall be revised to show "Anamosa Street" as "E. Anamosa Street"; 7. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; 8. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 9. 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 Kooiker and seconded to approve (No. 09SE003) A request by Hills Alive Festival for a **Special Exception to the Flood Area Construction Regulations to allow temporary structures in the floodway** 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 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. Kathy Cook, a representative from Hills Alive, confirmed that they are aware of the stipulations. Motion carried.

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

Motion was made by Kooiker and seconded to (No. LF051309-28) Confirm appointment of Mike Kenton, Aaron Costello and Pat Tlustos to the Consultant Oversight Committee. Responding to a question raised by Costello, Green clarified that he does not need to abstain from voting on this item. Mayor Hanks said as soon as the committee members are appointed they will meet within a week, and he explained that Alderman Costello will still serve until at least July 1, 2009 if his opponent should win the upcoming election. Motion carried.

#### ***Public Works Committee Items***

Motion was made by Kroeger and seconded to recommend that City Council withdraw the order to install sidewalks on that portion of E Saint Patrick Street described as follows: Lots 1-8; Lot 16; Lots 9-12 Revised; Hansen Heights, Sec 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Green stated that it is his opinion that the process was appropriately followed by the City as notice was given to property owners, and at this time, sidewalks have not been installed. Kooiker said this has been an issue for a while, and this is an opportunity for the Council to address this matter. If it is going to be delayed, he said it should only be done for a short period of time to allow for development plans to be brought forward.

Substitute motion was made by Kooiker and seconded to stay the order to install sidewalks until December 31, 2009 to allow for the development plans to be brought forward and start installation on January 1, 2010 weather permitting. Olson indicated that both sides of the street should have adequate walkways, and LaCroix said that there are many other areas of town that need sidewalks too. He also suggested pedestrian friendly walkways and said there are other options to consider, such as bike lanes. Kroeger said Mr. Hanson contacted him several months ago about the issue. He said he does not see a need for a sidewalk on that side of the street. Costello agreed that there are several areas that need sidewalks and is in favor of an effort to install sidewalks there and ADA accessible curbs on the other side of the street. Okrepkie said right now the sidewalks would not connect to anything, and he felt it would be more appropriate to put in a sidewalk as the development happens. Green clarified that the effect of the motion would be to stay the City's application of the process until December 31, 2009. If this motion passes, the issue should come before the council before December 31, 2009, and if a suitable

plan is presented, the installment could be stayed to allow the plan to be implemented. Green said the additional action for an assessment would take place after the sidewalks are installed. Olson asked to see a map of the proposed sidewalks, but due to technical issues, a map could not be presented. Okrepkie stated his concern that the sidewalks will go in as opposed to having the development naturally progress, and Mayor Hanks indicated that they can stay the action to a specific date if the developer submits a plan. Costello pointed out that there are several buildings in the area, and this property is a noticeable gap. Mayor Hanks clarified where the sidewalks were ordered in, and Kroeger said if the entire area is not required to put in sidewalks then he is not interested in forcing this property owner to put them in. Upon roll call vote, the following voted AYE: Costello, Hadcock, Martinson, Weifenbach, Chapman, Kooiker, Olson; NO: Kroeger, LaCroix and Okrepkie. Motion carried.

### ***Bids***

The following companies submitted bids for (No. CC051809-02) One (1) New Current Model Year Articulating Motor Grader for the Solid Waste Division opened on May 12, 2009: RDO Equipment Co., Sheehan Mack Sales and Equipment, Inc., and Butler Machinery Co. Staff reviewed the bids and recommends bid award to Sheehan Mack Sales and Equipment, Inc. Motion was made, seconded and carried to approve the bid award to the lowest responsible bidder meeting specifications, Sheehan Mack Sales and Equipment, Inc., for a total contract amount of \$207,950.00 without the trade-in.

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

Motion was made by Kooiker, second by Hadcock, to set a special Council meeting for July 27, 2009 at 6:30 p.m. in Council Chambers to hear presentations for the parking ramp. Chapman asked if it would be expected that they have financing in place, and Mayor Hanks said that, until the design group has a commitment from the City, he would expect they will only have soft commitments. Chapman also mentioned some Council members already have commitments for that date. Weifenbach reminded the Council that one group requested 90 to 120 days to prepare for their presentation.

Substitute motion was made by Weifenbach, second by Chapman, to set the meeting for August 24, 2009. LaCroix said he cannot commit to a date yet as he is not sure of his work schedule during that time. He said it is important that everyone can be there. Hadcock suggested forming a committee as she felt that would be a fair and more efficient process. Elkins explained the process that was used last time proposals were taken and said the process took approximately 4 to 6 weeks.

Second substitute motion was made by Olson and seconded to issue an RFP, appoint a task force and ask the task force to come back with recommendations no later than July 22, 2009. Elkins confirmed that the previous RFP can be revised with new dates. Chapman spoke about the goal of the task force and Council, and he briefly discussed tax credits. Martinson stated her support for the motion as it is a good middle ground. Okrepkie said it is not in the best interests of Council or community to create a task force because some Council members will be out of the loop. He indicated it will be easier, quicker and more effective to have the entire Council involved. Kooiker pointed out that this motion would cause presentations to happen in the next few weeks, and this will not allow enough time. If a task force is created, he would like to make sure the meetings are open to the public, minutes kept and meetings recorded. Responding to Weifenbach, Schlimgen stated that he would prefer to present to the entire Council, and Weifenbach said it is important to allow at least 90 days if they want to include Mr. Schlimgen in the process. LaCroix said we can do this in 30 days. He said we need to pick a project and decide on the preferred project before the businesses look for financing. Chapman said he is comfortable with Council leadership and Mayor sitting down to iron out the process, and Hadcock said she did not see a problem with the process last time. Weifenbach mentioned that Mayor Hanks gave the presenters ground rules at the last meeting so that the project can be moved forward.

Question was called by Olson. Upon vote being taken, motion failed.

Second substitute motion was made by Chapman and seconded to ask the Mayor and Council leadership to come back with proposed time lines and procedures on how to proceed. Kooiker expressed his concern for the time frame and suggested 60 days out. Chapman explained the group has heard the concerns, and he feels the Mayor and Council leadership will come back with something that will work for all involved. Mayor pointed out they are already 45 days into the process so everyone should have received fair notice that they are moving forward. Motion carried.

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

Alderman Costello thanked Don Brumbaugh and the Street Department for solving a recent issue with sod damage due to snow clean up. He also thanked John Less and the traffic group for fixing the broken button at the traffic light on Kansas City and 5th Street.

Motion was made by Olson, second by Martinson, to set a special Council meeting on June 29, 2009 at 7:00 p.m. to report on the Green Cities conference with no action expected to be taken and ask Mayor's office to coordinate an alternate date if June 29th is not workable. Weifenbach suggested setting an informational meeting instead. Olson said it was originally considered for an information meeting but they felt a lot of the public would be interested in the information presented. So, they felt it was important to have it at a time people can attend. Costello suggested less structure during the meeting for free flowing conversation. Motion carried.

Kooiker addressed (CC050409-07) 601 12th Sewer Cleanup and Review of City's payment policy. Olson wanted to acknowledge that she is abstaining from this item. Kooiker explained the situation and gave his two suggested options, which were to pay \$18,887.98 to A-1 Steam Brothers if they indemnify the City of further responsibility or to send the payment back to the property owner with a letter letting him know that the payment back to the City does not indemnify him of responsibility and if he wants to make a donation to the City, we will donate the funds to an organization such as Storybook Island.

Motion was made by Kooiker and seconded to pay the \$18,887.98 to A-1 Steam Brothers on the condition that they indemnify the City of further responsibility. Green said the only person who has a legal claim is Mr. McCarthy, as the City cannot give money to private parties. This is state statute. Green said in order to have a legal expenditure the City needs to get something in return or owe for damage to some property, so he does not believe there is any statutory way we can pay A-1 Steam Brothers for the work they did. Green also said he is not aware of any other time that this has happened. LaCroix said he thinks this is between the two parties, and the Council should not get involved. Responding to Weifenbach, Preston explained that we received a bill so a check was sent out in that amount. Green clarified that we cannot return the check as McCarthy said we overpaid, and he explained what the resolution says. Weifenbach said he understood that we would pay the actual costs incurred, and he would like to return the funds to Mr. McCarthy with a copy of the resolution. Green clarified that we paid the property owner for the amount of the bill, but the property owner then realized that he was overcharged. Kroeger said if McCarthy loses in court we should not refund the funds. Chapman said it seems that we have no standing but said something needs to happen with this issue.

Substitute motion was made and seconded to reject the claim from A-1 Steam Brothers for payment on the 601 12<sup>th</sup> St. Sewer Clean up.

Second substitute motion was made by Kooiker and seconded to table the item. Upon roll call vote, the following voted AYE: Costello, Martinson, Kooiker and Kroeger; NO: Hadcock, LaCroix, Weifenbach, Okrepkie and Chapman. Motion failed with Olson abstaining.

Chapman mentioned that the City Attorney advised that they vote on the issue, and Kooiker said the City is not the rightful owner of the funds. He said the policy could be looked at in the future to ensure parties

present agreements to City staff before funds are paid out. Chapman pointed out that if you read all of the correspondence A-1 Steam Brothers was offered \$12,000.00, but they turned it down. Substitute motion passed with one NO from Kooiker and with Olson abstaining.

LaCroix reported on the Historical and Boarding School Trauma Workshop and said there will be another workshop on June 8, 2009. He talked about White Bison, who provides support to Native American communities, and he explained the contents of the workshop. Motion was made by Chapman and seconded to acknowledge the report. Hadcock explained that the main issue is acknowledgement and said healing and forgiveness were two major issues discussed. Weifenbach thanked LaCroix for bringing this awareness to the community. Motion carried.

### **Staff Items**

Motion was made by Kooiker, seconded and carried to (CC051809-03) Authorize staff to re-advertise for bids for bus shelters.

### **PUBLIC HEARING ITEMS** – Items 182- 236

Motion was made by Chapman, seconded and carried to open the public comment for Items 182 – 236.

### **CONTINUED PUBLIC HEARING CONSENT ITEMS** – Items 182 – 188

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

188. No. 09SV011 - A request by Centerline, Inc. for Action Development, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalk, water and sewer along East North Street and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along Century Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 2 thru 7, 9, and 10 of Anamosa Crossing Subdivision, located in the NW1/4, Section 32, T2N R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract 1 of Century 21 Subdivision, located in the NW1/4, Section 32, T2N R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of East North Street and East Anamosa Street.

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

### ***Continue the following items until June 1, 2009***

182. 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  $S00^{\circ}11'20''W$  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  $13^{\circ}19'37''$  and whose long chord bears  $S06^{\circ}43'28''E$  a distance of 135.30 feet; thence continuing along the West Right-of-Way of Concourse Drive  $S13^{\circ}38'17''E$  a distance of 668.79 feet; thence  $S76^{\circ}22'04''W$  a distance of 265.23 feet; thence  $N13^{\circ}37'01''W$  a distance of 439.18 feet; thence  $S76^{\circ}22'37''W$  a distance of 60.35 feet; thence  $N13^{\circ}37'23''W$  a distance of 302.02 feet; thence  $N77^{\circ}53'25''E$  a distance of 57.99 feet; thence  $N05^{\circ}25'18''W$  a distance of 258.44 feet to the point of beginning, located at 333 Concourse Drive.

183. 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.
184. 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.
185. No. 09SV004 - A request by D.C. Scott Co. Land Surveyors for Herbert Jones for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and additional pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 11AR of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 11A and the east 20 feet of Lot 11 of Block 7 of Eastern Acres Subdivision, located in the SW1/4 NW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located at 5581 Corbin Drive.
186. No. 09SV007 - A request by Matt Benne for Angie Charlson for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Cliff Drive and to reduce the pavement width from 27 feet to 20 feet and 18 feet along Cliff Drive; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along the 30 foot wide private roadway easement, to reduce the pavement width from 20 feet to 12 feet along the 30 foot wide private roadway easement and to reduce the width of the private roadway easement from 45 feet to 30 feet as per Chapter 16.16 of the Rapid City Municipal Code** on Lots A, B, C and D of Lot 4R of Block 15 of Canyon Lake Heights Subdivision, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 4R in Block 15 of Canyon Lake Heights Subdivision, as shown in the plat filed in Plat Book 28, Page 87 and as corrected by Affidavit recorded December 17, 1997 in Book 69, Page 9640, located in the SE1/4 SE1/4, Section 8 and the SW1/4 SW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4560 Cliff Drive.
187. 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

The Mayor presented (No. 09SV011) A request by Centerline, Inc. for Action Development, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalk, water and sewer along East North Street and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along Century Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 2 thru 7, 9, and 10 of Anamosa Crossing Subdivision, located in the NW1/4, Section 32, T2N R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Tract 1 of Century 21 Subdivision, located in the NW1/4, Section 32, T2N R8E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of East North Street and East Anamosa Street. Motion was made by Kooiker, seconded and carried to approve the request to waive the requirement to install sidewalk and sewer along East North Street with the following stipulations: 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and, 2. A sidewalk shall be provided along the west side of the street; and Deny Without Prejudice the requirement to install water along East North Street; and approve the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along Century Road with the following stipulation: 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and, 2. The Century Road connection between E. North Street and the section line highway located along the north lot line of the property shall be maintained until Century Road is reconstructed as shown on the applicant's Master Plan.

Motion was made by Chapman, seconded and carried to close the public comment for Items 182 – 236.

**CONSENT PUBLIC HEARING ITEMS** – Items 189 - 234

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

- 189. Dadah Kids Corp. DBA Pauly's Pizzeria and Sub Company, 1624 E. St. Patrick St. #101, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
- 190. Late Harvest Inc. DBA Tally's Silver Spoon, 530 6<sup>th</sup> St, for a 2009 - 2010 Retail (on-off sale) Malt Beverage License, NO Video Lottery
- 201. Coco Palace LLC DBA Coco Palace, 1900 N. Maple Ave., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
- 213. Atlantis LLC, Watiki Indoor Waterpark Resort, 1314 N. Elk Vale Rd., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
- 225. GS Corp Inc. DBA Casa Re-al, 2315 ½ Mt. Rushmore Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery

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

***Alcohol Licenses***

191. Dahl Arts Center for a Special Event Beer and Wine License for events scheduled May 20, 2009 and May 23, 2009 at the Art Museum, 713 7<sup>th</sup> Street
192. Rapid City Downtown Association for a Special Event Beer License for events scheduled June 13, 2009, June 26, 2009 and June 27, 2009
193. Wyngard Pot-O-Gold Casino Inc. DBA Lucky D's Casino II, 1330 E. St. Patrick St. #2, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery TRANSFER from Angie's Inc. DBA Video Blue's Hideaway Pub & Casino, 1028 E. North St.

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

194. Deadwood Outfitter Inc. DBA Deadwood Outfitter, 2820 Harley Dr. for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
195. Hungry's Restaurant Inc. DBA Marlin's Roadhouse Grill/CBM Food Service, 2803 Deadwood Ave., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
196. Los Espinos LLC DBA Lacosta Mexican Restaurant, 603 Omaha St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
197. Museum Alliance of Rapid City Inc. DBA The Journey Museum, 222 New York St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
198. Black Hills Food Services, Inc DBA Fuddruckers, 2200 N. Maple Ave. #330, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
199. Li Zhu Zhu DBA Hong Kong Buffet, 927 E. North St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
200. Asian Garden Inc. DBA Asian Garden, 740 Mt. View Rd, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
202. Jim Berger and Rhonda Berger DBA Ichiban, 1109 W. Omaha St. Ste. A, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
203. Dan Trieu Ly DBA Golden Fortune, 1204 E. North St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
204. Cortez LLC DBA Alex Johnson Hotel, 523 6th St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
205. Wal-East Development Inc. DBA Jackpot Casino East, 2708 E Hwy 44, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
206. Wal-East Development Inc. DBA Jackpot Casino, 685 LaCrosse St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
207. Wal-East Development Inc. DBA Jackpot Casino II, 685 C LaCrosse St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
208. Wal-East Development Inc. DBA Jokers Casino South, 1320 Mt. Rushmore Rd. C, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery

209. Wal-East Development Inc. DBA Jackpot Casino Too, 1415 N. LaCrosse St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
210. Wal-East Development Inc. DBA Jackpot Casino Too #2, 1415 N. LaCrosse St. #3B, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
211. Chas Inc. DBA Jackpot Casino West, 2144 Jackson Blvd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
212. Chas Inc. DBA Jackpot West II, 2144 Jackson Blvd. #4, for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
214. Shooters Inc. DBA Shooters, 2424 W. Main St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
215. Ken-Ben Inc. DBA 8th Street Lounge, 2201 Mt. Rushmore Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
216. Peaceful Pines Casino Inc. DBA West Main Square Casino, 3205 West Main St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
217. Robert W. Johnson DBA Canyon Lake Pub & Casino, 4116 Jackson Blvd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
218. GF Pizza Inc. DBA Godfathers Pizza, 110 Cambell St., for a Retail (on-off sale) Malt Beverage License, No Video Lottery
219. Bully Blends Coffee & Tea, Inc DBA Bully Blends Coffee & Tea Shop, 410 5th Street, for a Retail (on-off sale) Malt Beverage License, No Video Lottery
220. Colonial House, Inc. DBA Colonial House, 2501 Mt. Rushmore Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
221. Yeung Inc. Great Wall Chinese Restaurant, 315 E. North St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
222. Yeung Inc., Imperial Chinese Restaurant, 702 E. North St., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery
223. High Plans Securities DBA Cheyenne Casino, 4030 Cheyenne Blvd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery
224. WR Rapid City Ventures LP DBA Oakleaf Beer Garden, 2211 N. LaCrosse St., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery

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

226. Moyle Petroleum Company DBA Common Cents, 2808 Sheridan Lake Rd, for a Package (off sale) Malt Beverage License

227. Moyle Petroleum Company DBA Common Cents Food Store, 1909 LaCrosse, for a Package (off sale) Malt Beverage License
228. Moyle Petroleum Company DBA Common Cents Food Store, 2660 Mt. Rushmore Rd., for a Package (off sale) Malt Beverage License
229. Moyle Petroleum Company DBA Common Cents Food Store, 1129 W. Omaha St., for a Package (off sale) Malt Beverage License
230. Moyle Petroleum Company DBA North Street Smoke Shop, 634 E. North St., for a Package (off sale) Malt Beverage License
231. Moyle Petroleum Company DBA Common Cents, 4128 Canyon Lake Dr., for a Package (off sale) Malt Beverage License
232. Country Stores Inc. DBA BJ's St. Patrick Street, 701 E. St. Patrick St., for a Package (off sale) Malt Beverage License
233. Fuel Food Mart Inc. DBA Corner Pantry #5, 601 Mt. View Rd., for a Package (off sale) Malt Beverage License
234. Fuel Food Mart Inc. DBA Corner Pantry #4, 901 E. North St., for a Package (off sale) Malt Beverage License

#### END OF CONSENT PUBLIC HEARING CALENDAR

The Mayor presented Dadah Kids Corp. DBA Pauly's Pizzeria and Sub Company, 1624 E. St. Patrick St. #101, for a Retail (on-off sale) Malt Beverage License, NO Video Lottery; Coco Palace LLC DBA Coco Palace, 1900 N. Maple Ave., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery; Atlantis LLC, Watiki Indoor Waterpark Resort, 1314 N. Elk Vale Rd., for a Retail (on-off sale) Malt Beverage License, NO Video Lottery; and GS Corp Inc. DBA Casa Re-al, 2315 ½ Mt. Rushmore Rd., for a Retail (on-off sale) Malt Beverage License, WITH Video Lottery. Motion was made by Chapman, seconded and carried to continue to the June 1, 2009 City Council meeting.

The Mayor presented Late Harvest Inc. DBA Tally's Silver Spoon, 530 6<sup>th</sup> St, for a 2009 - 2010 Retail (on-off sale) Malt Beverage License, NO Video Lottery. Motion was made by Olson, seconded and carried to continue to the June 15, 2009 City Council meeting.

#### **NON-CONSENT PUBLIC HEARING ITEMS** – Items 235 - 236

The Mayor presented (CC051809-04) Resolution (No. 2009-065) of Intent to Enter into Lease of Land with Martinez Boxing Club, Inc. Pursuant to SDCL 9-12-5.2; and (LF040109-21) Resolution (No. 2009-045) of Intent to Lease 80 Acres on North Elk Vale Road to Matt Kammerer for the Purposes of a Haying Operation Only Pursuant to SDCL 9-12-5.2. Motion was made by Kooiker and seconded to direct the City Attorney's Office to prepare the leases for Martinez Boxing Club, Inc. and Matt Kammerer. Kooiker reminded Council the boxing club was a 2012 project, and he would like to publish hours of operation on the City website along with information about the organization. Mayor Hanks asked Kooiker to bring the issue up in Legal and Finance. Responding to Okrepkie, Green said there is a notification of cancellation in the lease with Kammerer to allow the soccer complex to move forward. He also said revenue will go into the general fund. Responding to Martinson, Green explained the \$1 lease happens with non-profit organizations. Motion carried.

#### **BILLS**

The following bills having been audited, motion was made, seconded and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof.

|  |              |
|--|--------------|
| Payroll Ending 5/9/2009, Paid 5/15/2009          | 874,172.36   |
| Payroll Ending 5/9/2009, Paid 5/15/2009          | 3,592.80     |
| Pioneer Bank & Trust, Paid 5/15/2009             | 200,652.07   |
| Pioneer Bank & Trust, Paid 5/15/2009             | 252.98       |
| SD Retirement System, Paid 5/5/2009              | 376,910.36   |
| SD Retirement System, Paid 5/5/2009              | 396.69       |
| SD Department of Revenue, Paid 5/11/2009         | 32,778.11    |
| SD Department of Revenue, Paid 5/11/2009         | 7.38         |
| SD Department of Revenue, Paid 5/12/2009         | 16,823.41    |
| First Administrators, Paid 5/5/2009              | 79,550.82    |
| First Administrators, Paid 5/12/2009             | 66,258.79    |
| Berkley Risk Administrators, Paid 5/5/2009       | 71,473.99    |
| West River Electric Assn., Paid 5/12/2009        | 29,471.07    |
| Black Hills Power and Light, Paid 5/12/2009      | 18,741.22    |
| Black Hills Electric Cooperative, Paid 5/12/2009 | 496.77       |
| Wells Fargo Corporate Card, Paid 5/13/2009       | 21.00        |
| Computer Bill List                               | 3,538,387.75 |
| Subtotal   | 5,309,987.57 |
| <br>   |              |
| Payroll Ending 5/9/2009, Paid 5/15/2009          | 2,871.15     |
| Pioneer Bank and Trust, Paid 5/15/2009           | 219.64       |
| SD Retirement System, Paid 5/5/2009              | 322.74       |
| City Health Insurance Trust                      | 962.50       |
| Ikon Financial Services                          | 9.37         |
| Metropolitan Life Insurance                      | 6.42         |
| Rapid City Journal                               | 129.60       |
| City of Rapid City – Postage                     | 0.75         |
| Subtotal   | 5,314,509.74 |

**EXECUTIVE SESSION** permitted by SDCL 1-25-2

Motion was made by Costello, seconded and carried to go into Executive Session at 11:03 P.M. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 11:31 P.M. with all members present.

**STAFF DIRECTION**

Motion was made and seconded to proceed in accordance with the discussion in executive session in the property acquisition matter. Motion carried with one NO from Okrepkie.

Motion was made, seconded and carried to direct the City Attorney's office to file an amended complaint in the Big Sky litigation.

Motion was made, seconded and carried to direct the City Attorney's office and the Rapid City Police Department to cease enforcement of any City ordinance that may violate SDCL 34-20A-93, to use any state law analogs where applicable and to seek the Municipal League's assistance in eliminating this potential liability.

**ADJOURN**

As there was no further business to come before the Council at this time, the meeting was adjourned at 11:33 P.M.

ATTEST:

CITY OF RAPID CITY

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

\_\_\_\_\_  
Mayor

(SEAL)