

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

September 21, 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, September 21, 2009 at 7:00 P.M.

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

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

**ADOPTION OF AGENDA**

The following items were added to the agenda:

- Welcome to Dakota Panel, Alderman LaCroix

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

**APPROVE MINUTES**

Motion was made by LaCroix, second by Chapman and carried to approve minutes for August 31, September 1, 8 and 14, 2009 special Council meetings and September 8, 2009 regular Council meeting.

**AWARDS AND RECOGNITIONS**

Mayor Hanks presented a Resolution to the South Dakota Primal Quest Team for their efforts in the Primal Quest Badlands 2009 Event.

RESOLUTION #2009-124

WHEREAS, the City of Rapid City, South Dakota hereby recognizes the achievements of Team South Dakota finishing 14th in a field of 32 teams in the Primal Quest Badlands 2009 event. This outstanding team of Rapid City residents is the first "hometown team" to compete and place in the six years of Primal Quest, and

WHEREAS, Primal Quest Badlands 2009 is one of North America's premier adventure races. With a 600 mile course involving some of the most difficult and diverse Badlands terrain, the Rapid City natives met the demanding challenge and brought high honor to our community. They have shown not only our community and the State of South Dakota, but the entire country what teamwork and commitment is all about.

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

Team South Dakota  
Gary Haven, Eric Hansen, Lisa Gustin, Andy Busse

Dated this 21st day of September, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

Mayor Hanks presented the Veteran of the Month for September 2009 to Jon D. Evans, Sr. and recognized his efforts and dedication to the service of his country and community.

Mayor Hanks presented a Certificate of Recognition to Pam Cowling, a Rapid City Police Department employee, acknowledging her 20 years of dedicated service to the Rapid City community.

**NON-PUBLIC HEARING ITEMS** – Items 4 – 86

Motion was made by Chapman, second by Costello and carried to open the public comment for items 4 – 67.

Terry Cash indicated that he is available to answer questions related to Item 6 on the agenda.

Sam Fischer explained the tent sale that Fischer Furniture has held for the past 15 years and said that the Public Works Committee recommended denial of the request this year. He explained that they maintain the lot and sidewalk and further explained that setting up the tent sale on the grass will allow traffic to function as normal. He compared the use of the area to the Farmer’s Market, Summer Nights and sidewalk vendors, and he asked Council to reconsider the issue.

Ron Davis, Davis Engineering, indicated that he has a plat on the agenda and has completed all required items at this time. He asked Council to approve the plat, Item 61, so that he can move forward with construction.

Motion was made by LaCroix, second by Waugh and carried to close the public comment for items 4 – 67.

**CONSENT ITEMS** – Items 4 – 58

The following items were removed from the Consent Items:

- 7. No. CC092109-03 - Deny a Request by Fischer Furniture to erect a tent in the public right-of-way at 1710 West Main Street beginning September 28, 2009, until October 11, 2009; and City of Rapid City to be named as additional insured – Jay Fox / Curt Sailer.
- 12. No. PW091509-02 – Authorize Mayor and Finance Officer to Sign a Purchase Agreement between the City of Rapid City and Red Rock Development LLC for the Purchase of a Well Lot.
- 13. No. PW091509-03 – Approve Authorization to Prepare H-Lot and Acceptance of Deed for Well and Well Lot.

14. No. PW091509-04 – Authorize Mayor and Finance Officer to Sign a Water Service Agreement between the City of Rapid City and Red Rocks golf Club.
57. No. 09CA017 – Approve a request by City of Rapid City for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial with a Planned Commercial Development to Public** the 100 foot wide railroad right-of-way lying north of Lot H-3 and H-4 in the NW1/4 of Section 9 and north of a portion of the N1/2 NW1/4 less Lot H5 of the NE1/4 NW1/4 and the N1/2 SE1/4 NW1/4 less Lot H1 of Section 9, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of South Valley Drive and south of S.D. Highway 44.

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

***Alcoholic Beverage License Applications Set for Hearing (October 5, 2009)***

4. Rapid City Catholic School System for a Special Beer and Wine License for an event scheduled at 300 Fairmont Blvd. on October 24, 2009.
5. Youth and Family Services Inc. for a Special Beer and Wine License for an event scheduled at 120 E. Adams Street on February 19 and 20, 2009.

***Public Works Committee Consent Items***

6. No. PW090109-01 - Approve a request from Terry Cash, Dream Design International, Inc., to Appeal the Denial of the Request for Exception to Rapid City Standards to allow a Utility Service to cross another property with the Attorney's Office drafting the appropriate Covenant Agreement and ask that the property taxes be paid in arrears since the date of the certification of the public vote.
8. Acknowledge the report on Highway 44 Median Discussion.
9. Ask the Mayor to direct the Public Works Department to send a letter to the DOT asking the DOT to conduct a study on the intersection of Founder's Park Drive and Omaha Street and report the findings to the City Council in 30 days.
10. Acknowledge the report on Update on New Bus Routes.
11. Acknowledge the report on the Update on Sixth and Saint Joseph Street Project.
15. No. CC090809-02.2 - Award Enhanced Corrosion Inhibited Liquid Magnesium Chloride for Street Division (Opened September 2, 2009) to the lowest responsible bidder meeting specifications (Enviro Tech Services, Inc. in the amount of \$12,500.00).
16. Approve item No. PW091509-05, No. PW091509-06, No. PW091509-07, and No. PW091509-08. No. PW091509-05 – Change Order No. 1F to Warax Excavating, Inc. for the First Street Outfall 36" Flap Gate, Project No. DR09-1812 / CIP No. 50765, for a decrease in the amount of \$353.50. No. PW091509-06 – Change Order No. 2F to KRM Concrete for the ADA Compliance Project, Project No. ADA09-1781 / CIP No. 50761, for a decrease in the amount of \$87.92. No. PW091509-07 – Change Order No. 1F to Simon Contractors of SD, Inc. for the Sanitary Sewer Extension, Block 110 Original Townsite (Kansas City Street to Quincy Street), Project No. SS08-1752 / CIP No. 50742, for a decrease of \$1,403.76. No. PW091509-08 – Change Order No. 1F

to Quinn Construction Inc. for the Elm Avenue Sanitary Sewer – Hillshire Court to E. Minnesota Street, Project No. SS08-1709 / CIP No. 50152, for an increase of \$10,456.34.

17. No. PW091509-09 – Authorize Staff to Advertise for Bids PCC Pavement Repair – Tamarack Drive, Minnesota Street, and 7<sup>th</sup> Street; Project No. ST09-1816 / CIP No. 50445. Estimated Cost of Project: \$275,000.00.
18. No. PW091509-10 – Authorize Mayor and Finance Officer to Sign Applications for Permits to Appropriate Water as related to the Jackson Springs Water Treatment Facility and Mt. View Water Treatment Facility and authorize payment of related applications fees from the Water Enterprise Fund.
19. No. PW091509-11 – Authorize Mayor and Finance Officer to Sign an Agreement for purchase of Lot B of Lot 4 Cleghorn Canyon #2 for Jackson Springs Water Treatment Plant.
20. No. PW091509-12 – Authorize Mayor and Finance Officer to Sign a Professional Services Agreement with TSP, Inc. for the Catron Boulevard (US Hwy 16B) Reconstruction Utility Relocation and Modification, Project No. SSW09-1819 / CIP No. 50396, in the amount of \$69,315.00.
21. No. PW091509-13 – Authorize Mayor and Finance Officer to Sign a Professional Services Agreement with CETEC Engineering Services, Inc. for the Saint Andrew Street Reconstruction, Project No. ST10-1083 / CIP No. 50714, in the amount of \$61,152.00.
22. No. PW091509-14 – Authorize Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of a sidewalk along Haines Avenue as they abut Outlot A of Auburn Hills Subdivision and Lot 5 of Madison's Subdivision, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 602 Auburn Drive (09UR017).
23. No. PW091509-15 – Authorize Mayor and Finance Officer to sign State of South Dakota Agreement/letter of Agreement with the South Dakota Department of Environment and Natural Resources.

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

24. No. LF091609-01 – Approve Travel Request for Mayor Hanks, Karen Gundersen Olson, and Malcom Chapman to attend South Dakota Municipal League Annual Conference in Watertown, SD, October 6-9, 2009, in the approximate amount of \$2,550.80.
25. No. LF091609-02 – Confirm reappointment of Richard Dunkelberger and Craig Christianson and the appointment of Michelle Lamphere and Kelly Knutson to the BID Board.
26. No. LF091609-03 – Confirm appointment of Gary Brown to the Annexation Sub Committee.
27. Acknowledge presentation of updated City website.
28. No. LF091609-34 – Confirm appointment of Gary Brown to the Tax Increment Financing Committee to replace Tom Hennies.
29. No. LF091609-35 – Confirm appointment of Barb Collins and Doug Kinninburgh to the Planning Commission.

- 30. No. LF091609-36 – Confirm appointment of Roger Hall, Suzanne Martley, Timothy Roach, Aaron Sanders, Eirik Heikes, Jessica Miller, Cynthia Matson, City Council members Karen Gundersen Olson and Patti Martinson, and Energy Plant Manager Gunar Dzintars to the Green City Task Force.
- 31. No. LF091609-04 – Approve Human Relations Commission bylaws.
- 32. Acknowledge discussion on future 2012 dates.
- 33. No. LF091609-05 – Approve Event Permit for Black Hills Symphony Orchestra for free parking near the First United Methodist Church on Saturday, January 30, 2010.
- 34. No. LF091609-06 – Approve Event Permit for United Blood Services for free parking.
- 35. No. LF091609-07 – Approve Event Permit for Destination Rapid City Fall Festival to be held October 2-3, 2009.
- 36. No. LF091609-08 – Approve Travel Request for Bill Parsons and Steve Neavill to attend Polygraph Conference in San Diego, CA, December 6-11, 2009, in the approximate amount of \$3,916.80.
- 37. No. LF091609-09 – Accept grant award for Internet Crimes against Children Recovery Act 2009 in the amount of \$9,000.
- 38. No. LF091609-10 – Accept Special Event Enforcement Grant in the amount of \$62,868.
- 39. No. LF091609-11 – Accept DUI Enforcement Grant in the amount of \$140,000.
- 40. No. LF091609-12 – Authorize staff to advertise for bids for a siding replacement project for Fire Stations 4 and 5.
- 41. No. LF091609-37 – Approve Travel Request for Tim Behlings and Rich Broderick to attend American Fire Sprinkler Association Conference in Dallas, TX, October 4-10, 2009, in the approximate amount of \$2,800.
- 42. No. LF091609-13 – Approve Resolution No. 2009-115 Declaring Property Surplus.

RESOLUTION #2009-115  
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:

Airport  
File Cabinet, four-drawer with one roll-out shelf, brown in color, Unit #12265.

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 21st day of September, 2009.

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

ATTEST:  
s/ James F. Preston  
Finance Officer

(SEAL)

- 43. No. LF091609-16 – Approve Travel Request for Angela Tallon to attend Writing Advanced Geoprocessing Scripts Using Python in Broomfield, CO, December 7-11, 2009, in the approximate Amount of \$2,375.
- 44. No. LF091609-17 - Authorize Mayor and Finance Officer to sign Contracts for Fiscal Year 2009 Community Development Block Grant Sub-recipient Community Health Center of the Black Hills.
- 45. No. LF091609-18 – Authorize Mayor and Finance Officer to sign Contracts for Fiscal Year 2009 Community Development Block Grant Sub-recipient The Salvation Army.
- 46. No. LF091609-19 – Authorize Mayor and Finance Officer to sign Contract for Fiscal Year 2008 Community Development Block Grant Recovery Funds, The American Recovery and Reinvestment Act of 2009, Sub-recipient Bethel Assembly of God.
- 47. No. LF091609-20 – Authorize Mayor and Finance Officer to sign Contract for Fiscal Year 2008 Community Development Block Grant Recovery Funds, The American Recovery and Reinvestment Act of 2009, Sub-recipient Rural America Initiatives.
- 48. No. LF091609-21 – Approve Travel Request for Don Brumbaugh to attend South Dakota Municipal Street Maintenance Association Meeting at the South Dakota Municipal League Conference October 8-9, 2009, in the approximate amount of \$275.15.
- 49. No. LF091609-22 – Approve Travel Request in the amount of \$1,940 for 14 City staff members to attend the 2009 Annual SD Parks and Recreation Association Annual Conference to be held in Rapid City at the Rushmore Plaza Holiday Inn, September 29-October 1, 2009.
- 50. No. LF091609-23 – Authorize Mayor and Finance Officer to sign Master Development Agreement with St. Joe Investment Group, LLC.
- 51. No. LF091609-24 – Authorize Mayor and Finance Officer to sign Agreement for Professional Services between City of Rapid City, Soccer Rapid City and FourFront Design, Inc.
- 52. No. LF091609-25 – Authorize Mayor and Finance Officer to sign Professional Services Agreement between the City of Rapid City, The Alliance of Tribal Tourism Advocates and Wyss Assoc., Inc. for Design Services Related to Pow Wow Gardens and Art Market.
- 53. No. LF091609-26 – Approve Resolution (No. 2009-120) of Intent to Enter Into Lease of Land with Soccer Rapid City Pursuant to SDCL 9-12.5.2.

RESOLUTION #2009-120  
A RESOLUTION OF INTENT TO ENTER INTO LEASE OF  
LAND WITH SOCCER RAPID CITY 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 Soccer Rapid City which property is described as follows:

The South Four Hundred Sixty-four and Sixty-four Hundredths Feet (464.64') of the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE¼NW¼NE¼); the South Four Hundred Sixty-four and Sixty-four Hundredths Feet (464.64') of the Northeast Quarter of the Northeast Quarter (NE¼NE¼) less Lot H1; the East Half of the Southwest Quarter of the Northeast Quarter (E½SW¼NE¼); and the Southeast Quarter of the Northeast Quarter (SE¼NE¼), located in Section Twenty-one (21), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian, Pennington County, South Dakota.

BE IT FURTHER RESOLVED that a copy of this resolution of intent be published once at least ten (10) days prior to the hearing to be held at City Hall, 300 Sixth Street, Rapid City, South Dakota, at 7:00 o'clock, p.m., on the 5th day of October, 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 21st day of September, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 54. No. LF091609-27 - Approve Resolution (No. 2009-121) of Intent to Enter into Lease of Land with The Alliance of Tribal Tourism Advocates.

RESOLUTION #2009-121  
A RESOLUTION OF INTENT TO ENTER INTO LEASE OF  
LAND WITH THE ALLIANCE OF TRIBAL TOURISM ADVOCATES  
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 The Alliance of Tribal Tourism Advocates which property is described as follows:

The following property located in Section Thirty-six (36), Original Town of Rapid City, Township Two North (T2N), Range Seven East (R7E) of the Black Hills Meridian, Rapid City, South Dakota:

Lots One (1) through Sixteen (16) and the West Half (W½) of Vacated Second Street abutting Lot One (1) and the East Half (E½) of that portion of vacated Third Street abutting Lot Sixteen (16), and the North Half (N½) of the vacated alley abutting said Lots;

Lots Twenty-five (25) through Thirty-two (32) and the South Half (S½) of vacated Second Street abutting Lot Thirty-two (32) and the South Half of the vacated alley abutting Lots Twenty-five (25) through Thirty-two (32);

Lots Twenty-three (23) through Twenty-four (24) and half of the South Half of the vacated alley abutting said lots;

Lots Twenty-one (21) through Twenty-two (22) and the South Half of the vacated alley abutting said lots;

The North Half (N½) of Lots Seventeen (17) through Twenty (20) and the South Half of the vacated alley abutting said lots;

The South Half (S½) of Lots Seventeen (17) through Twenty (20).

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 5th day of October, 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 21st day of September, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

- 55. No. LF091609-32 – Approve Resolution No. 2009-116 to Lift Restrictions on Proactive Code Enforcement.

RESOLUTION 2009-116  
RESOLUTION TO LIFT RESTRICTIONS ON PROACTIVE CODE ENFORCEMENT

WHEREAS, the Common Council of the City of Rapid City has approved prior resolutions restricting the nature and amount of enforcement that Rapid City Code Enforcement Officers perform; and

WHEREAS, the Common Council is of the opinion that it should no longer restrict the nature and amount of enforcement that Rapid City Code Enforcement Officers perform; and

WHEREAS, the Common Council determines that removing said restrictions will promote the health, safety, security and general welfare of the citizens of the City of Rapid City.

NOW THEREFORE BE IT RESOLVED by the City of Rapid City that restrictions placed on the nature and amount of enforcement performed by Rapid City Code Enforcement Officers shall be repealed.

Dated this 21st day of September, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

56. No. LF091609-33 – Acknowledge raffle request from Rapid City Jaycees.

***Growth Management Department Consent Items***

58. No. 09PL049 – Deny Without Prejudice a request by FMG, Inc. for Menard, Inc. for a **Layout Plat** on Lots B1 and B2 of Menard Subdivision, located in the SE1/4 NW1/4, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Menard Subdivision located in the SE1/4 NW1/4, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1830 Eglin Street.

**END OF CONSENT CALENDAR**

Motion was made by Costello, second by Hadcock, to approve the recommendation to deny the request by Fischer Furniture to erect a tent in the public right-of-way at 1710 West Main Street beginning September 28, 2009, until October 11, 2009; and City of Rapid City to be named as additional insured. Kroeger said this is not a normal right-of-way. The business has had the tent sale there for the past 15 years and it is in a vacant lot. He said he is surprised that after 15 years we would decide not to allow it, and he compared it to previously allowing a tent for a wedding at Canyon Lake. He will not support the motion. LaCroix said that another group fought for something during the rally and there were other issues with parking, so we need to be fair. He said he wants to see the same effort brought forward on this property as with the denial of the last one. His second reason was due to the recent accident in the gap, and he said this will cause more distraction. Responding to Hadcock, Green said there is a statutory obligation to hold right-of-way in public trust for the benefit of the public as a whole and no other use. He said this would be another use as it is private commercial use of public right-of-way, and he explained why this issue differs from the Farmer's Market or Summer Nights. Hadcock said safety should come first on this road and said it is common sense not to take the liability. Responding to Kooiker, Green explained that there is specific statutory authorization that allows the Council to permit and license sidewalk vendors. Elkins then explained that the property is being held for possible road extension in the future, but they have decided not to move forward with that at this time. She strongly recommended keeping the land in City ownership as right-of-way for future needs. Green said there is an ordinance that property owners maintain areas adjacent to their property. He said that he cannot specifically identify issues or complaints over the years as a result of the tent sale, but he does not have enough information to answer the question. Kooiker pointed out the sales tax that is generated from a sale like this and encouraged finding a way to give us more flexibility. He does not see a public safety risk. Costello said his decision to vote for denial hinged on the Attorney's opinion and consistency on how the Council deals with public right-of-way. He mentioned the alternative site and said he has confidence that the business will do well. Upon vote being taken, the following voted AYE: Costello, LaCroix, Chapman, Hadcock, Waugh, Martinson and Kooiker; NO: Weifenbach and Kroeger. Motion carried.

Motion was made by Costello, second by LaCroix, to (No. PW091509-02) Authorize Mayor and Finance Officer to Sign a Purchase Agreement between the City of Rapid City and Red Rock Development LLC for the Purchase of a Well Lot. Waugh wanted to acknowledge that he is abstaining from this item. Motion carried with Waugh abstaining.

Motion was made by Costello, second by LaCroix, to (No. PW091509-03) Approve Authorization to Prepare H-Lot and Acceptance of Deed for Well and Well Lot. Waugh wanted to acknowledge that he is abstaining from this item. Motion carried with Waugh abstaining.

Motion was made by Costello, second by LaCroix, to (No. PW091509-04) Authorize Mayor and Finance Officer to Sign a Water Service Agreement between the City of Rapid City and Red Rocks golf Club. Waugh wanted to acknowledge that he is abstaining from this item. Motion carried with Waugh abstaining.

Motion was made by Waugh, second by Costello and carried to open the public comment for Item 57. No comments were offered.

Motion was made by Hadcock, second by LaCroix and carried to close the public comment for Item 57.

The Mayor presented (No. 09CA017) a request by City of Rapid City for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial with a Planned Commercial Development to Public** the 100 foot wide railroad right-of-way lying north of Lot H-3 and H-4 in the NW1/4 of Section 9 and north of a portion of the N1/2 NW1/4 less Lot H5 of the NE1/4 NW1/4 and the N1/2 SE1/4 NW1/4 less Lot H1 of Section 9, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of South Valley Drive and south of S.D. Highway 44. Motion was made by Waugh, second by LaCroix and carried to approve the request.

RESOLUTION #2009 - 125  
RESOLUTION AMENDING THE COMPREHENSIVE PLAN  
OF THE CITY OF RAPID CITY

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

WHEREAS, the Rapid City Council held a public hearing on the 21<sup>st</sup> day of September, at which they considered the recommendation of the Planning Commission and the proposed amendment to the Comprehensive Plan; and

WHEREAS, the proposed Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial with a Planned Commercial Development to Public, on the 100 foot wide railroad right-of-way lying north of Lot H-3 and H-4 in the NW1/4 of Section 9 and north of a portion of the N1/2 NW1/4 less Lot H5 of the NE1/4 NW1/4 and the N1/2 SE1/4 NW1/4 less Lot H1 of Section 9, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and

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

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial with a Planned Commercial Development to Public, on the 100 foot wide railroad right-of-way lying north of Lot H-3 and H-4 in the NW1/4 of Section 9 and north of a portion of the N1/2 NW1/4 less Lot H5 of the NE1/4 NW1/4 and the N1/2 SE1/4 NW1/4 less Lot H1 of Section 9, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota as attached to the original hereof be filed with the City Finance Office

Dated this 21st day of September, 2009.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

**CONTINUED CONSENT ITEMS** – Items 59 – 67

The following item was removed from the Continued Consent Items:

61. No. 09PL023 - A request by Davis Engineering, Inc. for a **Layout and Preliminary Plat** on Lots 3R, 4, 5, 6 and 7 of Block 7, Lots 3, 4, 5 and 6 of Block 8 of Murphy Ranch Estates Subdivision, Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of Tract F of the NE1/4 of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located southeast of the intersection of Springfield Road and Knuckleduster.

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

***Continue the following items until October 5, 2009:***

59. No. 08PL099 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1 thru 28 of Block 3; Tracts A, B, C and D of Block 4 of Homestead Plaza Subdivision, located in the S1/2 NW1/4 and in the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract A of F&N Subdivision, the balance of the E1/2 SW1/4 NW1/4, the balance of the SE1/4 NW1/4, located in the S1/2 NW1/4 and the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of Timmons Boulevard, south of Neel Street and west of Big Sky Drive.
60. 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.
62. No. 09PL024 - A request by D.C. Scott Co. Land Surveyors for William M. Jobgen for a **Preliminary Plat** on Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located between Carlin Street and Crane Drive.
63. No. 09PL034 - A request by Fisk Land Surveying & Consulting Engineers for Walter J. Bradsky for a **Layout Plat** on Lots 5A and 5B of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, legally described as Lot 5 of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, located at 7800 Elkhart Road.
64. No. 09PL040 - A request by Centerline, Inc. for Lazy P-6 Land Co., Inc. for a **Layout Plat** on Lot 1 in Block 1 and Lots 1 thru 4 in Block 2 of \_\_\_\_\_ Subdivision, located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, legally described as a parcel of land located in the W1/2 SW1/4 of Section 19, T1N, R8E and E1/2 SE1/4 of Section 24, T1N, R7E all located in BHM, Pennington County, South Dakota, located at the southeast corner of the intersection of Fifth Street and Catron Boulevard.
65. No. 09PL046 - A request by Todd Fenster for a **Layout Plat** on Lot 1 of Block 1 of Expressway Subdivision, located in the N1/2 N1/2 SW1/4, less Big Sky Subdivision, less F&N Subdivision, less Lot H1 and less right-of-way, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the unplatted parcel located in the N1/2 N1/2 SW1/4, less Big Sky

Subdivision, less F&N Subdivision, less Lot H1 and less right-of-way, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, located at 1200 Elk Vale Road.

66. No. 09PL047 - A request by Centerline, Inc. for PLM Land Development, LLC for a **Preliminary Plat** on Lots 36 thru 53 of Block 1 of PLM Subdivision, located in the N1/2 NW1/4 and the unplatted SW1/4 NW1/4 of Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance located in the N1/2 NW1/4 and the unplatted SW1/4 NW1/4 of Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the eastern extension of Conestoga Court.
67. No. 09PL048 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lot 1 of Tract 3 of Discovery Subdivision, 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, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1851 Discovery Circle.

#### END OF CONTINUED CONSENT ITEMS

Motion was made by Hadcock, second by LaCroix, to approve (No. 09PL023) A request by Davis Engineering, Inc. for a **Layout and Preliminary Plat** on Lots 4, 5, 6, and 7 of Block 7 and Lots 3, 4, 5, and 6 of Block 8, Murphy Ranch Estates Subdivision, Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of Tract F of the NE1/4 of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located southeast of the intersection of Springfield Road and Knuckleduster with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, the approved Erosion and Sediment Control Plan shall be sealed and signed by a Professional Engineer. In addition, the plans shall be dated; 2. 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; 3. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; 4. 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; and, 5. Approval of the Preliminary Plat hereby grants approval of the revised construction plans to allow for the construction of a concrete drainage channel in lieu of a grass drainage channel along the common lot line of Lots 8 and 9, Block 6 of Murphy Ranch Estates. In addition, the drainage channel shall be constructed in compliance with the approved plans. Elkins told the Council that this was not completed by 4:00 PM on Wednesday but said it could be approved with stipulations. Motion carried.

#### **NON-CONSENT ITEMS** – Items 68 – 86

Motion was made by Hadcock, second by Chapman and carried to open the public comment for Items 68 – 86. Royal Nielson thanked the Council for working with him on Items 76 and 77 and said he hopes to get them done. Ted Schultz, representing Mr. Nielson, explained that the property was recently annexed into the City. He said Mr. Nielson agreed to clean up the property as he proceeds with his development, and he also modified his zoning request to include Low Density Residential, Light Industrial and General Commercial. The development he has planned would also include sanitary sewer service allowing nearby homes to connect to central sewer.

Motion was made by Chapman, second by Costello and carried to close the public comment for Items 68 – 86.

#### **Ordinances**

Ordinance 5539 (No. LF091609-28) An Ordinance to Provide a Dual Notice Provision for Chapter 8.16 of the Rapid City Municipal Code Relating to Nuisances. Motion was made by Hadcock, second by Costello and carried that Ordinance 5539 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 5, 2009.

Ordinance 5540 (No. LF091609-29) An Ordinance Amending Chapter 8.28 of the Rapid City Municipal Code Relating to Grass and Weeds. Motion was made by Hadcock, second by Costello and carried that Ordinance 5540 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 5, 2009.

Ordinance 5541 (No. LF091609-30) An Ordinance to Revise the Method of Removal of Junk Motor Vehicles from Private Property by Amending Chapter 10.56 of the Rapid City Municipal Code. Motion was made by Hadcock, second by Costello and carried that Ordinance 5541 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 5, 2009.

Ordinance 5542 (No. LF091609-31) An Ordinance to Provide a Penalty for Failure to Remove Snow and Ice from Sidewalks by Amending Section 12.20.070 of the Rapid City Municipal Code. Motion was made by Hadcock, second by Costello and carried that Ordinance 5542 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 5, 2009.

Ordinance 5543 (No. 09RZ036) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Glen A. Elshire for a **Rezoning from General Commercial District to Light Industrial District** of Lot A of Blocks 3 and 4 of Rapid Valley Subdivision, Section 8, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2507 East St. Patrick Street. Motion was made by Hadcock, second by LaCroix and carried that Ordinance 5543 be placed upon its first reading and the title was fully and distinctly read and second reading set for Monday, October 5, 2009.

Ordinance 5535 (No. LF090209-14) An Ordinance Regarding Supplemental Appropriation No. 5 for 2009 having passed its first reading on September 8, 2009; motion was made by Hadcock, second by Costello, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5535 was declared duly passed upon its second reading.

Ordinance 5533 (No. LF090209-15A) An Annual Appropriation Ordinance for FY 2010 having passed its first reading September 8, 2009; motion was made by Hadcock, second by Weifenbach, that the title be read the second time with the recommendations from the Council work session and Legal and Finance Committee. Preston said they have received updated figures from the County Auditor on the property tax for growth and tax on utilities which will be an additional \$54,164.00 that needs to be included on the revenue side for property taxes. Hadcock and Weifenbach confirmed that is part of the motion. Responding to Chapman, Green said he looked into finding out if Council has the authority for a rebate program, but he was unable to find any authority to do that. The Council does have the ability to do abatements, but he could not fit the proposal into one of the reasons. Chapman said at some level he disagrees that the budget came forward without the CPI. However, he said it is important that some entity step forward and say that we will not take something from citizens. He stated his concern for the missed opportunity in the future, but because of the extraordinary times, he said it is more important not to take the CPI this year. Kooiker asked about the Mayor's vehicle expenses. Preston explained that the expenses are broken out, and it was confirmed that the motion will recommend moving the funds to new line items for the Mayor's Office. Kooiker said he does not believe that now is the time to increase the travel budget.

Amendment motion was made by Kooiker to keep the Mayor and Council travel budget at \$25,000. Motion died for lack of a second.

Hadcock said she feels it is positive not to take the CPI, and it is a positive impact for the citizens of Rapid City. She expressed her appreciation for Alderman Weifenbach's work on this. LaCroix also thanked the Council. He said he agreed with first reading when CPI was taken but not allocated. He is concerned with some unfunded items in 2010 and 2011 as that is when it will affect us, so he said he will vote against the amended ordinance. Waugh said there is room for adjustments to the way the budget was handled. He is still in favor of keeping the CPI but will vote for the amended version of the budget as it is a good budget overall. Kroeger said he will support the second reading but said he has concerns with not taking the CPI. He said that it will put future Council members in a quandary of how to approve future budgets. Chapman pointed out that a no vote would say that you do not support the budget for the City for 2010. He also suggested that the Council give guidance to the Mayor for next year once the 2010 budget is approved. Weifenbach said the Council put a lot of work in changing the budget process and said this is the first step to find out where we have opportunities to synergize. LaCroix said he will not vote against the budget although he was hoping for an amendment. He said the Council worked hard on the budget, and he looks forward to the work they will do in the fourth quarter this year. Kooiker said the Council will make a good decision by voting not to increase property taxes, but he disagrees with the growth factor. He is concerned that we are 3% down for revenue and that figure may not improve. He said he disagrees with the increase in travel and the Mayor and Council salary increases, and he said he reserves the right to bring up those items when they come through. Hadcock said this is a good way for the Council and Mayor to work better as a team, and she said many people have mentioned that this is positive. Mayor Hanks clarified that the Council and Mayor's salaries are not included in this budget and that this is a no growth budget when you look at the expense side of the ledger. Motion carried.

Ordinance 5534 (No. LF090209-34) An Ordinance Allowing Department Directors to Enter into Contracts up to \$25,000 with a Single Vendor Without Prior City Council approval by Amending Section 3.04.090 of the Rapid City Municipal Code having passed its first reading on September 8, 2009; motion was made by Hadcock, second by LaCroix, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5534 was declared duly passed upon its second reading.

### ***Growth Management Department Items***

Elkins indicated there is a minor change request for Items 76 and 77. Motion was made by Hadcock, second by Waugh and carried to continue Item 76 (No. 09CA12) and Item 77 (No. 09CA013) to the October 5, 2009 City Council meeting.

76. No. 09CA012 - A request by City of Rapid City for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Low Density Residential to General Commercial** on that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Commencing at the southwest corner of Lot 15 Revised; thence N00°03'23"W 283.51 feet, more or less, to the Point of Beginning; thence N00°03'23"W 198.47 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 198.82 feet, more or less; thence N89°50'46"W 129.72 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44.
77. No. 09CA013 - A request by City of Rapid City for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Low Density Residential to Light Industrial with a Planned Industrial Development** on that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the northeast corner of Lot 15 Revised;

thence S00°00'00"E 349.61 feet, more or less; thence N89°50'46"W 200.00 feet, more or less; thence N00°00'00"W 198.82 feet, more or less; thence N90°00'00"W 129.91 feet, more or less; thence N00°03'23"W 150.00 feet, more or less; thence N89°56'06"E 330.06 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the south 293 feet of Lot 6 of Marshall Subdivision, located in the SE¼ NE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44.

Motion was made by Hadcock, second by Waugh and carried to approve (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 with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department; 2. Prior to Final Plat approval, the plat shall be signed by all of the affected property owners for the proposed vacation of the section line highway or the vacation of the section line highway shall be removed from the plat and the section line highway shall be properly labeled; 3. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to include the adjacent property, Lot 4, Owen Hibbard Subdivision, or the vacation of the eastern three feet of the Promise Road right-of-way shall be submitted as a separate vacation of right-of-way request; 4. Prior to Preliminary Plat approval by the City Council, the applicant shall demonstrate that the proposed intersection of Promise Road and Golden Eagle Drive provides adequate elevation to construct the future street connection of Golden Eagle Drive to the service road located in the U.S. Highway 16 right-of-way in accordance with American Association of State Highway and Transportation Officials; 5. Prior to Preliminary Plat approval by the City Council, the construction plans shall be revised to show a "T" intersection between Vineyard Lane and Golden Eagle Drive located within the section line highway located along the south lot line. In addition, the plat document shall be revised to show the right-of-way for the "T" intersection if it is located outside of the section line highway; 6. Prior to Preliminary Plat approval by the City Council, construction plans for the H Lot located along the west lot line shall be submitted for review and approval. In particular, the construction plan shall show the street constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 7. Prior to Preliminary Plat approval by the City Council, a grading plan showing any proposed grading, including cut and fill quantities shall be submitted for review and approval; 8. Prior to Preliminary Plat approval by the City Council, an Erosion and Sediment Control Permit in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval; 9. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show non-access easements in compliance with the Street Design Criteria Manual or an Exception shall be obtained as needed; 10. Prior to Preliminary Plat approval by the City Council, the proposed decorative street light design shall be approved by the City Council or the design of the street lights shall be changed to a standard design; 11. Prior to Preliminary Plat approval by the City Council, a cost estimate shall be submitted for review and approval; 12. Prior to Preliminary Plat approval by the City Council, the applicant shall identify the location of the proposed access street to Lot 1, Bendert Subdivision. In addition, the street shall be secured within a minimum 45 foot wide access easement and constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained. The applicant shall also demonstrate that access is being maintained to Lot 1, Bendert Subdivision during the construction phase of this project; 13. Prior to submittal of a Final Plat application, the existing 40 foot wide access easement extending from Promise Road to Lot 1, Bendert Subdivision shall be vacated or the plat document shall be revised to insure that a building envelope exists on each of the proposed lots. If the 40 foot wide access easement is not vacated, then construction plans for the easement shall be submitted for review and approval showing the easement with a minimum 49 foot

width and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 14. Prior to submittal of a Final Plat application, the plat document shall be revised to show the book and page for the previously recorded eastern 33 feet of Promise Road right-of-way located along the east lot line of the property; 15. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; 16. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 17. The approved 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.

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

Motion was made by Hadcock, second by Costello, to (No. LF072909-18A) Approve new Special Event Application. Chapman said he supports the application but said there is work to be done on the cover letter which will run through the City Attorney and Mayor's Office. Hadcock thanked Chapman and Chief Allender for their work. Motion carried.

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

Motion was made by Costello, second by LaCroix to (No. PW091509-01) Acknowledge the report on the Status of Project Plan for TIF #70. Kooiker supported the acknowledgement and asked about the amount of funds currently allocated in the TIF in terms of tax dollars. Elkins said there is \$0 as this district was created in 2008 and payments will start next year. Motion carried.

Motion was made by Costello, second by LaCroix and carried to continue to the November 16, 2009 City Council meeting (No. 09RD003) a request by City of Rapid City to consider an application for a Resolution for a Road Name Change from Menard Drive to Century Road on the Menard Drive Right-of-way lying adjacent to Lots B and C of Menard Subdivision Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located lying between East North Street and Eglin Street.

Motion was made by Costello, second by LaCroix and carried to continue to the October 5, 2009 City Council meeting (No. 09EX101) the approval with a "waiver of right to protest" an Exception request to waive the requirement to install sidewalk per City Ordinance 12.16.080 on Lot 9 of Block 3 of Lot 3 of the NE1/4 of the NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2021 Monte Vista Drive.

### ***Bids***

The following companies submitted bids for (No. CC092109-02.1) Main Fire Station Water Line Reconstruction Project No. IDP09-1791 / CIP No. 50772 opened September 15, 2009: Beka Corporation, Mainline Contracting, Quinn Construction and Hills Materials Company. Staff reviewed the bids and recommends continuing the bid award to the September 29, 2009 Public Works committee meeting. Motion was made by Hadcock, second by Chapman, and carried to continue to the September 29, 2009 Public Works Committee meeting.

The following companies submitted bids for (No. CC092109-02.2) Street Rehabilitation Project – Alta Vista Street and Saint Cloud Street ST09-1815 / CIP No. 50549 opened September 15, 2009: Hills Materials Company, Simon Contractors of SD and J&J Asphalt Company. Staff reviewed the bids and recommends bid award to Hills Materials Company. Motion was made by Costello, second by LaCroix

and carried to approve the bid award to the lowest responsible bidder meeting specifications, Hills Materials Company, for a total contract amount of \$101,766.75 for the base bid plus alternate 2.

The following companies submitted bids for (No. CC092109-02.3) Fire Station #7, City Project No. FD09-1767 opened September 15, 2009: Scull Construction Service, Heavy Constructors DBA Gustafson Builders, RCS Construction, Retail Construction Services Inc., SECO Construction Inc. and Rangel Construction LLC. Staff reviewed the bids and recommends bid award to Rangel Construction LLC. Motion was made by Hadcock, second by LaCroix and carried to approve the bid award to the lowest responsible bidder meeting specifications, Rangel Construction LLC, for a total contract amount of \$1,425,600.00 for the base bid plus alternates 1, 2 and 5.

The following companies submitted bids for (No. CC092109-02.4) CSAC Front Steps / ADA Ramp Improvements GB09-1808 opened September 15, 2009: Stanley J. Johnsen Concrete Contractor, KRM Concrete, Ainsworth Benning Construction and Tru-Form Construction. Staff reviewed the bids and recommends bid award to KRM Concrete. Motion was made by Waugh, second by Costello and carried to approve the bid award to the lowest responsible bidder meeting specifications, KRM Concrete, for a total contract amount of \$27,027.00.

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

LaCroix announced that Dakota Panel Inc. took over the Merrilat facility last Friday, and he welcomed them to Rapid City. He indicated that about two-thirds of the employees were hired back, and he sees a bright future for the plant.

### **PUBLIC HEARING ITEMS** – Items 87 – 106

Motion was made by Waugh, second by Costello and carried to open the public hearing for Items 87 – 106. No comments were offered.

### **CONTINUED PUBLIC HEARING CONSENT ITEMS** – Items 87 – 89

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

#### ***Continue the following items until October 5, 2009:***

87. No. 09SV012 - A request by D.C. Scott Co. Land Surveyors for William M. Jobgen for a **Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code** on Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, located between Carlin Street and Crane Drive.
88. No. 09SV014 - A request by Fisk Land Surveying & Consulting Engineers for Walter J. Bradsky for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer along S.D. Highway 44, to waive the requirement to install curb, gutter, street light conduit, water, sewer, to reduce the pavement width from 24 feet to 22 feet and to waive the requiriement to dedicate right-of-way along Elkhart Road, Kenosha Road, and Canterbury Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 5A and 5B of Aspen Estates Subdivision, located in the

SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, legally described as Lot 5 of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, located at 7800 Elkhart Road.

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

#### END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion was made by Waugh, second by LaCroix and carried to close the public hearing for Items 87 – 106.

#### **CONSENT PUBLIC HEARING ITEMS** – Item 90 – 100

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

95. Red Carpet Events, 2200 Maple Avenue, for a Retail (on-off sale) Malt Beverage License (No Video Lottery)
96. Lisa Holbrook DBA The Beanery, 201 Main Street, for a Retail (on-off sale) Malt Beverage License (No Video Lottery)
97. Lisa Holbrook DBA The Beanery, 201 Main Street, for a Retail (on-off sale) Wine License
100. MG Oil Company DBA Chances Casino, 1565 Haines Ave. Ste. B for a Retail (on-off sale) Malt Beverage License WITH Video Lottery TRANSFER from MG Oil Company DBA Clock Tower Lounge, 2525 W. Main Street. *(Continued from September 8, 2009 City Council)*

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

#### ***Growth Management Items***

90. No. 09SV018 – Deny Without Prejudice a request by FMG, Inc. for Menard, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to construct pavement, curb, gutter, sidewalk, water, sewer, and street light conduit on Menard Drive, to waive the requirement to construct pavement, curb, gutter, sidewalk, water, sewer, and street light conduit on shared access easement to Lots B1 and B2, and to waive the requirement to construct sidewalk and sewer on E North Street as per Chapter 16.16 of the Rapid City Municipal Code** on Lots B1 and B2 of Menard Subdivision, located in the SE1/4 NW1/4, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Menard Subdivision located in the SE1/4 NW1/4, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1830 Eglin Street.

#### ***Alcohol Licenses***

91. Friends of the Rapid City Public Library for a Special Event Wine License for an event scheduled October 22, 2009 at the Rapid City Public Library, 610 Quincy Street
92. Rapid City Area Chamber of Commerce for a Special Event Beer and Wine License for an event scheduled September 24, 2009 at Knology, 809 Deadwood Ave. N.
93. Destination Rapid City for a Special Event Beer License for an event scheduled October 2 and 3, 2009 on 7<sup>th</sup> Street between Quincy and Columbus Streets
94. Lost Steer LLC DBA The Lost Steer, 5412 Hwy. 16 S, for a Retail (on-off sale) Wine License
98. Thomas J. O'Meara DBA Toby's Casino, 710 Cleveland Street, for a Retail (on-off sale) Malt Beverage License (with Video Lottery) TRANSFER from GS Corp Inc. DBA Casa Re-al, 2315 ½ Mt. Rushmore Road (INACTIVE)
99. Target Corporation DBA Target Store T-2457, 1415 Eglin Street, for a Package (off-sale) Malt Beverage License

#### END OF CONSENT PUBLIC HEARING CALENDAR

Motion was made by Hadcock, second by Chapman, to continue items 95, 96, 97 and 100 to the October 5, 2009 City Council meeting. Responding to Kroeger, Green explained the Conditional Use Permit for MG Oil was acted on at the last meeting and no action was taken on the license. Kroeger stated that if the license is not withdrawn by the applicant at the next meeting he will make a motion. Motion carried.

#### **NON-CONSENT PUBLIC HEARING ITEMS** – Items 101 – 106

Ordinance 5536 (No. 09RZ033) 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 Public District** on the 100 foot wide railroad right-of-way lying north of Lot H-3 and H-4 in the NW1/4 of Section 9 and north of a portion of the N1/2 NW1/4 less Lot H5 of the NE1/4 NW1/4 and the N1/2 SE1/4 NW1/4 less Lot H1 of Section 9, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of South Valley Drive and south of S.D. Highway 44 having passed its first reading September 8, 2009; motion was made by Hadcock, second by Waugh, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5536 was declared duly passed upon its second reading.

Ordinance 5537 (No. 09RZ034) 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 Mobile Home Residential District** on Lot 16 of Melody Acres Subdivision No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2801 Cactus Drive having passed its first reading September 8, 2009; motion was made by Hadcock, second by Waugh, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5537 was declared duly passed upon its second reading.

Ordinance 5538 (No. 09RZ035) 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 Mobile Home Residential District** on Lot 6 of Melody Acres Subdivision No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at

2804 E. Fairmont Street Having passed its first reading September 8, 2009; motion was made by Hadcock, second by Costello, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5538 was declared duly passed upon its second reading.

Motion was made by Hadcock, second by Waugh and carried to continue Items 104 (No. 09RZ029) and 105 (No. 09RZ031) to the October 5, 2009 City Council meeting.

104. No. 09RZ029 – Second Reading, Ordinance 5527, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to General Commercial District** on that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the southwest corner of Lot 15 Revised; thence N00°03'23"W 481.98 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 482.22 feet, more or less; thence S38°37'42"W 80.71 feet, more or less; thence N51°22'18"W 101.19 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right of way located adjacent and south of the above described property, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44.
105. No. 09RZ031 – Second Reading, Ordinance 5529, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by City of Rapid City for a **Rezoning from No Use District to Light Industrial District** on that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the northeast corner of Lot 15 Revised; thence S00°00'00"E 349.61 feet, more or less; thence N89°50'46"W 200.00 feet, more or less; thence N00°00'00"W 198.82 feet, more or less; thence N90°00'00"W 129.91 feet, more or less; thence N00°03'23"W 150.00 feet, more or less; thence N89°56'06"E 330.06 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the south 293 feet of Lot 6 of Marshall Subdivision, located in the SE¼ NE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located west of Valley Drive and north of S.D. Highway 44.

The Mayor presented (No. 09SV016) A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalk, water and sewer and to reduce the pavement width from 26 feet to 20 feet along the access easement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 of Tract 3 of Discovery Subdivision, 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 SE1/4 and the SE1/4 of the NE1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 1851 Discovery Circle. Motion was made by Hadcock, second by Waugh, to approve the request with the following stipulations: 1. Prior to City Council approval of the Subdivision Variance, a Planned Development Designation shall be submitted and approved for Tract 3, Discovery Subdivision; and, 2. Prior to City Council approval of the Subdivision Variance, the applicant shall obtain an exception to allow non-conforming water and sewer lines to cross adjacent property on a temporary basis. Responding to Costello, Elkins explained the area and said this will provide an interim solution. She said this would waive the requirements for them to build the road to City standards at this time, but there are protections in place to make sure it happens in the future. She said since these are easements there will not be WORPs, but they will address sidewalks in the future. Motion carried.

## **BILLS**

First Administrators, Paid 09-08-09	60,953.45
First Administrators, Paid 09-15-09	66,035.24
West River Electric, Paid 09-14-09	18,395.95
Computer Bill List	<u>3,739,302.30</u>
Subtotal	3,884,686.94
City of Rapid City – August Health Insurance	962.50
City of Rapid City – Postage	6.86
Ikon Financial Services	15.70
Knology	5.13
Metropolitan Life	6.42
Wright Express	<u>91.86</u>
Total	3,885,775.41

Preston requested to add payments to Quinn Construction for Change Order #1 Final for Elm Street Sanitary Sewer – Hillshire Court to East Minnesota Street in the amount of \$6,779.69 and South Dakota Municipal League for three annual conference registrations for \$300.00. The new Bill List total is \$3,892,855.10. Motion was made by Waugh, second by Hadcock and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof.

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

Motion was made by Costello, second by Waugh, and carried to go into Executive Session at 8:40 P.M. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 9:19 P.M. with all members present. No direction was given.

**ADJOURN**

As there was no further business to come before the Council at this time, the meeting was adjourned at 9:20 P.M.

CITY OF RAPID CITY

ATTEST:

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

\_\_\_\_\_  
Mayor

(SEAL)