

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

June 20, 2011

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, June 20, 2011 at 7:00 P.M.

The following members were present: Mayor Alan Hanks and the following Alderpersons: Bonny Petersen, Ron Weifenbach, Dave Davis, Deb Hadcock, Ron Kroeger, Aaron Costello, Sam Kooiker, Bill Waugh, Gary Brown and Jordan Mason; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included: Finance Officer Pauline Sumption, City Attorney Jason Green, Public Works Director Robert Ellis, Growth Management Director Brett Limbaugh, Police Chief Steve Allender, Fire Chief Mike Maltaverne, Parks & Recreation Director Jerry Cole, Community Resources Director Jeff Barbier and Administrative Coordinator Sharlene Mitchell

**ADOPTION OF AGENDA**

The following items were added to the agenda:

- East North Street Reconstruction – Pine Street to Cambell Street
- Big Brothers Big Sisters Raffle request
- Special council meeting
- Discussion on executive session

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

**APPROVE MINUTES**

Motion was made by Costello, second by Waugh and carried to approve the minutes for the regular meeting of June 6, 2011 and the special meeting of June 9, 2011.

**AWARDS AND RECOGNITIONS**

Mayor Hanks presented the Veteran of the Month for June 2011 to Mary Vesquez Piper and recognized her efforts and dedication to the service of her country and community.

**GENERAL PUBLIC COMMENT**

No comments were received.

**NON-PUBLIC HEARING ITEMS**

Motion was made by Costello, second by Brown and carried to open public comment on Items 3 – 36. No comments were received. Motion was made by Brown, second by Costello and carried to close public comment on Items 3 – 36.

**CONSENT ITEMS**

The following items were removed from the Consent Items:

15. No. 11TP014 – Approve the Rapid City Bicycle and Pedestrian Master Plan – Final Report.
28. No. 11TP014 – Approve Rapid City Bicycle and Pedestrian Master Plan.

Motion was made by Davis, second by Mason and carried to approve Items 3 – 34 as they appear on the Consent Items with the exception of Items 15 and 28.

***Vacations of Right-Of-Way Set for Hearing (None)***

***Alcoholic Beverage License Applications Set for Hearing (July 5, 2011)***

3. Smiley's Pizza & Pasta LLC DBA Smiley's Pizza & Pasta, 2101 Mt Rushmore Road for a Retail (on-off sale) Malt Beverage License
4. Smiley's Pizza & Pasta LLC DBA Smiley's Pizza & Pasta, 2101 Mt Rushmore Road for a Retail (on-off sale) Wine License

***Public Works Committee Consent Items***

5. No. PW061411-03 – Approve Change Order No. 1F to Mainline Contracting, Inc. for Fire Hydrant Installation Annual Project for 2010, Project No. W10-1875 / CIP No. 50808, for an increase of \$160.82.
6. No. PW061411-04 – Approve Change Order No. 1 to RCS Construction for the CSAC Restroom ADA Upgrade, Project No. GB10-1876 / CIP No. 50813, for an increase of \$3,112.00. (Rapid City's share will be \$1,867.20 and Rapid City School District's share will be \$1,244.80)
7. No. PW061411-05 – Approve Change Order No. 3 to Zenon Environmental Corporation for the Water Treatment Plant Upgrades – Jackson Springs Membrane Prepurchase, Project No. W07-1689 / CIP No. 50696. This is a no cost and no time extension change order.
8. No. PW061411-06 – Authorize Mayor and Finance Officer to Sign an Agreement with SD Department of Transportation to purchase highway right of way for the City of Rapid City for Parcel 2A – Lot H4 in Tract AR2 of the Needles Subdivision related to the Catron Boulevard Reconstruction, State Project No. NH 2016(17)64, PCN 6875.
9. No. PW061411-07 – Authorize Mayor and Finance Officer to Sign a Professional Services Agreement with Ferber Engineering, Inc. for Seger Drive / Dyess Avenue Sanitary Sewer Extension, Phase 1 - Project No. SS11-1946 / CIP No. 50277-1.1 and Phase 2 – Project No. SS11-1947 / CIP No. 50277-1.2, in the amount of \$249,930.00.
10. No. PW061411-08 – Authorize Mayor and Finance Officer to Sign First Amendment to Revenue Obligation Loan Agreement between the City of Rapid City and the SD Conservancy District for the SRF Loan received for Water Reclamation Facility Improvements.
11. No. PW061411-09 – Authorize Mayor and Finance Officer to Sign Resolution No. 2011-077 to Modify the Revenue Obligation Loan Agreement in Connection with the \$5,000,000 City of Rapid City, South Dakota Clean Water Revenue Bond, dated December 15, 2009.

RESOLUTION NO. 2011-077

RESOLUTION TO MODIFY THE REVENUE OBLIGATION LOAN AGREEMENT IN CONNECTION WITH THE \$5,000,000 CITY OF RAPID CITY, SOUTH DAKOTA CLEAN WATER REVENUE BOND DATED DECEMBER 15, 2009

WHEREAS, the City of Rapid City, South Dakota (the "City") obtained a \$5,000,000 loan from the South Dakota Conservancy District (the "District") on December 15, 2009 (the "Loan") for the purpose of funding a portion of the costs of a project (the "Project") described in Appendix A to the Revenue Obligation Loan Agreement of the same date (the "Loan Agreement"); and

WHEREAS, the City desires to amend the Loan Agreement by adopting a revised Appendix A to modify the Project description;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The City Council of the City does hereby approve the amendment of Appendix A to the Loan Agreement in the form attached hereto.

2. The Mayor and the Finance Officer are authorized and directed to file such applications, execute an amendment to the Loan Agreement and related documents, engage bond counsel, and take all other steps reasonably necessary to effectuate the intent of this resolution.

Dated this 20th day of June, 2011.

ATTEST:  
s/ Pauline Sumption  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks  
Mayor

(SEAL)

APPENDIX A  
DESCRIPTION OF THE PROJECT  
(amended on June 20, 2011)

The Project will consist of upgrades to the Borrower’s existing Water Reclamation Facility, as outlined in the City’s Facility Plan, dated July, 2009 and revised May 26, 2011.

The Borrower hereby certifies that the description of the property, improvements and activities set forth above constitutes an accurate description of the property, improvements and activities the costs of which are being financed, refinanced or reimbursed pursuant to the attached Loan Agreement. In case any portion of the Project is being refinanced, an accurate description of such debt and the dates on which it will be paid from proceeds of the Loan are also set forth above.

ATTEST:  
s/ Pauline Sumption  
Finance Officer

CITY OF RAPID CITY, SOUTH DAKOTA  
Borrower  
s/ Alan Hanks  
Mayor  
Dated: June 20, 2011

(SEAL)

12. No. 11RD001 – Section 17 and Section 20, T1N, R9E – Approve a request by City of Rapid City for a **Resolution naming an unnamed service road within Rapid City Airport as Kitty Hawk Road** the service road lying between Airport Road and Terminal Road, located in Section 17 and Section 20, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, located at Rapid City Regional Airport.

2011 – 067  
RESOLUTION RENAMING AN UNNAMED SERVICE ROAD WITHIN RAPID CITY  
AIRPORT TO KITTY HAWK ROAD

BE IT RESOLVED, by the City of Rapid City, that the service road lying between Airport Road and Terminal Road located within the Rapid City Airport located in Section 17 and Section 20, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota be, and is hereby, renamed to Kitty Hawk Road.

Dated this 20th day of June, 2011.

CITY OF RAPID CITY  
s/ Alan Hanks  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

- 13. No. 11VE012 – High Sheridan Ranch Subdivision – Approve a request by Fisk Land Surveying & Consulting Engineers for Vivian and Sterling Greni for a **Vacation of Power Line Easement** for Lot 15 of High Sheridan Ranch Subdivision located in Section 35, T1N, R6E, BHM, Pennington County, South Dakota, more generally described as being located at the southeast corner of the intersection of Sand Lane and Sorrel Court.

2011 – 074  
RESOLUTION OF VACATION OF A POWER LINE EASEMENT

WHEREAS it appears that the power line easement on Lot 15 of High Sheridan Ranch Subdivision located in Section 35, T1N, R6E, BHM, Pennington County, South Dakota, more generally described as being located at the southeast corner of the intersection of Sand Lane and Sorrel Court, is no longer needed; and

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

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

Dated this 20th day of June, 2011.

CITY OF RAPID CITY  
s/ Alan Hanks  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

- 14. No. 11VE013 - Fifth Street Office Plaza – Approve a request by CETEC Engineering Services, Inc. for Fifth Street Developers, LLC for a **Vacation of a Major Drainage Easement** for Lot 2 and Lot 3 of Block 2 of Fifth Street Office Plaza located in Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4831 and 4905 Fifth Street.

2011 – 075  
RESOLUTION OF VACATION OF A MAJOR DRAINAGE EASEMENT

WHEREAS it appears that the major drainage easement on Lot 2 and Lot 3 of Block 2 of Fifth Street Office Plaza located in Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4831 and 4905 Fifth Street, is no longer needed; and

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

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

Dated this 20th day of June, 2011.

CITY OF RAPID CITY  
s/ Alan Hanks  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

- 16. No. PW061411-10 – Acknowledge Update on Founders Park Plaza and Rapid City Greenway Trails and Pedestrian Facilities Project PR08-6017.
- 17. No. PW061411-11 – Acknowledge Update on Star of the West Sports Complex.

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

- 18. No. LF061511-11 – Confirm appointment of Jane Wasserburger to the Retired Senior Volunteer Program Advisory Board.
- 19. No. LF061511-12 – Confirm reappointment of Jeff Medley to the Rapid City Plumbing Board for a term to expire May 31, 2013.
- 20. No. LF061511-13 – Confirm reappointments of Wayne Gilbert and Michael Goodroad to the Rapid City Human Relations Commission for terms to expire July 1, 2014.
- 21. No. LF061511-14 – Confirm appointments of Jeanne Van Alstyne to fill a vacancy on the Urban Forestry Board for a three year term to expire December 31, 2013 and of Paul Ruder to fill a vacancy (due to a resignation) that will expire December 31, 2011.
- 22. No. LF061511-15 – Confirm appointment of Tim Johnson to fill a vacancy on the Business Improvement District (BID) Board (Hotel) and the reappointments of Kelly Knutson and Josh Uhre with terms expiring August 31, 2014 and confirm the reappointment of Michelle Lintz representing the Convention and Business Bureau.
- 23. No. LF061511-16 – Confirm reappointments of Kyle Blada and Lee Geiger to the Historic Sign Review Committee, with terms to expire July 1, 2014.
- 24. No. LF061511-04 – Approve Event Permit for Firefighter Combat Challenge on July 16-17, 2011.

- 25. No. LF061511-05 – Approve Event Permit for Firehouse Brewing Company for motorcycle parking on the north side of the 600 block of Main Street August 7-12, 2011.
- 26. No. LF061511-17 – Approve request to submit Highway Safety Grant Application.
- 27. No. LF061511-06 – Approve request to waive banner fee for Firefighter Combat Challenge.
- 29. No. 11TP015 – Authorize the Mayor and Finance Officer to sign a No Cost Time Extension for the Completion of the Piedmont Valley and Black Hawk Neighborhood Area Future Land Use Plan.
- 30. No. LF061511-03 – Approve request from Rapid City Historic Preservation Commission to authorize Mayor and Finance Officer to sign Allocation Award between the State Historical Preservation Office, Office of History and Rapid City Historic Preservation Commission Project Number SD 11-012 in the amount of \$16,000.
- 31. Acknowledge the following volunteers for workmen's compensation purposes: Margaret OLeary, Cynthia Robertson, Spencer Ray.
- 32. No. LF061511-07 – Approve Resolution No. 2011-079 Writing Off Uncollectable Ambulance Billing Accounts.

2011-079

RESOLUTION WRITING OFF UNCOLLECTABLE AMBULANCE BILLING ACCOUNTS

WHEREAS, The City Finance Office has determined that certain ambulance billing accounts, shown on Appendix A, attached, and totaling \$119,184.55 are uncollectible; and

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

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

Dated this 20th day of June, 2011.

ATTEST:  
s/ Pauline Sumption  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks  
Mayor

(SEAL)

- 33. No. LF061511-08 – Approve Resolution No. 2011-078 to Add the Hilton Garden Inn to the City of Rapid City's Business Improvement District No. 1.

RESOLUTION 2011-078

A RESOLUTION TO ADD THE HILTON GARDEN INN TO  
THE CITY OF RAPID CITY'S BUSINESS IMPROVEMENT DISTRICT NO. 1

WHEREAS, pursuant to the provisions of SDCL Chapter 9-55, the City of Rapid City created Business Improvement District No. 1; and

WHEREAS, the purpose of Business Improvement District No. 1 is to market and promote the City of Rapid City and the hotels and motels located within the district through the Rapid City Area Convention and Visitors Bureau; and

WHEREAS, the boundaries of Business Improvement District No. 1 include noncontiguous property within the incorporated municipality having a common zoning designation; and

WHEREAS, SDCL § 9-55-4 allows any business improvement district that includes noncontiguous property to add, by resolution of the governing body, qualifying property to the business improvement district; and

WHEREAS, the Hilton Garden Inn is a qualifying property that currently is not within the boundaries of the business improvement district but may be added by resolution; and

WHEREAS, the Rapid City Common Council deems it in the best interests of the City of Rapid City to add the Hilton Garden Inn within the boundaries of Business Improvement District No. 1.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City that the following property is hereby included within the boundaries of the City’s Business Improvement District No. 1:

Property	Rooms	Address	City	State	Zip
Hilton Garden Inn	92	815 East Mall Drive	Rapid City	SD	57701

Dated this 20th day of June, 2011.

ATTEST:  
s/ Pauline Sumption  
Finance Officer

CITY OF RAPID CITY  
s/ Alan Hanks  
Mayor

(SEAL)

- 34. No. LF061511-10 – Acknowledge bingo request from The Club for Boys.

***Growth Management Department Consent Items***

END OF CONSENT CALENDAR

Motion was made by Hadcock, second by Waugh to continue (No. 11TP014) Approve the Rapid City Bicycle and Pedestrian Master Plan – Final Report to the July 18, 2011 Council meeting. Costello thanked staff for taking the additional time to review the plan. Motion carried. (Items 15 and 28)

**CONTINUED CONSENT ITEMS**

Motion was made by Weifenbach, second by Petersen and carried to approve Items 35 – 36 as they appear on the Continued Consent Items.

***Continue the following items until July 5, 2011:***

- 35. No. 10PL066 - A request by Renner & Associates, LLC for Skyline Pines East Land Co. for a **Preliminary Plat** for Tract 1, Lot 19, and dedicated Fairmont Boulevard Right-of-way of Skyline Pines East Subdivision, legally described as a portion of the N1/2 of the SE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current western terminus of Fairmont Boulevard west of Mt. Rushmore Road.

36. No. 11PL014 - A request by Sperlich Consulting, Inc. for a **Preliminary Plat** for proposed Lots 1 through 8 of Block 1, Lots 1 through 6 of Block 2, and Lot 1A and Lot 1B of Block 3 of Prairie Meadows Subdivision, legally described as Tract A of Prairie Meadows Subdivision and Government Lot 4 of Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the northeast corner of the intersection of West Nike Road and Country Road.

END OF CONTINUED CONSENT ITEMS

### **NON-CONSENT ITEMS**

Motion was made by Waugh, second by Costello and carried to open public comment on Items 37 – 48.

Tom Schoenstedt, Hills Alive, (Item 42) expressed concern with the addition of approximately 40 trees in Memorial Park as their placement obstructs the stage view for festival participants. Schoenstedt indicated that a compromise had been reached allowing removal of some trees. Schoenstedt stated that Hills Alive must be involved in the long range planning for the park to have the ability to plan their event year after year. Schoenstedt stated that the location is good for the city economically noting the need for a better working arrangement with the City. Schoenstedt expressed concern with the statements made by Cole regarding the event conflicting with the intent of the park as a memorial to the 1972 flood victims.

Butch Thompson, Hills Alive, (Item 42) expressed concern with the addition of the new trees and the Parks Department Director's opposition to the event being held in the park. Thompson stated that the purpose of the park is for all victims of the 1972 flood; those who lost their lives, those who lost loved ones and those that survived the event. Thompson urged further investigation into the tree planting suggesting that the trees could be replanted in other parks.

Motion was made by Hadcock, second by Mason and carried to close public comment on Items 37 – 48.

### ***Ordinances***

Ordinance No. 5720 (No. LF060111-19) An Ordinance Regarding Supplemental Appropriation #5 for 2011 having passed its first reading on June 6, 2011; motion was made by Hadcock, second by Kroeger, that the title be read the second time. Upon vote being taken, the following voted AYE: Petersen, Weifenbach, Davis, Hadcock, Kroeger, Costello, Kooiker, Waugh, Brown and Mason; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5720 was declared duly passed upon its second reading.

Ordinance No. 5725 (No. LF061511-09) An Ordinance Clarifying the Permissible Fireworks in the City of Rapid City by Amending Section 8.24.020 of the Rapid City Municipal Code. Motion was made by Hadcock, second by Waugh and carried that Ordinance No. 5725 be placed upon its first reading and the title was fully and distinctly read and second reading set for Tuesday, July 5, 2011.

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

Motion was made by Hadcock, second by Kroeger and carried to approve (No. 11PL026) A request by Mark Avkamp for SBC Archway VII LLC for a **Preliminary Plat** for proposed Lot 1R and Lot 4R of Block 2 of Commerce Park Subdivision, legally described as Lots 1, 2, 3 and 4 of Block 2 of Commerce Park Subdivision located in Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2320, 2340 and 2350 Sophia Court with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, construction plans showing the extension of a sewer main along Fountain Plaza Drive shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained; 2. Prior to Preliminary Plat approval by the City Council, the construction plans shall show a property line sidewalk in lieu of a curb side sidewalk along Sophia Court or an Exception shall be

obtained; 3. Prior to Preliminary Plat approval by the City Council, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval if subdivision improvements are required. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction; 4. Prior to Preliminary Plat approval by the City Council, construction plans shall be submitted for review and approval showing the abandonment of the culvert under Sophia Court as shown on the applicant's plans or the applicant shall demonstrate a need for the culvert; 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. Prior to submittal of a Final Plat application, all of the affected utility companies shall indicate concurrence with the proposed vacation of minor drainage and utility easement(s) or the plat document shall be revised to show the existing easement(s); 7. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; 8. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 9. The approved Preliminary Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.

Motion was made by Hadcock, second by Kroeger and carried to approve (No. 11PL027) A request by CETEC Engineering Services, Inc. for Colonial Pine Hills Sanitary District for a **Preliminary Plat** for proposed Lot 1A and Lot 1B of Block 1 of Whispering Pines Subdivision, legally described as Lot 1 of Block 1 of Whispering Pines Subdivision located in Section 32, T1N, R7E, BHM, Pennington County, South Dakota, located at 7804 Croyle Avenue with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, construction plans for Croyle Avenue shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained; 2. Prior to Preliminary Plat approval by the City Council, construction plans for the Section Line Highway shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer and the dedication of 49 foot wide right-of-way or a Variance to the Subdivision Regulations shall be obtained or the Section Line Highway shall be vacated; 3. Prior to Preliminary Plat approval by the City Council, water plans prepared by a Registered Professional Engineer showing the extension of water mains along Croyle Avenue and the Section Line Highway shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. In addition, the plat document shall be revised to provide utility easements as needed; 4. 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. In addition, the plat document shall be revised to provide utility easements as needed; 5. Prior to Preliminary Plat approval by the City Council, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval if subdivision improvements are required. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction; 6. Prior to Preliminary Plat approval by the City Council, a grading plan and a drainage plan in compliance with the Drainage Criteria Manual shall be submitted for review and approval if subdivision improvements are required. In particular, the drainage plan shall include calculations demonstrating that discharge from any improvements will not exceed pre-development flow rates or local detention facilities shall be provided. In addition, the plat document shall also be revised to provide drainage easements as necessary; 7. Prior to Preliminary Plat approval by the City Council, a cost estimate of the required subdivision improvements shall be submitted for review and approval if any subdivision improvements are required; 8. Prior to Preliminary Plat approval by the City Council, a reserve drainfield area for the proposed on-site wastewater system to be located on Lot 1B shall be shown on the plat or a note shall be placed on the plat indicating that at the time a Building Permit application is submitted, a reserve drainfield area for on-site wastewater treatment will be identified and held in reserve unless a public sewer system is provided;

9. Prior to submittal of a Final Plat application, the plat document shall be revised to show non-access easements along Croyle Avenue in compliance with the Street Design Criteria Manual; 10. 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; 11. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and, 12. The approved Preliminary Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.

Motion was made by Hadcock, second by Costello and carried to refer (No. 08PL145) A request by Sperlich Consulting, Inc. for Ronald Shape for a **Preliminary Plat** for Lot 13 of Block 6, Lots 2 thru 11 of Block 7, Lots 2 thru 11 of Block 8 of Homestead Subdivision, 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 to the August 4, 2011 Planning Commission meeting for consideration of a revised plat at the applicant's request.

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

Motion was made by Hadcock, second by Costello to acknowledge the Hills Alive and Memorial Park Discussion. Brown indicated that he would bring forward a request to Council to address the use and control of Memorial Park. Brown stated that the park was named for the victims of the 1972 flood and the Council needs to determine if it is a memorial park or an event park. Brown addressed the expansion of events such as Hills Alive noting that these are free events. Brown addressed the possibility of parking conflicts between paying events at the Civic Center and free events at the park. Petersen stated that while Hills Alive is a positive event for the city the use of the park should be reviewed. Petersen addressed the noise complaints received from the FY 2010 event noting the need to create a comprehensive plan to balance the park use. Cole addressed the responsibility of the Parks Department to look to the future with regard to tree replacement noting that replacement trees must be planted in open areas to provide proper growth. Code indicated that 10 trees have been relocated to Canyon Lake Park to accommodate the Hills Alive event stage. Cole addressed the conflict between maintaining the park and accommodating large events. Cole urged discussion regarding where these large events should be held noting that the Park Board does not support the use of Memorial Park for these types of events. Weifenbach addressed the Park Board position regarding use of the park and the need to include events such as Hills Alive in conversations regarding the use of the park. Weifenbach indicated that Hills Alive coordinates their event with the Civic Center noting the failure of the Parks Department to coordinate with Hills Alive in planting the trees. Hadcock recommended development of long term plans for the parks to provide event planners information regarding future impacts to their events. Hadcock questioned why event coordinators are not advised of the venue capacity when their event requests are submitted for approval. Mason voiced support for the Hills Alive event due to the positive economic, cultural and community impact of the event. Mason addressed current multiple use venues such as Summer Nights noting that the park can also be a multiple use venue. A substitute motion was made by Kooiker, second by Petersen to request the Mayor to direct the City Attorney's Office to draft a resolution of support for the Hills Alive event in Memorial Park for presentation at the July 29, 2011 Legal & Finance Committee meeting. In response to a question from Hadcock, Mayor Hanks recommended that issues of support and communication be addressed when the resolution is presented. Weifenbach voiced support for the Hills Alive event. In response to a request by Hadcock, Mayor Hanks requested that the Parks & Recreation Department provide a comprehensive list of events occurring in all City parks at the July 29, 2011 Legal & Finance Committee meeting. Motion carried.

Sumption presented the Evidence Building and Public Safety Building Parking Ramp Financing Options and requested Council direction on the interest rate and financing method. Sumption indicated that the County Bond counsel is recommending an interest rate of 4.111% noting that this is a blended interest

rate. Sumption reviewed the four available payment options and funding sources. Motion was made by Mason, second by Brown to acknowledge the interest rate of 4.111% with annual payments of principal and interest on a 30-year amortization with the option to pay in full at any time. In response to a question from Hadcock, Sumption indicated that the County is seeking direction at this time. Green indicated that the timeframe established by Council to finalize the agreement has expired due to the time required to finalize requirements requested by the County bond counsel. Green urged action on the request to allow the County to finalize the project financing. In response to a question from Mayor Hanks, Green indicated that the County is seeking acknowledgment of the interest rate noting that the payment option can be amended should Council elect to do so. Discussion followed regarding the ability to amend the payment method at a future time. Motion carried.

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

Motion was made by Kooiker, second by Costello and carried with Brown abstaining to approve (No. PW061411-01) Request Authorization to Select Williams and Associates for Design Services.

Pat Roseland presented (No. PW061411-02) Vision 2020 Goal #2 – Strategic Beautification Presentation report reviewing the input received, the goals and priorities identified and the future action plan. Mayor Hanks thanked the committee for their work on the Rapid City beautification goals. Motion was made by Waugh, second by Mason and carried to acknowledge the report.

### ***Bids***

The following companies submitted bids for (No. CC602011-02.1) Miscellaneous Well Abandonment Airport Well & Marine Life Well Project No. W11-1949 / CIP No. 50871 opened on June 14, 2011: Antler Enterprises, Inc. and Bice-Taylor Drilling Co., Inc. DBA Taylor Drilling Co. Staff reviewed the bid and recommends bid award to Antler Enterprises, Inc. Motion was made by Petersen, second by Waugh to award the bid to the lowest responsible bidder, Antler Enterprises, Inc., in the amount of \$14,712.00. In response to a question from Hadcock, Ellis addressed the need to cap the wells to protect the aquifer and the manner in which water is provided to the Airport. Motion carried.

The following companies submitted bids for (No. CC602011-02.2) Signal Hill Sidewalk Project No. SWK11-1944 / CIP No. 50869 opened on June 14, 2011: KRM Concrete, LLC., Rangel Construction Company, LLC., Simon Contractors of SD, Inc., and Tru-Form Construction, Inc. Staff reviewed the bid and recommends award of the Total Base bid to KRM Concrete, LLC. Ellis advised that additional funding has been allocated to the project by the Capital Improvements Committee that will allow the future addition of Alternate 1 through the change order process. Motion was made by Hadcock, second by Petersen to award the Total Base Bid to the lowest responsible bidder, KRM Concrete, LLC., in the amount of \$174,028.40. In response to a question from Kooiker, Ellis indicated that the change order should be equal in amount to the Alternate 1 bid. Kooiker recommended that council contingency be utilized to award Alternate 1 at this time with Capital Improvements reimbursing the account when that funding is approved. A substitute motion was made by Petersen, second by Hadcock and carried to award the Total Base of \$174,028.40 and Alternate 1 of \$29,894.90 to the lowest responsible bidder, KRM Concrete, LLC., in the amount of \$203,923.30 with Alternate 1 to be funded from Council Contingency. Hadcock clarified that the reimbursement to Council contingency would be from the remaining Affordable Housing funds and CIP contingency.

Motion was made by Hadcock, second by Costello and carried to table (No. CC062011-02.3) CSAC Second Floor Public Works Renovation Project No. PW11-1962 (Informal Quote).

Sumption presented the staff recommendation for (No. CC062011-02.4) East North Street Reconstruction – Pine Street to Cambell Street Project No. ST08-1511 / 50142 to concur with South Dakota Department of Transportation's award of the total bid to Heavy Constructors, Inc. Motion was

made by Waugh, second by Mason to concur with the South Dakota Department of Transportation's award of the total bid to the lowest responsible bidder, Heavy Constructors, Inc., in the amount of \$5,837,016.24. In response to a question from Hadcock, Ellis indicated that he anticipated a start date within a month. Motion carried.

Motion was made by Costello, second by Hadcock and carried to set a Special Council date of July 5, 2011 at 6:45 p.m. to Canvass Votes from the June 28, 2011 Secondary Municipal Election.

Mason indicated that recent events have raised concerns regarding the rules and laws governing the confidentiality of executive sessions. Mason addressed the impact on the trust between the general public and their elected officials and the trust between the elected officials themselves. Mason requested that the City Attorney clarify the confidentiality rules of executive session. Green directed the Council to the recent memo regarding the issue of confidentiality. Green stated that there is no specific statute enforcing confidentiality noting there are numerous statues which when read together provide for confidentiality of executive session matters. In response to a question from Mason, Green addressed the provision in law regarding confidentiality enforcement. Green indicated that it is the obligation of the elected official to maintain the confidentiality of executive session communications. Mason requested that Mayor Hanks address the justification for the recent political advertisement. Mayor Hanks express his concern with bring politics to the dais. Mayor Hanks indicated that the advertisement reflects the public vote which is recorded in the meeting minutes. Mayor Hanks indicated that the topic was also talked about by a council member in a public forum placing the issue on public record and no longer a private communication. Mayor Hanks addressed a recent instance in which a council member repeated verbatim from the dais the City's position on an executive session legal issue immediately following the executive session. Mason addressed a current litigation matter in which the individuals involved in the litigation are openly discussing the issue and requested clarification if their action alleviates the confidentiality requirement for Council. Green indicated that the Council's discussions in executive session are privileged and confidential. Green advised the Council against public discussion of an litigation issues involving the City. In response to a question from Mason, Green stated that confidentiality would apply to bidding strategies discussed in executive session. Motion was made by Hadcock, second by Costello to acknowledge the Executive Session discussion. Weifenbach expressed his concerns regarding the maintenance of confidentiality. In response to a request from Weifenbach, Green reiterated that it is the obligation of the elected official to maintain the confidentiality of executive session communications. Motion carried.

### **PUBLIC HEARING ITEMS**

Motion was made by Davis, second by Waugh and carried to open public comment on Items 49 – 70A.

### **CONTINUED PUBLIC HEARING CONSENT ITEMS**

Motion was made by Waugh, second by Costello and carried to approve Items 49 – 50 as they appear on the Continued Public Hearing Consent Items.

### ***Continue the following items until July 5, 2011:***

49. No. 10SV008 – A request by Renner & Associates, LLC for Skyline Pines, East, LLLP for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along a portion of Fairmont Boulevard as per Chapter 16.16 of the Rapid City Municipal Code** for Tract 1 of Lot 19 and the dedicated Fairmont Boulevard Right-of-way of the Skyline Pines East Subdivision, legally described as the unplatted portion of the N1/2 of the SE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Mt. Rushmore Road and North of Tower Road at the western terminus of Cathedral Drive.

50. No. 11SV004 – A request by Sperlich Consulting, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer, and to reduce the pavement width from 40 feet to 20 feet along West Nike Road as it abuts the property as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lots 1 through 8 of Block 1, Lots 1 through 6 of Block 2, and Lot 1A and Lot 1B of Block 3 of Prairie Meadows Subdivision, legally described as Tract A of Prairie Meadows Subdivision, Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the northeast corner of the intersection of West Nike Road and Country Road.

#### END OF CONTINUED PUBLIC HEARINGS CONSENT ITEMS

Motion was made by Brown, second by Waugh and carried to close public comment on Items 49 – 70A

#### CONSENT PUBLIC HEARING ITEMS

The following item was removed from the Consent Public Hearing Items:

65. Mini Mart Inc DBA Mini Mart #447, 1601 N Haines Ave for a Package (off-sale) Malt Beverage License

Motion was made by Waugh, second by Costello and carried to approve Items 51 – 68 as they appear on the Consent Public Hearing Items with the exception of Item 65.

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

51. No. 11SV010 – Approval of a request by Sperlich Consulting, Inc. for SBC Archway VII LLC for a **Variance to the Subdivision Regulations to waive the requirement to construct sewer in Fountain Plaza Drive as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lot 1R and Lot 4R of Block 2 of Commerce Park Subdivision, legally described as Lots 1, 2, 3 and 4 of Block 2 of Commerce Park Subdivision located in Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 2320, 2340 and 2350 Sophia Court.

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

##### Special Event

52. Rapid City Downtown Association DBA Rapid City Downtown Association for a Special Event Malt Beverage License for an Event Scheduled for July 4, 2011 at Memorial Park.
53. Downtown Rapid City Economic Development Corp DBA Destination Rapid City, 606 Main Street for a Special Event Malt Beverage License for an Event Scheduled for July 24, 2011 on 7th Street between Main Street and St Joseph Street

##### Package (Off Sale) Malt Beverage and SD Farm Wine License

54. Black Hills Badlands & Lakes Association of South Dakota DBA Black Hills, Badlands & Lakes Association of South Dakota, 1851 Discovery Circle for a Package (off-sale) Malt Beverage & SD Farm Wine License

##### Transfer

55. Rapid City Arts Council DBA Dahl Arts Center, 713 7th Street (Lot 1-5; N1/2 Vac Alley Adj said Lots; E1/2 Lot 26; all of Lots 27-32; S1/2 Vac Alley adj Lots 28-32; Block 103, Original Town of Rapid City) for a Retail (on-off sale) Malt Beverage License TRANSFER from Rapid City Arts Council DBA Dahl Arts Center 713 7th Street (E1/2 Lot 26; all of Lots 27-32; S1/2 Vac Alley adj Lots 28-32; Block 103, Original Town of Rapid City)

- 56. Rapid City Arts Council DBA Dahl Arts Center, 713 7th Street (Lot 1-5; N1/2 Vac Alley Adj said Lots; E1/2 Lot 26; all of Lots 27-32; S1/2 Vac Alley adj Lots 28-32; Block 103, Original Town of Rapid City) for a Retail (on-off sale) Wine License TRANSFER from Rapid City Arts Council DBA Dahl Arts Center 713 7th Street (E1/2 Lot 26; all of Lots 27-32; S1/2 Vac Alley adj Lots 28-32; Block 103, Original Town of Rapid City)
- 57. Dakotamart, Inc. DBA Sooper Dooper Liquors, 913 East St. Patrick Street for a Package (off-sale) Liquor License TRANSFER from Sooper Dooper Markets Inc. DBA Sooper Dooper #1, 913 East St. Patrick Street
- 58. Metanoia, LLC DBA Fresh Start-Rapid Valley #21, 3800 East Hwy 44 for a Retail (on-off sale) Malt Beverage License TRANSFER from Fresh Start Convenience Stores, Inc DBA Fresh Start-Rapid Valley #21, 3800 East Hwy 44 (annexed into city limits 11/28/2010)

2011-2012 Retail (On-Off Sale) Malt Beverage License Renewals WITH Video Lottery

- 59. Metanoia, LLC DBA Fresh Start-Rapid Valley #21, 3800 East Hwy 44 for a Retail (on-off sale) Malt Beverage License With Video Lottery (annexed into city limits 11/28/2010)
- 60. South City Investments LLC DBA South City Billiards, 200 E Main St for a Retail (on-off sale) Malt Beverage License With Video Lottery

2011-2012 Retail (On-Off Sale) Malt Beverage License Renewals NO Video Lottery

- 61. RC Boston Company LLC DBA Hilton Garden Inn, 815 East Mall Drive for a Retail (on-off sale) Malt Beverage License
- 62. Sergio & Ana Line Munoz DBA Sabor A Mexico, 208 E North Street for a Retail (on-off sale) Malt Beverage License

2011-2012 Package (Off Sale) Malt Beverage License Renewals

- 63. Mini Mart Inc DBA Mini Mart #443, 3106 W Main Street for a Package (off-sale) Malt Beverage License
- 64. Mini Mart Inc DBA Mini Mart #444, 1627 Mt Rushmore Rd for a Package (off-sale) Malt Beverage License
- 66. Mini Mart Inc DBA Mini Mart 451, 4260 Canyon Lake Dr for a Package (off-sale) Malt Beverage License
- 67. Walgreen Co., DBA Walgreens #05643, 540 Mountain View Road for Package (off sale) Malt Beverage
- 68. Walgreen Co., DBA Walgreens #10646, 1902 Mount Rushmore Rd for a Package (off-sale) Malt Beverage License

END OF CONSENT PUBLIC HEARING CALENDAR

Motion was made by Hadcock, second by Waugh and carried with Brown abstaining to approve Mini Mart Inc DBA Mini Mart #447, 1601 N Haines Ave for a Package (off-sale) Malt Beverage License.

**NON-CONSENT PUBLIC HEARING ITEMS**

Motion was made by Hadcock, 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 pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the section line highway as they abut Lot 1 of Block 1 of Whispering Pines Subdivision located in Section 32, T1N, R7E, BHM, Pennington County, South Dakota, located at 7804 Croyle Avenue. (11SV009)

Motion was made by Hadcock, second by Waugh and carried to approve (No. 11SV009) A request by CETEC Engineering Services, Inc. for Colonial Pine Hills Sanitary District for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the Section Line Highway and to dedicate additional right-of-way along the Section Line Highway** for proposed Lot 1A and Lot 1B of Block 1 of Whispering Pines Subdivision, legally described as Lot 1 of Block 1 of Whispering Pines Subdivision located in Section 32, T1N, R7E, BHM, Pennington County, South Dakota, located at 7804 Croyle Avenue with the following stipulation: 1. Prior to approval by the City Council, the applicant shall sign a waiver of right to protest any future assessments for the street improvements.

Motion was made by Hadcock, second by Costello and carried to approve Big Brothers Big Sisters of the Black Hills raffle request.

**BILLS**

The following bills have been audited:

## BILL LIST - JUNE 20, 2011

P/ROLL PERIOD END 06/04/11, PD 06/10/11	875,333.23
CDEV P/ROLL PERIOD END 06/04/11, PD 06/10/11	3,106.40
PIONEER BANK & TRUST, 06/04/11 P/ROLL TAXES, PD 06/10/11	193,507.83
PIONEER BANK & TRUST, CDEV 06/04/11 P/ROLL TAXES, PD 06/10/11	216.93
FIRST ADMINISTRATORS, CLAIMS THROUGH 06/06/11, PD 06/08/11	98,839.64
FIRST ADMINISTRATORS, CLAIMS THROUGH 06/13/11, PD 06/15/11	52,859.27
SD RETIREMENT SYSTEM, MAY 11 RETIREMENT, PD 06/07/11	365,263.42
CDEV SD RETIREMENT SYSTEM, MAY 11 RETIREMENT, PD 06/07/11	372.78
SD RETIREMENT SYSTEM SPECIAL PAY PLAN, CHARLES LARSON, PD 06/10/11	45.00
BLACK HILLS ELECTRIC COOP, ELECTRICITY, PD 06/13/11	619.85
BLACK HILLS POWER & LIGHT, ELECTRICITY, PD 06/13/11	23,999.60
WEST RIVER ELECTRIC ASSN INC, ELECTRICITY, PD 06/13/11	31,597.20
COMPUTER BILL LIST	5,059,977.34
	SUBTOTAL
	6,705,738.49
RSVP, P/ROLL PERIOD END 06/04/11, PD 06/10/11	2,710.40
RSVP, 06/04/11 P/ROLL TAXES, PD 06/10/11	206.06
RSVP, SD RETIREMENT SYSTEM-MAY11 RET, PD 06/07/11	325.24
RSVP, CITY-HEALTH INS TRUST-MAY 11 HEALTH	1,010.00
RSVP, CITY OF RAPID CITY-POSTAGE 05/30-06/03/11	131.14
RSVP, METROPOLITAN LIFE INS-JUNE 11 LIFE	6.42
RSVP, IKON FINANCIAL SERVICES, MAY11 COPIER MAINT	11.94
RSVP, SIMPSON'S PRINTING, 600 NEWSLETTERS	130.00
RSVP, WRIGHT EXPRESS, 24.77 G UN+ALC10 & 4.191 G UNL	101.83
	TOTAL
	6,710,371.52

Sumption presented the bill list total of \$6,710,371.52. Motion was made by Waugh, second by Hadcock and carried to authorize (No. CC062011-01) the Finance Officer to issue warrants or treasurers checks, drawn on proper funds, in payment thereof.

**EXECUTIVE SESSION**

Motion was made Davis, second by Waugh and carried (8-2) with Kooiker and Mason voting No to go into Executive Session for the purposes permitted by SDCL 1-25-2 (3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters at 8:32 p.m. Motion was made by Costello, second by Waugh and carried to come out of Executive Session at 8:50 p.m. with Mason and Kooiker absent.

**STAFF DIRECTION**

Motion was made by Waugh, second by Costello and carried to reject the request for mediation in the Rupert matter.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Waugh, second by Costello and carried to adjourn the meeting at 8:51 p.m.

CITY OF RAPID CITY

ATTEST:

\_\_\_\_\_  
Finance Officer

\_\_\_\_\_  
Mayor

(SEAL)

Published once at the approximate cost of \_\_\_\_\_.