

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

February 1, 2010

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, February 1, 2010 at 7:00 P.M.

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

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

**ADOPTION OF AGENDA**

The following items were added to the agenda:

- Remove Items 76 and 77 as they were continued to the February 16, 2010 City Council meeting
- Change the recommendation for Items 45 – 53 and 70 – 72 to continue to the February 16, 2010 City Council meeting
- Information Meeting Discussion, Alderman LaCroix

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

**APPROVE MINUTES**

Motion was made by Olson, second by LaCroix and carried to approve the minutes for January 19, 2010.

**GENERAL PUBLIC COMMENT**

Don Frankenfeld requested that the Council delay action on the BID for approximately three months so that it can be brought to an appropriate level for enacting. He does not feel it is the right thing to do yet.

Ben Snow, Economic Development Director, discussed economic development for Rapid City and explained their new working teams. He also briefly mentioned the Black Hills Business Development Center and spoke of new businesses in the area. In response to a question regarding challenges with bringing new business to Rapid City, Snow said we have not done a good enough job getting Rapid City on the map yet.

**NON-PUBLIC HEARING ITEMS** -- Items 2 – 69

Motion was made by Chapman, second by Costello and carried to open the public comment for Items 2 – 53. No comments were offered.

Motion was made by Chapman, second by Costello and carried to close the public comment for Items 2 – 53.

**CONSENT ITEMS** – Items 2 – 44

The following items were removed from the Consent Items:

4. Acknowledge the report from Front Porch Coalition, Stephanie Schweitzer Dixon, Community Services Director.
21. No. LF012710-03 – Approve Travel Request for Deb Hadcock, Karen Gundersen Olson, and Malcom Chapman to attend the National League of Cities Congressional City Conference in Washington, D.C. March 12-18, 2010, in the approximate amount of \$8,629.50.
28. No. LF012710-08 – Acknowledge report on Local Board of Equalization schedule and to request Council members to sign-up for the hearings.
41. No. LF012710-22 – Authorize Mayor and Finance Officer to sign Letter of Confirmation of Mutual Agreement with St. Joe Investment Group, LLC.

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

***Vacations of Right-Of-Way Set for Hearing (March 1, 2010)***

2. No. 10VR001 - A request by FMG, Inc. for Good Samaritan Society for a **Vacation of Right-of-Way** of The St. Martin's Road right-of-way located in the S1/2, Section 29 excepting the southern 60.3 feet of said right-of-way, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of S.D. Highway 79 (Sturgis Road) and Hidden Valley Road.

***Alcoholic Beverage License Applications Set for Hearing (February 16, 2010)***

3. Rapid City Library Foundation for a Special Beer and Wine license for an event scheduled for March 27, 2010 at the Rapid City Public Library, 610 Quincy Street.

***Public Works Committee Consent Items***

5. No. PW012610-01 – Authorize the preparation of the H-Lots and the submittal of the SDCL 11-6-19 application. (Regional Detention Facilities – Rapid City Economic Development Foundation.)
6. Acknowledge the report on Sales Tax – Mayor Alan Hanks.
7. No. PW012610-02 – Authorize Staff to Advertise for Bids for 2010 Roadway Painting Project, Project No. PM10-1860 / CIP No. 50594. Estimated cost of project: \$75,000.00.
8. No. PW012610-03 – Authorize Staff to Advertise for Bids for Utility Cut Portland Concrete Replacement. Estimated cost: \$75,000.00.
9. No. PW012610-04 – Authorize Staff to Advertise for Bids for Water Treatment Coagulant for Water Treatment Plant. Estimated cost: \$50,000.00.
10. No. PW012610-05 – Authorize Staff to Advertise for Bids for Odor Control Chemical for Lift Stations. Estimated cost: \$75,000.00.
11. No. PW012610-06 – Authorize Staff to Advertise for Bids for Hot Mixed Asphaltic Concrete for Various City Departments. Estimated cost: \$161,000.00.

12. No. PW012610-07 – Authorize Staff to Advertise for Bids for Limestone Gravel for Various City Departments. Estimated cost: \$75,000.00.
13. No. PW012610-08 – Authorize Staff to Advertise for Bids for Ready Mixed Concrete for Various City Departments. Estimated cost: \$63,000.00.
14. No. PW012610-09 – Authorize Staff to Advertise for Bids for Saint Andrews Reconstruction – Lincoln Ave to Elm Ave, Project No. ST10-1803 / CIP No. 50714. Estimated cost of project: \$900,000.00.
15. No. PW012610-10 – Authorize Staff to Advertise for Bids for Eglin Street Extension, Project No. ST05-1470 / CIP No. 50560. Estimated cost of project: \$1,335,000.00.
16. No. PW012610-11 – Authorize Mayor and Finance Officer to Sign an Agreement with Qwest for the Relocation of Certain Utilities, Eglin Street Reconstruction, East North to DOT Entrance, Project No. ST05-1470 / CIP No. 50560, in the amount of \$30,000.00.
17. No. PW012610-14 – Authorize Mayor and Finance Officer to Sign an Agreement for Voluntary Right of Way Donation (Temporary Easement), for the Anamosa Street Reconstruction, Project No. ST07-1472 / CIP No. 50519.
18. No. PW012610-15 – Approve Request to seek proposals for Alfalfa/Hay Harvest.

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

19. No. LF012710-01 – Request staff to amend the agreements that pertain to TID 56 to release funds and to place the project into the warranty period before the last 45 feet of Luna Street are completed.
20. No. LF012710-02 – Confirm appointment of Gunar Dzintars, Bernie Hall, Robert Ellis, Jim Keck (Black Hills Corporation - to replace Stu Wevik), Mark Jacobs (Montana Dakota Utilities - to replace Larry Thompson), Patti Martinson, and Bill Waugh to the reactivated Energy Committee.
22. No. LF011310-05A – Acknowledge report regarding professional service contracts entered into in 2009 under \$25,000.
23. No. LF012710-04 – Acknowledge the Capital Improvements Program Committee monthly update for January 2010.
24. No. LF012710-05 – Approve the Capital Plan for Streets, Drainage and MIP Projects for January 2010.
25. Direct Finance Officer to take \$50,000 out of CIP (roof repair line item instead of the cash line item) for 2010 to replace funds for the CSAC Roof Repair Project.
26. No. LF012710-06 – Approve the FY2011 CIP budget schedule with changing the March 19, 2010 meeting to March 26, 2010.
27. No. LF012710-07 – Acknowledge report on 2009 Rapid City population estimate.
29. No. LF012710-09 – Authorize Finance Office to request 30-day extension from SD Department of Legislative Audit for 2009 Annual Report.

30. No. LF012710-10 – Authorize Mayor and Finance Officer to sign a Local Governing Body Approval Letter for Teton Coalition, Inc. for the construction of 6 homes for low-income families.
31. No. LF012710-11 – Approve (final) CDBG Annual Action Plan for FY2010 and authorize Mayor and Finance Officer to Sign the SF 424 and Certifications.
32. No. LF012710-24 - Request staff to prepare a report regarding how Rapid City compares to other communities in the nation regarding recovery rates for recreation, ice, and aquatics.
33. No. LF012710-12 – Authorize Mayor and Finance Officer to sign Amended Agreement between the City of Rapid City and Zandstra Construction, Incorporated and ZCO, Inc. for the Completion of Subdivision Improvements.
34. No. LF012710-13 – Acknowledge raffle request from American Heart Association.
35. No. LF012710-14 – Acknowledge raffle request from Rapid City Stevens High School Baseball Club, Inc.
36. No. LF012710-15 – Acknowledge raffle request from Greater Dakota Chapter Safari Club International.
37. No. LF012710-16 – Acknowledge raffle request from Working Against Violence, Inc.
38. No. LF012710-17 – Acknowledge raffle request from Youth & Family Services.
39. No. LF012710-18 – Acknowledge raffle request from Rushmore Lions Club of Rapid City.
40. No. LF012710-19 – Approve renewal of 2010 ice cream vendor’s license for Kenneth Krzyzanowski, d/b/a Mr. Rags Ice Cream.
42. No. LF012710-20 – Approve property tax abatements as follows: AEA Company, 2009, \$5,406.84; Ames and Lampy LLC, 2009, \$9,694.46; Auckinleck Property, 2009, \$677.92; Bailey/Paschke % N, Miriam J, 2009, \$1,837.10; Christria Brookes, 2009, \$461.62; Benjamin H Cruz, 2009, \$124.22; James W. Dowty, 2009, \$61.00; A G Esquivel, 2009, \$132.18; Raymon E Hadlock, 2009, \$1,406.88; Lyle Hartshorn/Freimark, 2009, \$1,057.58; Jill M Heintzman, 2009, \$1,141.50; KT Real Estate LLC, 2009, \$3,227.06; Northwestern Engineering, 2009, \$774.86, \$75.26, \$3,623.84, \$1,844.66, and \$2,566.66; Ardyth J Peterson, 2009, \$168.78; Bill Rensch, 2009, \$1,570.18; Allan Schauer, 2009, \$1,620.28; Swander's Restoration, 2009, \$15,566.46.
43. No. LF012710-21 – Approve property tax abatements as follows: Chad R Buckingham, 2009, \$572.54; Benjamin H Cummings, 2009, \$43.24; Leaun Peterson, 2009, \$1,334.20; and Windsor Block LLC, 2009, \$2,385.64.

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

44. No. 09PL024 – Acknowledge applicants withdrawal of 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.

END OF CONSENT CALENDAR

Motion was made by Costello, second by Waugh, to acknowledge the report from Front Porch Coalition, Stephanie Schweitzer Dixon, Community Services Director.

Substitute motion was made by LaCroix, second by Weifenbach, to acknowledge the report and request that the Mayor bring back two names for appointments to the Suicide Prevention Task Force. Motion carried.

Motion was made by Olson, second by LaCroix, to (No. LF012710-03) Approve a Travel Request for Deb Hadcock, Karen Gundersen Olson, and Malcom Chapman to attend the National League of Cities Congressional City Conference in Washington, D.C. March 12-18, 2010, in the approximate amount of \$8,629.50. Weifenbach asked Council leadership what this entails and what it does for the citizens. LaCroix explained that Council brings back many things from the conference, such as programs like Bank on Rapid City. It is important to represent Rapid City and discuss with congressional leaders. Olson said it is an opportunity for the City of Rapid City to discuss several issues that come before our City that cost taxpayers money. This is an opportunity for the City to identify the ways in which the City can benefit from various kinds of federal funding. Motion carried with one NO from Weifenbach.

Motion was made by Hadcock, second by Costello, to (No. LF012710-08) acknowledge the report on Local Board of Equalization schedule and to request Council members to sign-up for the hearings. Olson indicated her support for the meetings. Weifenbach stated his concern about having a quorum with several absences that week. Mayor Hanks explained that he will fill in and calls can be made to Council members if necessary. Green said statute requires that the hearings are done within that week, and he pointed out it is the obligation of Council as a whole to attend the hearings. Motion carried.

Motion was made by Olson, second by Hadcock, to (No. LF012710-22) authorize Mayor and Finance Officer to sign Letter of Confirmation of Mutual Agreement with St. Joe Investment Group, LLC. It was indicated the intent of the motion is to approve the revised version of the letter that was distributed on the Dias. Motion carried.

#### **CONTINUED CONSENT ITEMS** – Items 45 – 53

The following item was removed from the Continued Consent Items:

48. No. 09PL061 - A request by Fisk Land Surveying & Consulting Engineers for Heway Clemmons for a **Layout and Preliminary Plat** on Lots A and B of Clemmons Addition, located in the S1/2 SW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of the balance of Lot 3 of the S½SW¼, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded on October 1, 1963 and filed in "Plat File N"; Beginning at the northeast corner of said balance of Lot 3, said point being located along the north-south quarter section line and also along the southerly edge of the adjoining railroad right-of-way; thence, southerly along said quarter section line, S00°04'53"W a distance of 1,050.36 feet, more or less; thence, N63°41'40"W a distance of 205.00 feet, more or less; thence, N84°39'26"W a distance of 270.00 feet, more or less; thence, N33°30'20"W a distance of 84.00 feet, more or less; thence, N00°00'00"W a distance of 796.70 feet, more or less; thence, N57°23'22"W a distance of 117.40 feet, more or less; thence, N03°48'46"E a distance of 95.00 feet, more or less; thence, N12°39'32"W a distance of 150.00 feet more or less to a point on the north line of said Lot 3; thence, easterly along the north line of said Lot 3, S89°55'53"E a distance of 168.93 feet more or less to a point on the southerly line of the adjoining railroad right-of-way; thence, southeasterly along the southerly edge of the adjoining right-of-way, curving to the left on a curve with a radius of 5907.9 feet, a delta of 04°17'31", an arc length of 442.55 feet, and a chord bearing and distance of S62°19'02"E 442.44 feet, more or less; thence, continuing

southeasterly along the southerly edge of the adjoining right-of-way, S64°32'29"E a distance of 72.19 feet more or less, to the point of beginning, located at 6299 East Highway 44.

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

***Continue the following items until February 16, 2010:***

45. 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.
46. 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.
47. 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.
49. No. 09PL072 - A request by Renner & Associates for Royal Nielsen for a **Preliminary Plat** on Lots A and B of Lot 15 Revised of Hillsvie Subdivision, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 15 revised of Hillsvie Subdivision and the sought 293 feet of Lot 6 of Marshall Subdivision, located in the NE1/4 of the SE1/4 and in the SE1/4 of the NE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the north side of East S.D. Highway 44 between Rockhill Road and Hillside Drive.
50. No. 09PL074 - A request by Fisk Land Surveying & Consulting Engineers for Ehli Family Trust for a **Preliminary Plat** on Lots C, D and E of Mahoney Addition No. 2, located in the SE1/4, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the east 90 feet less north 8.5 feet of Block 103, the west 50 feet less the north 8.5 of Block 102, the east 115 feet less the north 8.5 feet of Block 102 all in Mahoney Addition No. 2, located in the SE1/4, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 125, 131 and 133 MacArthur.
51. No. 09PL075 - A request by Fisk Land Surveying and Consulting Engineers for Walter J. Bradsky for a **Preliminary Plat** on Lots 5A and 5B of Aspen Estates Subdivision, Section 12, T1N, R6E, BHM, Pennington County, South Dakota, legally described as Lot 5 of Aspen Estates Subdivision, located in Section 12, T1N, R6E, BHM, Pennington County, South Dakota, located at 7800 Elkhart Road.

52. No. 09PL086 - A request by Dream Design International, Inc. for a **Layout Plat** on Lots 1, 2 and 3 of Lots 5R and 6R of Block 1 of Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota, legally described as Lots 5R and 6R of Block 1 of Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota, located at 5703 and 5707 Pioneer Circle.
53. No. 09RZ057 - A request by Marcy Morkert for a **Rezoning from General Commercial District to Medium Density Residential District** on the east 35 feet of the west 71 feet of Lot 21 of Block 38 of West Boulevard Addition, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 814 Saint James Street.

## END OF CONTINUED CONSENT ITEMS

Motion was made by Olson, second by LaCroix, to approve (No. 09PL061) A request by Fisk Land Surveying & Consulting Engineers for Hewey Clemmons for a **Layout and Preliminary Plat** on Lots A and B of Clemmons Addition, located in the S1/2 SW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of the balance of Lot 3 of the S $\frac{1}{2}$ SW $\frac{1}{4}$ , Section 14, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded on October 1, 1963 and filed in "Plat File N"; Beginning at the northeast corner of said balance of Lot 3, said point being located along the north-south quarter section line and also along the southerly edge of the adjoining railroad right-of-way; thence, southerly along said quarter section line, S00°04'53"W a distance of 1,050.36 feet, more or less; thence, N63°41'40"W a distance of 205.00 feet, more or less; thence, N84°39'26"W a distance of 270.00 feet, more or less; thence, N33°30'20"W a distance of 84.00 feet, more or less; thence, N00°00'00"W a distance of 796.70 feet, more or less; thence, N57°23'22"W a distance of 117.40 feet, more or less; thence, N03°48'46"E a distance of 95.00 feet, more or less; thence, N12°39'32"W a distance of 150.00 feet more or less to a point on the north line of said Lot 3; thence, easterly along the north line of said Lot 3, S89°55'53"E a distance of 168.93 feet more or less to a point on the southerly line of the adjoining railroad right-of-way; thence, southeasterly along the southerly edge of the adjoining right-of-way, curving to the left on a curve with a radius of 5907.9 feet, a delta of 04°17'31", an arc length of 442.55 feet, and a chord bearing and distance of S62°19'02"E 442.44 feet, more or less; thence, continuing southeasterly along the southerly edge of the adjoining right-of-way, S64°32'29"E a distance of 72.19 feet more or less, to the point of beginning, located at 6299 East Highway 44 with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, road construction plans for the access street extending south from S.D. Highway 44 to the property shall be submitted for review and approval. In particular, the road construction plans shall show the street constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, sewer and water or a Variance to the Subdivision Regulations shall be obtained; 2. Prior to Preliminary Plat approval by the City Council, a copy of the approved driveway permit from the South Dakota Department of Transportation for the access street shall be submitted for review and approval; 3. Prior to Preliminary Plat approval by the City Council, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If a Variance to the Subdivision Regulations is obtained and individual on-site wastewater systems are utilized as proposed, then an on-site wastewater plan prepared by a Professional Engineer demonstrating that the soils are suitable for on-site wastewater systems shall be submitted for review and approval; 4. Prior to Preliminary Plat approval by the City Council, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If a Variance to the Subdivision Regulations is approved and a private water system is utilized as proposed, then a note shall be placed on the plat stating that "All new residential structures shall be fire sprinklered". In addition, the plat document shall be revised to show utility easements as needed; 5. Prior to Preliminary Plat approval by the City Council, a cost estimate of the required subdivision improvements shall be submitted for review and approval; 6. 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; 7. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 8. The approved Layout and 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. Elkins explained that the item can be approved as they have met all deadlines for stipulations. Motion carried.

### **NON-CONSENT ITEMS** – Items 54 – 69

Motion was made by Costello, second by LaCroix and carried to open the public comment for Items 54 – 69. Ken Edel said he is still against the waterfowl feeding ordinance even after reviewing the management plan. He suggested trying the plan before putting the Ordinance in place. He discussed the cost of putting this program into place and spoke of clean up issues as well. Edel recommended adding a moratorium to the plan and educating the public. Max Wetz, US Census Bureau, gave an update on where they are with the census, and he pointed out that it is safe, easy and important. Jennifer Gereau raised concern with the relocation of Hartland Court and requested more discussion before the work is done. She explained that turkey vultures live in the area, arriving in April and leaving in October, and she does not want them to be scared away.

Motion was made by Weifenbach, second by LaCroix and carried to close the public comment for Items 54 – 69.

### ***Ordinances***

Ordinance 5576 (No. 09RZ058) 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** of Lot 20 of Melody Acres No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2809 Cactus Drive. Motion was made by Olson, second by Waugh and carried that Ordinance 5576 be placed upon its first reading, and the title was fully and distinctly read and second reading set for Tuesday, February 16, 2010.

Ordinance 5577 (No. 10RZ001) 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** of Lot 34 of Melody Acres No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2804 Cactus Drive. Motion was made by Olson, second by Chapman and carried that Ordinance 5577 be placed upon its first reading, and the title was fully and distinctly read and second reading set for Tuesday, February 16, 2010.

Ordinance 5578 (No. 10RZ002) 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** of Lot 5 of Melody Acres No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2802 E. Fairmont Street. Motion was made by Olson, second by Chapman and carried that Ordinance 5578 be placed upon its first reading, and the title was fully and distinctly read and second reading set for Tuesday, February 16, 2010.

Ordinance 5579 (No. 10RZ003) 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** of Lot 35 of Melody Acres No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2806 Cactus Drive.



Motion was made by Olson, second by LaCroix and carried that Ordinance 5579 be placed upon its first reading, and the title was fully and distinctly read and second reading set for Tuesday, February 16, 2010.

Ordinance 5501 (No. LF040109-24A1) An Ordinance to Prohibit the Feeding of Wildlife and Waterfowl in the City of Rapid City by Establishing Chapter 6.16 of the Rapid City Municipal Code having passed its first reading on January 4, 2010; motion was made by Olson, second by Costello, that the title be read the second time. It was clarified the motion is to approve the amended ordinance. Hadcock asked about removing the fees from the Ordinance and making it a resolution instead. Green said if the language regarding fines is removed from the Ordinance the general penalty provision will be become effective, which includes a fine up to \$500. If the Ordinance is defeated and a resolution is passed instead, it would be a statement by Council and unenforceable in court. Hadcock said the ordinance makes sense except for the fine.

Substitute motion was made by Hadcock, second by Weifenbach, to direct staff to prepare a resolution to include the language in the proposed ordinance with the exception of the fine. Olson said this does not give us the tool we need to move forward and said there are a number of issues that are solved by various parts of the management plan. She expressed concern with avian flu or other health issues that could arise. Responding to Martinson, Green said he understood that a resolution would be inefficient for Game, Fish and Parks to proceed. Upon vote being taken, the following voted AYE: Kooiker, Weifenbach, Kroeger and Hadcock; NO: Martinson, Costello, LaCroix, Chapman, Olson and Waugh. Motion failed.

The motion on the floor is the original motion to approve. Responding to Weifenbach, Chief Allender said they would need a period of time to evaluate how compliance will be achieved. There is more to enforcing the Ordinance than writing a ticket as it will allow GFP to issue a permit to take action against the ducks; it will also allow for proper signage and other tactics to gain compliance. He said writing tickets as a sole tactic for gaining compliance would ultimately be unsuccessful. Weifenbach wanted to ensure that the intentions are to enforce the Ordinance. He said education and signage would suffice the problem and still allow feeding to continue. Hadcock said she did some research on managing waterfowl and said she felt that education, signs and mitigation would work. Kroeger said the Game, Fish and Parks indicated the requirement for the permit is not necessarily a feeding ban but it was their wish, so he does not know why they cannot submit for the permits without the feeding ban. Olson pointed out that Game, Fish and Parks mitigates for farms, but if the farmer feeds the birds in any other form, a permit will not be issued. Upon vote being taken, the following voted AYE: Costello, LaCroix, Chapman, Olson, Waugh and Martinson; NO: Kooiker, Weifenbach, Kroeger and Hadcock; whereupon the Mayor declared the motion passed and Ordinance No. 5501 was declared duly passed upon its second reading.

Ordinance 5570 (No. 09OA009) An Ordinance Amending Conditional Uses within the General Commercial Zoning District by Amending Section 17.18.030(16) of the Rapid City Municipal Code having passed its first reading January 19, 2010; motion was made by Olson, second by Weifenbach, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5570 was declared duly passed upon its second reading.

Ordinance 5573 (No. LF011310-08) An Ordinance Regarding Supplemental Appropriation No. 1 for 2010 having passed its first reading January 19, 2010; motion was made by Olson, second by Weifenbach, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5573 was declared duly passed upon its second reading.

Ordinance 5574 (No. LF011310-22) An Ordinance to Allow the City Council to Determine the Composition of the Citizens Committees Required by the 2012 Program by Amending Subsection 3.16.020(E) of the Rapid City Municipal Code having passed its first reading January 19, 2010; motion was made by Olson, second by Weifenbach, that the title be read the second time. Upon vote being taken, the following voted AYE: Waugh, Martinson, Kooiker, Costello, LaCroix, Chapman, Olson, Weifenbach, Kroeger and Hadcock; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5574 was declared duly passed upon its second reading.

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

Motion was made by Olson, second by Weifenbach and carried to (No. CC020110-04) Acknowledge report on the U.S. census and urge the community to support it.

Motion was made by Olson, second by Kroeger, to approve (No. LF012710-23) a request from Dakota Conference of the United Methodist Church for free parking during the Bishop's Laity Gathering to be held February 12-13, 2010. Waugh wanted to acknowledge that he is abstaining from this item. Green clarified that he understands the intent of the motion is to direct that no enforcement occurs in the area requested and during the time requested. Olson confirmed that is the intent of her motion.

Substitute motion was made by Weifenbach to deny the request. It was indicated that the group can feed meters if they so choose. Motion died for lack of a second.

The motion on the floor is the original motion to approve. Olson pointed out that the fees go toward paying for the parking structure and said it is important that the revenue stream is in place. She discussed her support for the issue, and she mentioned that the church has existed downtown for many years. Olson suggested forwarding this to the parking committee for further discussion and solution. It was indicated that the meters are not enforced on Sunday. Responding to Hadcock, Green confirmed that parking regulations are adopted by ordinance with fines. Hadcock said maybe the ordinances should be resolutions if they are not going to be enforced. Weifenbach requested that everyone is treated fairly, and he wants to find resolutions to this type of issue. Chapman pointed out that this is different than the Dahl's request in that their request was for an event for the hospital, but the churches are downtown entities. He said this issue needs other resolution that could be discussed when downtown parking conversations are reconvened. Hadcock said her worry is that if they start this they will need to keep it up and pointed out that there are several non-profits in the downtown area. Motion carried with NOs from Hadcock and Weifenbach with Waugh abstaining.

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

Motion was made by Costello, second by LaCroix, to (No. PW012610-12) Authorize Mayor and Finance Officer to Sign Agreement Between the City of Rapid City and Red Rock Development LLC for Reimbursement of Sewer Construction Fees for Red Rock Estates Lift Station, Project No. SS01-1086. Motion carried with Waugh abstaining.

Motion was made by Costello, second by LaCroix, to (No. PW012610-13) Authorize Mayor and Finance Officer to Sign Construction Fee Resolution for Red Rock Estates Sanitary Sewer Lift Station, Project No. SS01-1086. Motion carried with Waugh abstaining.

#### RESOLUTION #2010-018

#### CONSTRUCTION FEE RESOLUTION FOR RED ROCK ESTATES SANITARY SEWER LIFT STATION PROJECT No. SS01-1086.

WHEREAS, Red Rock Development LLC (a/k/a Buntrock-Graziano-Ward Development Co.), a limited liability company organized under the laws of the State of South Dakota, hereinafter referred to as the

“Developer,” constructed a sanitary sewer lift station in Red Rock Estates (City Project No. SS01-1086), as shown on Exhibit A, which has been attached hereto and incorporated herein by this reference; and

WHEREAS, in order to accommodate future growth in the area, the City required the Developer to construct the lift station with a larger capacity than the Developer would have otherwise been required to construct to serve its project; and

WHEREAS, City engineering staff has identified the total area that will benefit from construction of this lift station which is shown on Exhibit A; and

WHEREAS, the Developer paid for construction of the lift station in the amount of \$406,950.22; and

WHEREAS, the City’s engineering staff has reviewed the costs associated with constructing the lift station and has determined that \$286,866.54 represents the excess cost to the Developer for constructing the lift station to serve the areas outside its project; and

WHEREAS, SDCL 9-48-15 and Section 13.08.365 of the Rapid City Municipal Code authorize the City Council to require properties benefited by a main or trunk sewer to pay their proportionate share of the cost to construct such sewer by imposing sewer construction fees; and

WHEREAS, The City’s Public Works Director is recommending that the cost of constructing this project be paid by the properties which will benefit from its construction prior to such properties being served by the City’s sewer system; and

WHEREAS, the City’s Public Works Director is recommending the sewer construction fees to the benefiting area shown on Exhibit A be apportioned based on the benefits that accrue to such property, and as such should be established on a per-acre basis. “Benefiting areas” include those properties that will benefit from the sanitary sewer lift station to service the regional area, and do not necessarily directly abut mains connected to the constructed sanitary sewer lift station. Thus, these properties may need to extend additional sewer mains at their cost prior to connecting to this infrastructure; and

WHEREAS, the City Council, having considered the recommendation of the City’s Public Works Director and having made such investigation as it finds necessary, determines that the owners of properties within the benefiting area should pay their proportionate share of the cost to construct this project on a per acre basis.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that the owners of property in the benefiting area, as shown in Exhibit A, shall be required to pay a proportionate share of the cost of constructing the Red Rock Estates Sanitary Sewer Lift Station Project No. SS01-1086, prior to being allowed to connect to the City's sewer system; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A, as benefiting property, shall pay \$242.95 per acre prior to connection to the City’s sewer main; and

BE IT FURTHER RESOLVED that the sewer construction fees collected as established herein shall accrue to the consolidated construction (8914) fund and ultimately be distributed to the Developer per a separate agreement which has been entered into between the City and Developer; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the remaining balance of the project costs totaling \$286,866.54 is collected, at which time this Resolution and the utility construction fee shall automatically expire.

BE IT FURTHER RESOLVED that the fee established herein replaces sewer construction fee number 3639-0010 and as such the construction fee for number 3639-0010 is abolished for all future connections in the area in which it was imposed.

Dated this 1st day of February, 2010.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

Motion was made by Costello, second by Waugh and carried to approve (No. 09VE018) a request by Ferber Engineering Co., Inc. for South Dakota Game Fish and Parks to consider an application for a **Vacation of Sanitary Sewer Easement** on 20 foot Sanitary Sewer Easement located on Lot 2 of NWE Subdivision, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of Knutson Lane and Sturgis Road with the following stipulations: 1. Prior to Public Works Committee approval, the proposed Water and Sewer Easement shall be recorded at the Register of Deed's Office and a copy of the recorded document shall be submitted to the Growth Management Department.

RESOLUTION #2010-010  
RESOLUTION OF VACATION OF A SANITARY SEWER EASEMENT

WHEREAS it appears that a 20 foot wide sanitary sewer easement on Lot 2 of NWE Subdivision, located in the NW1/4 SW1/4, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4130 Dean Lane, is no longer needed; and

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

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

Dated this 1st day of February, 2010.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

**Bids**

The following companies submitted bids for (No. CC020110-02.1) Hartland Court Relocation Project No. DR051452 / CIP No. 50025 opened January 26, 2010: Quinn Construction, Simon Contractors of SD Inc., RCS Construction Inc., Hills Material Company, and Xcel Demo LLC. Staff reviewed the bids and recommends bid award to Simon Contractors. Motion was made by LaCroix, second by Waugh, to award the bid to the lowest responsible bidder, Simon Contractors, in the amount of \$254,020.10. Responding to Olson, Ellis said the completion date is scheduled for June 11, 2010 and said that shortening the time line would be difficult as there would not be enough time to complete the work. Costello pointed out that

the trees in the area will stay. Responding to Chapman, Ms. Gereau reiterated the times of the year when the birds arrive and leave. Motion carried.

The following companies submitted bids for (No. CC020110-02.2) Well No. 13 Raw Water Meter Installation Project No. W10-1846 / CIP No. 50781 opened January 26, 2010: Hills Material Company, RCS Construction Inc., Quinn Construction Inc., Mainline Contracting Inc. and Lind Exco Inc. Staff reviewed the bids and recommends rejecting all bids. Motion was made by Waugh, second by Costello and carried to reject all bids.

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

Alderman LaCroix requested to move the March Information Meeting from March 17, 2010 to March 24, 2010 due to schedule conflicts. Motion was made by Hadcock, second by Chapman and carried to approve changing the meeting date.

### ***Staff Items***

Ellis addressed the (No. CC020110-03) Vision 2012 Update stating that there are no updates to report. Chapman said they are currently taking citizen applications for the new committee, but they are slow to come in. He recommended moving the scheduled dates back a month to have the citizen applications due March 5, 2010 and project applications due April 5, 2010. Motion was made by Chapman, second by LaCroix, to acknowledge the report, move the 2012 process back one month and send the discussion to the February 10, 2010 Legal and Finance meeting. Motion carried.

### **PUBLIC HEARING ITEMS** – Items 70 – 84

Motion was made by Weifenbach, second by Costello and carried to open the public hearing for items 70 – 84 with the exception of Item 78. No comments were offered.

### **CONTINUED PUBLIC HEARING CONSENT ITEMS** – Items 70 – 73

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

### ***Continue the following items until February 16, 2010:***

70. 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.
71. No. 09SV025 - A request by Fisk Land Surveying & Consulting Engineers for Ehli Family Trust for a **Variance to the Subdivision Regulations to waive the requirement to allow a one foot public access and utility easement in lieu of a one foot right-of-way dedication and to reduce the pavement width from 27 feet to 24 feet as per Chapter 16.16 of the Rapid City Municipal Code** on Lots C, D and E of Mahoney Addition No. 2, located in the SE1/4, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the east 90 feet less the north 8½ feet of Block 103, the west 50 feet less the north 8½ feet of Block 102, the east 115 feet less the north 8½ feet of Block 102 all in Mahoney Addition No. 2, located in the

SE¼ of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 125, 131 and 133 MacArthur.

72. No. 09SV028 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to reduce the pavement width from 27 feet to 20 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Pioneer Circle, to reduce the width of the private access and utility easement from 49 feet to a verifying width of 46.9 feet to five feet, to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the private access and utility easement, to reduce the width of the access easement from 49 feet to a verifying width of 40 feet to 20 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the access easement as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1, 2 and 3 of Lots 5R and 6R of Block 1 of Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota, legally described as Lots 5R and 6R of Block 1 of Spring Canyon Estates, Section 6, T1S, R7E, BHM, Pennington County, South Dakota, located at 5703 and 5707 Pioneer Circle.

**Continue the following items until July 6, 2010:**

73. No. 08OA003 - A request by City of Rapid City for an **Ordinance Amendment to amend Section 17.50.335 "Sight Triangles" of the Rapid City Municipal Code.**

END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion was made by Olson, second by Chapman and carried to close the public hearing for Items 70 – 84 with the exception of Item 78.

**CONSENT PUBLIC HEARING ITEMS** – Item 74 – 75

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

***Growth Management Items***

74. No. 09SV012 – Acknowledge applicants withdrawal of 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.

***Alcohol Licenses***

75. Central Baseball Association for a Special Event Beer License for an event scheduled February 27, 2010 at the National Guard Armory on Range Road.

END OF CONSENT PUBLIC HEARING CALENDAR

**NON-CONSENT PUBLIC HEARING ITEMS** – Items 76 – 84

Motion was made by Olson, second by Weifenbach and carried to open the public hearing for Item 78. No comments were offered. Green notified the Council that Fish Garbage Services Inc. requested continuance indefinitely. He said that this is a separate matter and several continuances have already been made. He advised conducting the hearing and either granting the appeal or confirming the denial of their license.

Motion was made by Hadcock, second by Chapman and carried to close the public hearing for Item 78.

Green recommended affirming the decision of denial. Motion was made by Hadcock, second by Chapman, to deny the license for Fish Garbage Services Inc. Responding to Weifenbach, Green explained that their license has been denied due to unfair business practices. Green indicated that he understands that Red River Service has purchased their assets and are operating with Fish equipment. Motion carried.

Motion was made by Olson, second by Waugh and carried to Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of curb, gutter, street light conduit, sidewalk along one side of the street and water along the access street as they abut a portion of the balance of Lot 3 of the S½SW¼, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded on October 1, 1963 and filed in "Plat File N"; Beginning at the northeast corner of said balance of Lot 3, said point being located along the north-south quarter section line and also along the southerly edge of the adjoining railroad right-of-way; thence, southerly along said quarter section line, S00°04'53"W a distance of 1,050.36 feet, more or less; thence, N63°41'40"W a distance of 205.00 feet, more or less; thence, N84°39'26"W a distance of 270.00 feet, more or less; thence, N33°30'20"W a distance of 84.00 feet, more or less; thence, N00°00'00"W a distance of 796.70 feet, more or less; thence, N57°23'22"W a distance of 117.40 feet, more or less; thence, N03°48'46"E a distance of 95.00 feet, more or less; thence, N12°39'32"W a distance of 150.00 feet more or less to a point on the north line of said Lot 3; thence, easterly along the north line of said Lot 3, S89°55'53"E a distance of 168.93 feet more or less to a point on the southerly line of the adjoining railroad right-of-way; thence, southeasterly along the southerly edge of the adjoining right-of-way, curving to the left on a curve with a radius of 5907.9 feet, a delta of 04°17'31", an arc length of 442.55 feet, and a chord bearing and distance of S62°19'02"E 442.44 feet, more or less; thence, continuing southeasterly along the southerly edge of the adjoining right-of-way, S64°32'29"E a distance of 72.19 feet more or less, to the point of beginning located at 6299 East Highway 44. (09SV020)

The Mayor presented (No. 09SV020) A request by Fisk Land Surveying & Consulting Engineers for Hewey Clemmons for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the street surface width from 24 feet to 18 and 10 feet, respectively, as per Chapter 16.16 of the Rapid City Municipal Code** on Lots A and B of Clemmons Addition, located in the S1/2 SW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of the balance of Lot 3 of the S½SW¼, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded on October 1, 1963 and filed in "Plat File N"; Beginning at the northeast corner of said balance of Lot 3, said point being located along the north-south quarter section line and also along the southerly edge of the adjoining railroad right-of-way; thence, southerly along said quarter section line, S00°04'53"W a distance of 1,050.36 feet, more or less; thence, N63°41'40"W a distance of 205.00 feet, more or less; thence, N84°39'26"W a distance of 270.00 feet, more or less; thence, N33°30'20"W a distance of 84.00 feet, more or less; thence, N00°00'00"W a distance of 796.70 feet, more or less; thence, N57°23'22"W a distance of 117.40 feet, more or less; thence, N03°48'46"E a distance of 95.00 feet, more or less; thence, N12°39'32"W a distance of 150.00 feet more or less to a point on the north line of said Lot 3; thence, easterly along the north line of said Lot 3, S89°55'53"E a distance of 168.93 feet more or less to a point on the southerly line of the adjoining railroad right-of-way; thence, southeasterly along the southerly edge of the adjoining right-of-way, curving to the left on a curve with a radius of 5907.9 feet, a delta of 04°17'31", an arc length of 442.55 feet, and a chord bearing and distance

of S62°19'02"E 442.44 feet, more or less; thence, continuing southeasterly along the southerly edge of the adjoining right-of-way, S64°32'29"E a distance of 72.19 feet more or less, to the point of beginning, located at 6299 East Highway 44. Motion was made by Olson, second by Waugh and carried that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and water along the access street be approved 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; 2. Prior to City Council approval, construction plans shall be submitted for review and approval showing a sidewalk along one side of the access street; 3. Prior to submittal of a Final Plat application, a note shall be placed on the plat stating that "All new residential structures shall be fire sprinklered"; and, That the Variance to the Subdivision Regulations to reduce the minimum required 24 foot wide paved surface be approved with the following stipulations: 1. That a minimum 20 foot wide paved surface be provided; and, 2. That the existing 15 foot wide cattle guard be replaced with a minimum 20 foot wide cattle guard; and, That the Variance to the Subdivision Regulations to waive the requirement to install sewer be denied.

Motion was made by Olson, second by Waugh and carried to authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of a sidewalk along Cambell Street as they abut that portion of Block 1 of South Creek Industrial Park, located in the SW1/4NW1/4 and the NW1/4SW1/4 of Section 8, T1N, R8E, B.H.M., City of Rapid City, Pennington County, South Dakota, more particularly described as: Commencing at the northwest corner of Lot 7, Block 1 of South Creek Industrial Park being the TRUE POINT OF BEGINNING; thence N 00°08'20" E a distance of 480.20 feet; thence N 89°58'10" W a distance of 420.13 feet; thence with a curve turning to the left with an arc length of 457.36 feet, with a radius of 3024.93 feet; thence N 89°58'10" W a distance of 28.60 feet; thence S 00°02'20" W a distance of 120.28 feet; thence with a curve turning to the right with an arc length of 737.35 feet, with a radius of 2944.93 feet; thence S 89°57'00" E a distance of 295.11 feet; thence S 07°41'54" E a distance of 213.19 feet; thence S 07°40'53" E a distance of 132.44 feet; thence S 89°56'18" E a distance of 64.34 feet; thence N 00°01'55" E a distance of 262.33 feet to the Point of Beginning; located at 2230 Cambell Street. (09SV029)

The Mayor presented (No. 09SV029) A request by FourFront Design, Inc. for Jim Mirehouse for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Cambell Street and the 30 foot access easement, to reduce the width of the access easement from 59 feet to 30 feet, and to reduce the pavement width from 26 feet to 20 feet as per Chapter 16.16 of the Rapid City Municipal Code** on Lot D of Block 1 of South Creek Industrial Park, located in the SW1/4 of the NW1/4 and the NW1/4 of the SW1/4, Section 8, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Block 1 less Lots 1 thru 8 of South Creek Industrial Park, Section 8, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 2230 Cambell Street. Motion was made by Olson, second by LaCroix, that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer along Cambell Street be denied without prejudice; That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Cambell Street be approved 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 improvement; That the Variance to the Subdivision Regulations to waive the requirement reduce the pavement width from 26 feet to 20 feet and to install curb, gutter, sidewalk, street light conduit, water and sewer along the existing 30 foot access easement and to reduce the width of the access easement from 59 feet to 30 feet be approved with the following stipulations: 1. That the plat document be revised to show the existing street located on the property within a 59 foot wide access easement; and 2. That the 59 foot wide access easement be constructed with a minimum 20 foot wide paved surface. Responding to Weifenbach, Elkins explained the area and said it does not seem appropriate to have a sidewalk in the area at this time. Motion carried.

The Mayor presented (No. 09VR008) A request by Fisk Land Surveying & Consulting Engineers for Recreational Adventures for a **Vacation of Section Line Highway** on the portion of undeveloped



Section Line Right-of-way, located in Tract A of the SE1/4 SW/14 of Section 4 and the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 3010 East Highway 44. Motion was made by Olson, second by LaCroix and carried to approve with the following stipulation: 1. Prior to City Council approval, the applicant shall submit a response from Prairiewave Communications to the Growth Management Department indicating no conflicts with the proposed vacation.

RESOLUTION #2010-013  
RESOLUTION OF VACATION OF SECTION LINE RIGHT-OF-WAY

WHEREAS it appears that the Section Line Right-of-way located in Tract A of the SE1/4 SW/14 of Section 4 and the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3010 East Highway 44; is not needed for public purposes; and

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

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

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

Dated this 1st day of February, 2010.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

The Mayor presented (No. 09VR009) A request by Ferber Engineering Co., Inc. for South Dakota Game Fish and Parks for a **Vacation of Right-of-Way** on Dean Lane Right-of-Way located in Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota more particularly described as: Commencing at a found plastic cap marked Renner #2652 at the Northwest corner of Lot 4 of Block 1 of Tract G of Meadowwood Subdivision the True Point of Beginning; Thence, N02°03'12"E, a distance of 60.58 feet; Thence, S88°00'10"E, a distance of 356.54 feet; Thence, N86°54'00"E, a distance of 24.87 feet to a found nail; Thence, N86°41'03"E, a distance of 292.86 feet to a found cap marked Renner #2652; Thence, S03°05'15"E, a distance of 60.14 feet; Thence, S86°45'56"W, a distance of 320.15 feet to a found cap marked FMG #6119; Thence, N88°05'47"W, a distance of 135.29 feet, to a found cap marked Renner #2652; Thence, N88°09'07"W, a distance of 224.20 feet to the True Point of Beginning, located west of Sturgis Road and east of North 40th Street. Motion was made by Olson, second by LaCroix and carried to approve with the following stipulations: 1. Prior to Planning Commission approval, the applicant shall provide copies of the recorded Pedestrian Access Easement and Public Access Easement; and 2. Approval of this Vacation of Right-of-way request by the Planning Commission shall authorize the vacation of the right-of-way pursuant to SDCL 11-6-22.

RESOLUTION #2010-009  
RESOLUTION OF VACATION OF RIGHT-OF-WAY

WHEREAS it appears that a portion of the 60 foot wide section of Dean Lane Right-of-Way located in the NW1/4 and the SW1/4 of Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4130 Dean Lane is not needed for public purposes; and

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

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

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

Dated this 1st day of February, 2010.

ATTEST:  
s/ James F. Preston  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks, Mayor

(SEAL)

**BILLS**

The following bills have been audited. Motion was made by LaCroix, second by Costello and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof.

Payroll Paid Ending 01-16-10, Paid 01-22-10	864,840.81
Payroll Paid Ending 01-29-10, Paid 01-29-10	1,241,179.29
Payroll Paid Ending 01-16-10, Paid 01-22-10	3,044.00
Pioneer Bank, Taxes Paid 01-22-10	200,278.63
Pioneer Bank, Taxes Paid 01-22-10	126.08
Pioneer Bank, Taxes Paid 01-29-10	282,940.45
Pioneer Bank, Taxes Paid 01-22-10	213.96
South Dakota Dept of Revenue, Sales Tax Paid 01-23-10	34,980.62
South Dakota Dept of Revenue, Excise Tax Paid 01-23-10	150.79
South Dakota Dept of Revenue, CCTR Tax Paid 01-23-10	31,298.18
First National Bank Sioux Falls, Paid 01-15-10	317,602.73
Black Hills Electric Coop, Paid 01-20-10	188,430.77
First Administrators, claims paid 01-20-10	152,558.58
First Administrators, claims paid 01-27-10	117,898.99
Montana Dakota Utilities, Paid 01-20-10	29,505.23
SD Dept of Labor – Unemployment Ins., Paid 01-19-10	10,765.09
SD Municipal League	120.00
SD Retirement System Special Pay Plan, Paid 01-22-10	45.00
Computer Bill List	<u>1,444,176.79</u>
Subtotal	\$4,920,155.99
Payroll Paid Ending 01-16-10, Paid 01-22-10	2,871.15
Pioneer Bank, Taxes Paid 01-22-10	219.64
Knology	3.42
Wright Express	<u>121.42</u>

Total

\$4,923,371.62

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

Motion was made by LaCroix, second by Waugh and carried to go into Executive Session at 8:49 P.M. for the reasons permitted by SDCL 1-25-2. The Council came out of Executive Session at 10:48 P.M. with all members present.

**STAFF DIRECTION**

Motion was made by Chapman, second by Weifenbach and carried to direct the City Attorney to proceed in accordance with the discussion in Executive Session on the settlement of the potential litigation matter.

Motion was made by Olson, second by Costello, to authorize the Public Works Director to extend an offer to the candidate for the Water Production Supervisor position at Step G on the pay scale. Weifenbach expressed his thanks for promoting from within. Motion carried.

Motion was made by Hadcock, second by LaCroix, to direct the City Attorney to file with the Finance Office for public access the materials from outside council per the discussion in Executive Session. Motion carried with one NO from Weifenbach and with Kooiker abstaining.

Green read in Resolution #2010-004. Motion was made by LaCroix, second by Olson, to continue the resolution to the February 16, 2010 City Council meeting, to set the public hearing on the adoption of the resolution to be held at the February 16, 2010 City Council meeting and to direct the City Attorney to provide notice to Alderman Kooiker of the public hearing. Kooiker indicated that he believes it is his responsibility to be a voice for his constituents, yet he feels he is being chastised for asking questions of City management. He said he is only guilty of serving people and following up on their concerns. Kooiker said his constituents should have access to all of the material surrounding this matter. He encouraged people to read it and said they will see how ridiculous it is. He also said that reference to prior discipline is false, and he added that this is about the responsibility and right of elected officials to ask questions. He also briefly summarized his contact with the individual who filed this complaint. Talbot Wiczorek spoke on behalf of Kooiker as his attorney. He said the process has been unfair and asked if all information will be released. He asked that rights are given to review the materials that the censure is based on as he has only seen the initial complaint. He also asked that the information from the 2005 investigation is released. Motion carried with one NO from Weifenbach and with Kooiker abstaining.

**ADJOURN**

As there was no further business to come before the Council at this time, the meeting was adjourned at 11:03 PM.

ATTEST:

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

(SEAL)

CITY OF RAPID CITY

\_\_\_\_\_  
Mayor