

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota  
October 6, 2003

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, October 6, 2003 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Jean French, Alan Hanks, Sam Kooiker, Tom Murphy, Martha Rodriguez, Bill Waugh, Ray Hadley, Ron Kroeger, Rick Kriebel and Jeff Partridge. The following Alderman arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included Finance Officer Jim Preston, Public Works Director Ted Vore, Planning Director Marcia Elkins, Asst. City Attorney Jason Green, Police Captain Ed Hofkamp, Fire Chief Gary Shepherd, Engineering Division Manager Dan Coon, Project Administrator Rod Johnson and Administrative Assistant Jeri Lynn.

### ***Approval of Minutes***

Motion was made by French, seconded by Rodriguez and carried to **approve the minutes** of September 10 and September 15, 2003.

### ***Adoption of Agenda***

The following modifications were made to the Agenda:

- Announcement Concerning Undoing Racism Task Force
- Add Item No. 4A: 2012 Meeting
- Move Agenda Item No. 111 to the Consent Calendar, after Item No. 72

Motion was made by Rodriguez, seconded by French and carried to **approve the agenda** with the modifications noted.

### ***Bid Openings***

The following companies submitted bids for No. CC100603-01, **Knollwood Drainage Improvements Project** No. DR03-1326 which were opened on October 2, 2003: 1) Corr Construction; 2) Corner Construction; 3) RCS Construction; 4) Highmark, Inc.; 5) Quinn Construction; 6) Simon Contractors of SD; and 7) Heavy Constructors. Staff has reviewed the bids and recommends award to RCS Construction. Motion was made by Rodriguez and seconded by Waugh to award the bid for DR03-1326 to RCS Construction, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$74,318. Murphy stated that he would be voting against this motion because he does not feel the drain system that is proposed will be effective in this area. Upon vote being taken, the motion carried with Murphy voting no.

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

Mayor Shaw introduced Emily Cody from Stevens High School. She will be attending the Council meetings on behalf of youth in the community.

Shaw also presented the **Citizen of the Month Award** to Orlene Peterson and commended her for outstanding volunteer service to the community.

Emory Keoke and Kay Porterfield presented a copy of the book "**American Indian Contributions to the World**" to each Council member for two reasons: 1) to honor the memory of Governor George Mickelson, and 2) In keeping with the spirit of reconciliation. This book has received several national awards and is a good source of information. Porterfield stated that this is a one-of-a-kind book with over 15,000 contributions made by Native Americans.

Mayor Shaw also reported on the **Gathering and Healing of Nations** celebration that was held in Pierre earlier today. This event was sponsored by Governor Mike Rounds and Senator Tom Daschle and held at the Pierre Learning Center. Approximately 600 people attended the event. Shaw also noted that a local gathering has been scheduled for Rapid City on Saturday November 1, 2003 beginning at 10:00 A.M. in the Alpine Room at the Civic Center.

Project Administrator Rod Johnson updated the City Council on the **2012 projects** being constructed in the city. He explained that both community centers are essentially complete, however there is still a need for additional bleachers in the gyms. There is approximately \$50,000 in funding remaining in this project budget which could be used for bleachers. Johnson added that the School District has agreed to pay half the cost of additional seating if the city agrees to proceed. The Council noted that the question of additional bleachers for the gyms should be discussed during the 2012 Committee meeting. Regarding the ASA Girls Softball project, Johnson noted that a meeting was held between the Engers and the board members of the softball association to discuss various operational issues for the softball complex. Johnson stated that both parties are willing to work on these issues and he feels it will be a good relationship. Rodriguez requested an update on the budget amount for the Dahl project.

Motion was made by Hadley, seconded by Rodriguez and carried to recess the City Council meeting and convene a **2012 Committee meeting**.

The City Council reconvened at 8:00 with all members present.

### ***Items from Council Members/Liaison Reports***

Ray Summers , Executive Director for the **Journey Museum**, updated the Council on events planned at the Museum and the exhibits that will be on display.

Alderman Waugh explained that he does not want to curtail any council members from **asking staff for information**. However, some of the requests that take considerable time should be approved before staff undertakes the project. Motion was made by Waugh and seconded by Rodriguez to set a policy that before a Council member requests of a staff member or department head, information that will take them more than an hour to put together, that the request be funneled through Council leadership and the Mayor. Roll call vote was taken: AYE: Hanks, Kooiker, Murphy, Rodriguez, Waugh, Hadley, Kroeger and Partridge; NO: French and Kriebel. Motion carried, 8-2.

### ***Continued Items Consent Calendar – Items 7-34***

The following items were removed from the Continued Items Consent Calendar:

24. No. 03PL092 - A request by Renner and Sperlich Engineering Co. for Elks Country Estates for a **Final Plat** on Lot 3 of Block 11, Elks Country Estates, located in the NE1/4 of the SE1/4 Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 1 of the E1/2 of Section 16 located in the NE1/4 of the SE1/4 Section 16, T1N, R8E, BHM, Rapid City, Pennington

County, South Dakota, located northeast of the intersection of Jolly Lane and LaCosta Drive.

25. No. 03PL093 - A request by Renner & Sperlich Engineering Company for Walgar Development Company for a **Layout, Preliminary and Final Plat** on Lot 20 of Block 6, and dedicated right-of-way of Wisconsin Avenue, Robbinsdale Addition No. 10, located in the NW1/4 of the SE1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SE1/4 of Section 13 located in the NW1/4 of the SE1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Wisconsin Avenue and Minnesota Street.

Motion was made by Hanks, seconded by Partridge and carried to continue the following items to the date specified:

Continue the following items until October 20, 2003:

7. No. 02PL029 - A request by Davis Engineering for a **Preliminary and Final Plat** on Tract A of Murphy Ranch Estates Subdivision of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of Tract F of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located southeast of the intersection of Reservoir Road and Longview Drive.
8. No. 02PL040 - A request by Dream Design International, Inc. for a **Final Plat** on Lots 1-6 of Block 1; Lot 1 of Block 2; Lots 1-20 of Block 3, Lots 1-14 of Block 4; Lot 1 of Block 5, of Eastridge Subdivision and dedicated Enchantment Road, Eastridge Drive, Sally Court, and major drainage easements located in the NW1/4 of Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as NE1/4 NW1/4; N1/2 NE1/4 less NW1/4 NW1/4 NE1/4 and less NE1/4 NW1/4 NE1/4 and less NW1/4 NE1/4 NE1/4; NW1/4 NW1/4; SE1/4 NW1/4 less the west 460 feet of the south 990 feet and less Lot H1; SW1/4 NW1/4 less the south 990 feet, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Fifth Street.
9. No. 02PL093 - A request by Davis Engineering for a **Layout, Preliminary and Final Plat** on Lot 1 Block 1, Lots 1 thru 6, Block 2, Lots 1 thru 8, Block 3, Lots 1 thru 7, and Lots 10 thru 15, Block 4, Lots 1 thru 3 and Lots 11 thru 16, Block 5 of Murphy Ranch Estates, all located in NE1/4 NW1/4 of Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract F of the NW1/4 less Murphy's Subdivision and Right of Way, Section 14, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located on Longview Drive to the east of East 53rd Street and Reservoir Road.
10. No. 02PL116 - A request by Dream Design International, Inc. for a **Final Plat** on Lot 1, Block 1; Lots 1 thru 5, Block 2; Lots 1 and 2, Block 3; Lots 1 and 2, Block 4; Lots 1 thru 4, Block 5; Lot 1, Block 6 and dedicated Street, Big Sky Business Park, located in the SW1/4 SW1/4 and the S1/2 NW1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 SW1/4 NW1/4 including private drive, less Lot H2 and less right-of-way; the unplatted portion of the E1/2 SW1/4 NW1/4; and the unplatted portion of the S1/2 GL3; S1/2 GL4 less Lot 1 and less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and less right-of-way; all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Homestead Street and Elk Road.
11. No. 03PL035 - A request by Renner & Sperlich Engineering Company for Dean Kelly for a **Layout, Preliminary and Final Plat** on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines

Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.

12. No. 03PL042 - A request by Renner and Sperlich Engineering Co. for Gordon Howie for a **Layout, Preliminary and Final Plat** on Lots 1 thru 5 of Block 18, Lots 1 thru 6 of Block 19, Lot 1 of Block 20, and Lots 1 thru 12 of Block 21, and Drainage Lot A, Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the balance of Tract T of Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located west of the intersection of Pluto Drive and Reservoir Road.
13. No. 03PL050 - A request by Mark Polenz for Daniel Schoenfelder for a **Preliminary Plat** on Lot A and Lot B of Schoenfelder Subdivision all located in the NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, legally described as Lot 1 of Lot C of Schamber Section 9 NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, located at 3505 Western Avenue.
14. No. 03PL051 - A request by Doug Sperlich for Jeff Stone for a **Final Plat** on Lots 1, 2 and 3 of Block 1 of Sunset Heights Subdivision, located in the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current terminus of Broadmoor Drive.
15. No. 03PL052 - A request by Dream Design International, Inc. for a **Final Plat** on Lots 1-4, Block 1 and Outlot D; Lots 1-7, Block 2; Lots 1-3, Block 3, of Stoney Creek South Subdivision and Dedicated Bendt Drive and Major Drainage Easements located in the NW1/4 SW1/4 and the SW1/4 SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the S1/2 NW1/4 SW1/4 less Lots H1 and H2, Section 22, T1N, R7E; a portion of the unplatted balance of the N1/2 NW1/4 SW1/4 located south of Catron Boulevard, Section 22, T1N, R7E; a portion of the unplatted balance of the E1/2 SW1/4 less Stoney Creek Subdivision and less Lot H2, Section 22, T1N, R7E; and, a portion of the unplatted balance of the SW1/4 SW1/4 less Lot H1 and Lot P1, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of Sheridan Lake Road and Catron Boulevard.
16. No. 03PL063 - A request by Fisk Land Surveying and Consulting Engineers for Dakota Land Development for a **Final Plat** on Lots 1 thru 3, Vista Lake Subdivision #2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 and a portion Lot F-1 of the Fish Hatchery Subdivision, located in the NE1/4 SW1/4 and the N1/2 SE1/4 of Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Jackson Boulevard north of the Fish Hatchery.
17. No. 03PL067 - A request by FMG, Inc. for Bypass LLC for a **Preliminary Plat** on Lots 1 through 9 of Block 1, Lots 1 through 3 of Block 2, Lots 1 through 6 of Block 3, all of I-90 Heartland Business Park, and dedicated public right-of-way shown on Elk Vale Road, Seger Drive, Taggart Road and Galt Court located in the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 NE1/4; N1/2 NE1/4 NE1/4; and the unplatted portion of the S1/2 NE1/4 NE1/4; N1/2 SE1/4 NE1/4 all in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north and west of the intersection of I-90 and Elk Vale Road.

18. No. 03PL068 - A request by Dream Design International, Inc. for a **Final Plat** on Lots 10-12, Block 4; Lots 1-11, Block 17; Lots 12-22, Block 15; Lots 3-5, Block 16 of Big Sky Subdivision and dedicated Elmer Street, Aurora Drive, Carl Avenue and Major Drainage Easements located in the N1/2NW1/4SE1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the NW1/4 SE1/4 less Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located north of South Pitch Drive and Elmer Street.
19. No. 03PL079 - A request by Renner & Sperlich Engineering for Doyle Estes for a **Preliminary and Final Plat** on Lot 2R and Lot BR of the Washburn Lot, located in Government Lot 4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 2, less Lot H-1 of Lot 1 and 2 of the Washburn Lot, and Lot B of the Washburn Lot, located in Government Lot 4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of the intersection of West Main Street and Jackson Boulevard.
20. No. 03PL081 - A request by Fisk Land Surveying & Consulting Engineers for Canyon Lake Church of God for a **Preliminary and Final Plat** on Lots 1 and 2 of Hillsview Subdivision #2 and dedicated right-of-way, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 in SW1/4 SW1/4 of Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, less Lot H1 and H2 of said Lot 1 of the SW1/4 SW1/4, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1829 Hillsview Drive.
21. No. 03PL084 - A request by Renner & Sperlich Engineering Co. for Eldene Henderson for a **Preliminary and Final Plat** on Lot 7R and Lot 8R of Madison's Subdivision located in the E1/2 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 7 and Lot 8 of Madison's Subdivision located in the E1/2 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along North Haines Avenue.
22. No. 03PL086 - A request by Dream Design International, Inc. for Coca-Cola Bottling Company of the Black Hills for a **Preliminary and Final Plat** on Lots 1 and 2 of Lot B of Tract 12 of S.G. Interstate Plaza Subdivision located in the S1/2 of the NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Tract 12 of S.G. Interstate Plaza Subdivision located in the S1/2 of the NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of Coca Cola Lane on North Plaza Drive.
23. No. 03PL088 - A request by Dream Design International, Inc. for Sally Broucek for a **Preliminary and Final Plat** on Lots 1 thru 10 of Block 1 and Lots 1 thru 19 of Block 2 of Stoneridge Subdivision located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the W1/2 of the S1/2 of Government Lot 4 located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the end of Parkview Drive.
26. No. 03SV013 - A request by Renner & Sperlich Engineering Company for Dean Kelly for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, dry sewer, paving and additional right-of-way width on Corral Drive as per Chapter 16.16 of the Subdivision Regulations** on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines Subdivision located in the NE1/4 NW1/4,

Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.

27. No. 03SV028 - A request by Dream Design International for Doyle Estes (DTH LLC) for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, sewer, watermain and street light conduit as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 3-7, Block 13; and dedicated Streets, Big Sky Subdivision, located in the SE1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as S1/2 GL3 less Big Sky Subdivision; S1/2 GL4 less Lot H1 and Less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and Less Right-of-Way, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Buddy Court off of Degeest Drive.
28. No. 03SV032 - A request by Dream Design International, Inc. for Coca-Cola Bottling Company of the Black Hills for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit along Plaza Drive as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 and 2 of Lot B of Tract 12 of S.G. Interstate Plaza Subdivision located in the S1/2 of the NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Tract 12 of S.G. Interstate Plaza Subdivision located in the S1/2 of the NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of Coca Cola Lane on Plaza Drive.

Continue the following items to November 3, 2003

29. No. 03PL045 - A request by Michael Hanson for Kent Hagg Esq. for Burnell A. Lutz for a **Preliminary and Final Plat** on Lots A and B of Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1903 North Maple Avenue.
30. No. 03PL089 - A request by Dream Design International, Inc. for Hank Craig for a **Preliminary and Final Plat** on Lots 1, 2 and 3 of Craig Estates, located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Lot B of the N1/2 of Government Lot 4, located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along the 4200 Block of Parkview Drive.
31. No. 03PL090 - A request by Davis Engineering for Lyle Hendrickson for a **Layout, Preliminary and Final Plat** on Tract A and Tract B of Henrickson Addition, located in NW1/4 SW1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 9 and 11 thru 20, Block 5 and the north half of vacated East Watertown Street; Lots 3 thru 14 and the vacated alley adjacent to Lots 7 thru 14 in Block 6 and the south half of vacated Watertown Street lying north of the railroad right-of-way, and the vacated portions of Herman Street, East Madison Street and Maple Avenue all in Schnasse Addition; all located in NW1/4 SW1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 110 East Watertown Street.
32. No. 03PL091 - A request by Renner and Sperlich for Doeck, LLC for a **Layout, Preliminary and Final Plat** on Tracts A and B, Auburn Hills Subdivision, located in the NW1/4 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SW1/4 located in the NW1/4 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of Chalkstone Drive and Auburn Drive.

33. No. 03SV033 - A request by Dream Design International, Inc. for Hank Craig for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, paving, sidewalk, street light conduit, sewer and water as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1, 2 and 3 of Craig Estates, located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Lot B of the N1/2 of Government Lot 4, located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along the 4200 block of Parkview Drive.
34. No. 03SV034 - A request by Davis Engineering for Lyle Hendrickson for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalks as per Chapter 16.16 of the Rapid City Municipal Code** on Tract A and Tract B of Hendrickson Addition, located in NW1/4 SW1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 9 and 11 thru 20, Block 5 and the north half of vacated East Watertown Street; Lots 3 thru 14 and the vacated alley adjacent to Lots 7 thru 14 in Block 6 and the south half of vacated Watertown Street lying north of the railroad right-of-way, and the vacated portions of Herman Street, East Madison Street and Maple Avenue all in Schnasse Addition; all located in NW1/4 SW1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 110 East Watertown Street.

#### End of Continued Items Consent Calendar

The Mayor presented No. 03PL092, a request by Renner and Sperlich Engineering Co. for Elks Country Estates for a **Final Plat** on Lot 3 of Block 11, Elks Country Estates, located in the NE1/4 of the SE1/4 Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 1 of the E1/2 of Section 16 located in the NE1/4 of the SE1/4 Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located northeast of the intersection of Jolly Lane and LaCosta Drive. Motion was made by Kroeger and seconded by Rodriguez to continue this item until October 20, 2003. Doug Sperlich, representing Dennis Zandstra and Elks Country Estates, explained that the property owner has no objection to installing the necessary streets signs which have been required before approval of this plat. However, it takes longer to have the signs made than the time frame provided the developer prior to this meeting. Sperlich requested that the Council approve the plat with the understanding that the streets signs will be installed as soon as they are available. Planning Director Elkins stated that this was not a stipulation of the original preliminary plat, and staff has no objections to deleting the stipulation for the street signs. Motion was made by Hanks, seconded by French and carried to approve the Final Plat with the following stipulations: 1) Prior to City Council approval of the Final Plat, additional information shall be submitted verifying that utility service lines have been stalled at the approved locations, or surety shall be posted for the improvements; 2) Prior to City Council approval of the Final Plat, all debris and material stockpiles shall be removed from the right-of-way; 3) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; and, 4) Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.

The Mayor presented No. 03PL093, a request by Renner & Sperlich Engineering Company for Walgar Development Company for a **Layout, Preliminary and Final Plat** on Lot 20 of Block 6, and dedicated right-of-way of Wisconsin Avenue, Robbinsdale Addition No. 10, located in the NW1/4 of the SE1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SE1/4 of Section 13 located in the NW1/4 of the SE1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of the intersection of Wisconsin Avenue and Minnesota Street. Motion was made by Kroeger, seconded by Rodriguez and carried to

approve Layout and Preliminary Plat with the following revised stipulations and continue the final plat until November 17, 2003: 1) Prior to Final Plat approval by City Council, a revised plat document shall be submitted showing an additional 10 feet of right of way along Minnesota Street as it abuts the subject property, or a variance to the Subdivision Regulations shall be obtained. 2) Prior to Final Plat approval by City Council, a revised plat document shall be submitted showing a note identifying on-site drainage at the site in accordance with the South Robbinsdale Drainage Study. 3) Prior to Final Plat approval by City Council, the plat document shall be revised to show the book and page of the previously recorded shared access approach; 4) Prior to City Council approval of the Final Plat, revised construction plans shall be submitted identifying street lighting at the site in accordance with the City Specification; 5) Prior to City Council approval of the Final Plat, revised construction plans shall be submitted identifying speed limit signs at the site in accordance with the Street Design Criteria Manual; 6) Prior to Final Plat approval by the City Council, the plat document shall be revised to show "Minnesota Street" as "E. Minnesota Street"; 7) Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; and, 8) Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.

### ***Alcoholic Beverage License Applications***

Upon motion made by Hanks, seconded by Rodriguez and carried, the Finance Officer was directed to publish notice of hearing on the application of the **Black Hills Barbershop Chorus**, for a special malt beverage license to be used on October 25, 2003 at the Knights of Columbus Hall, 910 Fifth Street, said hearing to be held on Monday, October 20, 2003 at 7:00 P.M.

### ***Consent Calendar Items – 36-74***

The following items were removed from the Consent Calendar:

- 48. No. PW093003-18 – Approve a request for a School Crossing Guard at the intersection of Elm Avenue/Indiana Street.
- 54. Request staff to proceed with improvements to Founders Park; and prepare an agreement addressing ownership and maintenance of the improvements.
- 56. No. LF100103-22 – Authorize Mayor and Finance Officer to sign Agreement with PAJO Properties, LLC for construction of a cart barn and parking area at Meadowbrook Golf Course.
- 61. No. LF100103-09 – Approve Resolution Declaring Property Surplus.
- 67. Approve recommendation that the City Council Allocate \$25,000 from the General Fund to be used for construction of offices and meeting rooms in the lower level of Fire Station No. 6, with the understanding that these funds will be repaid from the EMS Enterprise Fund.

Motion was made by Hanks, seconded by French and carried to approve the following items as they appear on the Consent Calendar:

### ***Set for Hearing*** (November 3, 2003)

- 36. No. 03VR010 - A request by Don Ward for Redrock Development Company LLC and Selador Ranches, Inc. for a **Vacation of Section Line Highway** on the west 2094.7 feet of the sixty six foot wide section line highway lying between Sections 20 and 29, T1N, R7E, BHM; the north 3175.4 feet of the sixty six foot wide section line highway lying between Sections 29 and 30, T1N, R7E, BHM; the south 200 feet of the sixty six foot wide section line highway lying between sections 19 and 20, T1N, R7E, BHM; and, the east 33 feet of the sixty six foot wide section line highway lying between



Sections 19 and 30, T1N, R7E, BHM; Rapid City, Pennington County, South Dakota, located west of Red Rock Estates.

**Public Works Committee Consent Items**

37. Acknowledge the report on Cellular Towers in residential neighborhoods.
38. No. PW093003-03 – Approve Change Order No. A2 for Roosevelt Park Site Improvements Phase 2 Project No. PR02-1208 to RCS Construction, Inc. for an increase of \$4,507.
39. No. PW093003-04 – Approve Change Order No. B02 for Roosevelt Park Pool Complex Project No. PR02-1208 to RCS Construction, Inc. for an increase of \$3,649.
40. No. PW093003-06 – Authorize staff to advertise for bids for the 1998 Bomag Trash Compactor Overhaul.
41. No. PW093003-08 – Authorize Mayor and Finance Officer to sign a Professional Service Agreement with HKM Engineering and Rustnot Corrosion Control Services for Corrosion Study for Elm Avenue Transmission Main Project No. W03-1312 for an amount not to exceed \$28,000.
42. No. PW093003-09 – Authorize Mayor and Finance Officer to sign Dakota, Minnesota & Eastern Railroad Corporation License Agreement No. 090403 for Mount Rushmore Road 8<sup>th</sup> Street Watermain Extension Project No. W03-1308).
43. No. PW093003-10 – Authorize Mayor and Finance Officer to sign a Professional Service Agreement with American Engineering Testing, Inc. for Landfill Gas Analysis and Reporting, Alternate A for an amount not to exceed \$17,341.38.
44. No. PW093003-11 – Authorize Mayor and Finance Officer to sign a Professional Service Agreement with American Engineering Testing, Inc. for Landfill Methane Gas Monitoring Defining and Managing, Alternate B for an amount not to exceed \$24,309.
45. No. PW093003-12 – Authorize Mayor and Finance Officer to sign South Dakota Department of Transportation Right-Of-Way Agreements for NH 0235(01)0 PCEMS 3151.
46. No. PW093003-13 – Authorize Mayor and Finance Officer to sign a Permanent Major Drainage Easement on Lot AR2 of Ridge Park Estates Subdivision.
47. No. PW093003-14 – Approve an Impact Fee Waiver for 1221 12<sup>th</sup> Street, Marybeth Ostrowski.
49. No. PW093003-16 – Request staff to proceed with the TSP Three, Inc. proposed scope of services and fee estimate for the Mt. View Road watermain replacement project.
50. Acknowledge the report on staff inspection of the intersections of West Chicago/Platt Street and Saint Joseph/Steele Avenue for landscaping/trees blocking site triangle and bring forward a recommendation within thirty days.
51. Request staff to pursue a grant from Federal Homeland Security through Pennington County Emergency Management.
52. No. PW093003-17 – Request staff to proceed with the use of the Information Packet for Special Events at Memorial Park.
53. Convene the November 11, 2003 Public Works Committee meeting on November 12, 2003 after the Legal and Finance Committee meeting.

**Legal & Finance Committee Consent Items**

55. No. LF100103-04 - Approve Mayor's appointment of Bob Scull to the Parks & Recreation Subcommittee as a Ward 3 representative.
57. No. LF100103-05 - Authorize Mayor and Finance Officer to sign Memorandum of Understanding Extending Test Period for Modified Work Schedule.
58. Approve Travel Request for Police Department to hold annual meeting for planning and goal setting on January 7-9, 2004, in the amount of \$500.
59. No. LF100103-06 – Authorize Mayor and Finance Officer to sign Joint Powers Agreement between the State of South Dakota Office of Attorney General Division of Criminal Investigation, the Pennington County Sheriff's Office and the City of Rapid City.

- 60. No. LF100103-07 – Approve Travel Request for two officers to attend a two-week field training officer Train-the-Trainer Program in the approximate amount of \$2,042.
- 62. No. LF100103-11 – Approve Resolution to Amend the City of Rapid City Healthcare Benefit Plan – Plan Amendment No. 21.
- 63. No. LF100103-13 – Approve Resolution to Amend the Non-Union Position of Director of Public Works.

**RESOLUTION TO AMEND THE NON-UNION POSITION  
OF DIRECTOR OF PUBLIC WORKS**

WHEREAS, a job evaluation has been conducted utilizing the Factor Evaluation System methodology to amend the established position within the city’s compensation plan; and,

WHEREAS, the evaluation established that the duties and responsibilities of the following position justify placing the classification within the named Grade of the Non-Union pay scale;

Job Title	Grade	Salary
Director of Public Works	27	\$67,412 to \$102,564/yr.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the Non-Union Pay Plan by adding the above position classification description at the grade recommended in the job evaluation.

Passed this 6<sup>th</sup> day of October, 2003

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

THE CITY COUNCIL  
s/ Jim Shaw, Mayor

- 64. No. LF100103-14 – Approve Resolution to Establish the Non-Union Position of Director of Parks and Recreation.

**RESOLUTION TO ESTABLISH THE NON-UNION POSITION  
OF DIRECTOR OF PARKS AND RECREATION**

WHEREAS, a job evaluation has been conducted utilizing the Factor Evaluation System methodology to establish the position within the city’s compensation plan; and,

WHEREAS, the evaluation established that the duties and responsibilities of the following position justify placing the classification within the named Grade of the Non-Union pay scale;

Job Title	Grade	Salary
Director of Parks and Recreation	26	\$61,276 to \$93,246/yr.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City to revise the Non-Union Pay Plan by adding the above position classification description at the grade recommended in the job evaluation.

Passed this 6<sup>th</sup> day of October, 2003

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

THE CITY COUNCIL  
s/ Jim Shaw, Mayor

- 65. No. LF100103-15 – Approve Resolution of the City of Rapid City Authorizing Establishing a Payroll Deduction for Delta Dental.

RESOLUTION OF THE CITY OF RAPID CITY  
AUTHORIZING ESTABLISHING A PAYROLL DEDUCTION  
FOR DELTA DENTAL

WHEREAS, the City of Rapid City has employees rendering valuable services; and

WHEREAS, providing an opportunity for employees to purchase services provided by Delta Dental through a payroll deduction will be a voluntary basis could benefit employees; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Rapid City hereby recognize and authorizes a payroll deduction for Delta Dental.

BE IT FURTHER RESOLVED that such deductions for participation with Delta Dental be in effect December 1, 2003;

Dated this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY COUNCIL  
s/ Jim Shaw, Mayor

- 66. No. LF100103-16 – Approve the following Resolution:

RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING CERTAIN REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND.

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the “Act”) as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes; or any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

WHEREAS, a municipality is authorized to issue revenue bonds to fund improvements, extensions and additions to its drinking water system by SDCL 9-40-6 and is authorized to pledge the net income or revenues from the system to secure such bonds; and,

WHEREAS, the City of Rapid City, South Dakota (the "City") currently operates a water distribution system to supply municipal, industrial and domestic water to its inhabitants and has determined that improvements to the drinking water facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its drinking water system; and,

WHEREAS, the City has determined to issue its revenue bonds to finance the improvements to its system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes (the "System") and has applied to the South Dakota Conservancy District (the "District") for a Drinking Water State Revolving Fund Loan to finance the improvements;

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. Declaration of Necessity and Determination of Facilities Financed. The City desires and hereby determines it is necessary to construct improvements to its drinking water facilities within its System, as described in Exhibit A hereto (the "Project"). The City hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the City and its inhabitants, and will make the City unable to comply with state and federal law. Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby determines that the Project will substantially benefit the entire System and all of its users within the meaning of SDCL 9-40-15 and SDCL 9-40-17. Therefore, the City hereby determines that for the purposes of the Act, including, in particular, SDCL 9-40-17, the net income or revenues of the entire System, as extended, added to, or improved by the Project shall be deemed to be the net income or revenues available to be pledged to the payment of the bonds issued hereunder.
2. Approval of Loan. The City hereby determines to finance up to \$3,500,000 of the costs of the Project through the issuance of utility revenue bonds (the "Revenue Bond"), and other funds secured by the City.
3. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which is attached hereto, between the City as Borrower and the District, is hereby in all respects authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.
4. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$3,500,000 as determined according to the Loan Agreement in the form and content set forth in Exhibit B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate

officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in SDCL 9-40-19.

5. Paying Agent/Registrar. The Revenue Bond shall be payable at the office of The First National Bank in Sioux Falls, Sioux Falls, South Dakota, hereby designated as paying agent and registrar.

6. Bond Counsel. Dorsey & Whitney LLP, are hereby retained as Bond Counsel with respect to the Revenue Bond.

7. System Fund Accounts. For the purpose of application and proper allocation of the income of the System and to secure the payment of principal of and interest on the Revenue Bond, the following funds shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

(a) System Revenue Account. There shall be deposited in the System Revenue Account as received the entire gross revenues derived from the operation of the System collected pursuant to the Ordinances of the City (the "Rate Ordinance") including future improvements, enlargements, extensions and repairs thereto (the "Gross Revenues"). Moneys from the System Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

(b) Operation and Maintenance Account. There shall be established the General Operation and Maintenance Account. Out of the remaining revenues of the System Revenue Account after application described in (c) and (d) below, there shall be set aside each month into the General Operation and Maintenance Account, a sum sufficient to provide for the payment of the next month's current expenses of administration and operation of the remainder of the System and such current expenses for the maintenance thereof as may be necessary to preserve the remainder of such System in good repair and working order. The term current expenses shall be construed to include all reasonable and necessary costs of operating, repairing, maintaining and insuring the System, including without limitation salaries, supplies and rent, but shall exclude the General Depreciation Account and 2003 System Debt Service Account.

(c) System Debt Service Account. Out of the revenues in the System Revenue Account, there shall be set aside no later than the [10<sup>th</sup>] day of each month into the fund designated 2003 System Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal and interest on, the Revenue Bond and any reserve determined by the City's governing body to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and other amounts payable on the following January 15, April 15, July 15, or October 15 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.

(d) Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the System Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the City Council to be a proper and adequate amount for repair and depreciation of the System.

(e) Surplus Account. There shall be established the General Surplus Account. Revenues remaining in the System Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be credited to the General Surplus Account. If at any time there shall exist any default in making any periodic transfer to the 2003 System Debt Service Account, the City Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the General Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above. Moneys in the General Surplus Account from time to time may be transferred into one or more of the foregoing funds.

No disbursements shall be made from the System Revenue Account except to the special funds and accounts as above provided.

8. Pledge of Revenues. The Revenue Bond, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the 2003 System Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 8 or any other covenant or agreement in the Loan Agreement.

9. Additional Bonds. As permitted by SDCL 9-40-9, Additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the first lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

10. General Covenants.

(a) The City hereby covenants and agrees with the District and other owners of the Revenue Bond that it will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

(b) The City agrees and covenants that it will promptly construct the improvements included in the Project.

(c) The City covenants and agrees that pursuant to SDCL 9-40-28 and SDCL 9-40-29, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the System and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest, and Administrative Surcharge on the Revenue Bond, and the City agrees not sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.

(d) The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act shall state that it is subject to all provisions and limitations thereof pursuant to SDCL 9-40-19.

(e) The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

(f) In the event of mismanagement of the System, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the System are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to SDCL 9-40-33, and agrees that the receiver will have the powers set forth therein, and in SDCL 9-40-34 and SDCL 9-40-35 to operate and administer the System, and charge and collect rates as described therein.

11. No Election Required. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to SDCL 9-40-15 no election is required to issue the Revenue Bond.

12. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect

any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

13. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

14. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 68. Approve recommendation that staff be directed to move forward with the platting and selling of surplus land located adjacent to the Highway 16 Fire Station, have the property declared surplus, and authorize staff to rezone the property in accordance with the land use plan.
- 69. Request staff to amend the CIP Operating Procedures as follows: delete the position of Community Development Director from the membership; add the position of Parks & Recreation Director to the membership; and change the title from Planning Director to City Growth Management Director.
- 70. Request the Finance Officer to develop a funding source spreadsheet for all city projects.
- 71. No. LF100103-25 – Authorize Mayor and Finance Officer to sign Consent to Assignment between Heartland Retail Center, LLC and First Western Bank.
- 72. Approve the following licenses: Electrical Apprentice: Cory Fuchs, David Kindvall, Nathan Rojas; Electrical Journeyman: Timothy M. Douglas; Master Electrician: Shawn L. Wiechmann; Electrical Contractor: John Wright, Wright Electric; Mechanical Apprentice: Joshua Ryan Ebel; Mechanical Installer: Lester Miles; Plumber: Mike Hackmeister; Plumbing Apprentice: Brennen Heigh; Residential Contractor: Marvin Forkner, Forkner Contracting; Curtis G. Marcil, Kryptonite Construction.
- 111. No. LF100103-19 – Authorize Mayor and Finance Officer to sign Roosevelt Ice Arena Ice Rental Contract with The Hooligans.

***Planning Department Consent Items***

- 73. No. 03PL030 – Approve the request by Renner & Sperlich Engineering Co. for Gordon Howie for a **Final Plat** located along Mercury Drive, Cabbot Court and Shad Street.

RESOLUTION APPROVING PLAT

WHEREAS a Plat of Lots 12 thru 20 of Block 13, Lots 25 thru 32 of Block 14, and Lots 20 thru 25 of Block 15, Trailwood Village (formerly a portion of Tract T of Trailwood Village) located in the N1/2 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, was filed with the Finance Officer for the purpose of examination and approval by the governing body, and

WHEREAS it appears that the system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and special assessments upon the property have been fully paid, and that such plat and the survey thereof have been executed according to law.



NOW, THEREFORE, BE IT RESOLVED that the Plat of Lots 12 thru 20 of Block 13, Lots 25 thru 32 of Block 14, and Lots 20 thru 25 of Block 15, Trailwood Village (formerly a portion of Tract T of Trailwood Village) located in the N1/2 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, be, and the same is hereby approved and the Finance Officer of Rapid City is hereby authorized to endorse on such plat a copy of this Resolution and certify to its correctness.

Dated at Rapid City, South Dakota, this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

74. No. 03PL082 - A request by Fisk Land Surveying & Consulting Engineers for Dan O'Brien for a **Layout Plat** on Lots 1 through 33 of Block 10 of Fairway Hills PRD and dedicated Right-of-Way, located in the W1/2 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3 and a portion of Lot 3A of Fairway Hills PRD and a portion of the unplatted portion, less Lot H1, of the NW1/4 SW1/4 of Section 15, T1N, R7E, BHM, located in the W1/2 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Sheridan Lake Road and Heidiway Lane and along Fairway Hills Drive. (APPROVE WITH THE FOLLOWING STIPULATIONS: 1) Upon submittal of the Preliminary Plat, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Engineering Division; 2) Upon submittal of the Preliminary Plat, a pavement design with supporting geotechnical information shall be submitted for review and approval; 3) Upon submittal of the Preliminary Plat, a drainage study and grading plan shall be completed to identify all street drainage improvements, including but not limited to conveyance of existing flows across and through the property, relocation of existing conveyances and in compliance with the Flood Plain Ordinance and the City's Drainage Criteria Manual; 4) Upon submittal of the Preliminary Plat, the applicant shall enter into a cost sharing agreement with the City for necessary off-site water extensions to help extend the capacity of the existing Southwest Pressure Zone System if this zone is needed to serve the development; 5) Upon submittal of the Preliminary Plat, sewer plans showing the construction sewer mains within platted rights-of-way shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained; 6) Upon submittal of the Preliminary Plat, the plat document shall be revised to show all easements for proposed and existing utilities as indicated on the red lined plans; 7) Upon submittal of the Preliminary Plat, the plat document shall be revised to show a non-access easement along Sheridan Lake Road except for the approved intersection location. In addition, a non-access easement shall be shown along double frontage lots requiring access from the lesser order street and at all intersections as per the Street Design Criteria Manual; 8) Upon submittal of the Preliminary Plat, complete engineering plans as specified in Section 16.20.040 of the Rapid City Municipal Code shall be submitted for review and approval. In particular, complete street design plans shall be submitted showing the location of utilities, storm drainage, curb and gutter and sidewalk improvements for all adjacent and interior roadways. In addition, any Special Exception requests to the Street Design Criteria Manual shall be clearly identified. Any proposed phasing limits shall be submitted for review and approval and identified on the construction plans; 9) Upon submittal of the Preliminary Plat, the construction plans shall be revised to identify traffic controls at the three way intersection; 10) Upon submittal of the Preliminary Plat, the plat document shall be revised to provide an additional 14 feet of

right-of-way along Sheridan Lake Road or a Variance to the Subdivision Regulations shall be obtained; 11) Upon submittal of the Preliminary Plat, the construction plans shall be revised to show South No Name Court and North No Name Court as a minimum 49 foot wide right-of-way with a 24 foot wide paved surface; 12) Prior to Preliminary Plat approval by the City Council, a cost estimate shall be submitted for review and approval; 13) Prior to the start of any construction within the area of the property located within the 100 year federally designated floodplain, a Letter of Map Revision shall be obtained from the Federal Emergency Management Agency; 14) Upon submittal of the Preliminary Plat, the road construction plans shall provide a minimum 92 foot diameter driving surface in the proposed cul-de-sac(s); 15) Prior to Final Plat approval, alternate road names for North No Name Court and South No Name Court shall be submitted for review and approval. In addition, the plat document shall be revised to show the revised road names; 16) Upon submittal of the Preliminary Plat, a phasing plan shall be submitted identifying the connection through the site to Sheridan Lake Road as a part of Phase One of the development. In addition, the street connection shall be in place prior to the issuance of a building permit; 17) Prior to Preliminary Plat approval by the City Council, a Major Amendment to the Fairway Hills Planned Residential Development shall be obtained to allow a townhome development in lieu of the previously approved garden homes; and, 18) Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

## END OF CONSENT CALENDAR

Motion was made by Hanks and seconded by French to approve No. PW093003-18, a request for a **School Crossing Guard** at the intersection of Elm Avenue/Indiana Street. Rodriguez asked if this is something the City should be getting into or if it is a school issue. Ed Hofkamp from the Police Department explained that this location would be the City's responsibility because it is not on school property. He added that there is funding available in the Police Department budget for this item. Kooiker stated that it was reported at committee that this location meets the warrants for a crossing guard, but not for a stop sign. He felt that the city should hire a crossing guard for this intersection and direct that a stop sign be installed to slow down traffic. Motion was made by Kooiker and seconded Hadley to amend the motion on the floor to direct staff to install a stop sign at this intersection, on Elm Avenue. Kooiker explained that the intent of his motion is to hire the crossing guard and install the stop sign. The City can then re-evaluate this issue in 60-90 days. French stated that the time we need traffic control the most at this intersection is in the morning when kids are going to school, and in the afternoon when school gets out. She would rather not see traffic slowed any more on Elm Avenue. Roll call vote was taken on the amendment: AYE: Kooiker; NO: Hanks, French, Murphy, Rodriguez, Waugh, Hadley, Kroeger, Kriebel and Partridge. Motion failed, 9-1. Upon vote being taken, the original motion carried unanimously.

Motion was made by Kooiker and seconded by Rodriguez to request staff to proceed with improvements to **Founders Park**; and prepare an agreement addressing ownership and maintenance of the improvements. Project Administrator Rod Johnson explained that the funding for the plaza portion of the project will be raised by the Founders organization. The rest of the improvements will be paid for from funds the City will receive for enhancements all along the newly widened street. Planning Director Elkins reported that this item was discussed at the last Parks & Rec Subcommittee meeting. The Subcommittee previously recommended approval of this project subject to the group submitting detailed information about the budget, signage, maintenance and ownership issues. That information has not yet been submitted. Substitute motion was made by Kriebel, seconded by Kooiker and carried to refer this back to the Public Works Committee for further discussion.

Motion was made by Waugh and seconded by Hadley to authorize Mayor and Finance Officer to sign Agreement with PAJO Properties, LLC for construction of a **cart barn and parking area** at Meadowbrook Golf Course (No. LF100103-22). Finance Officer Preston and Wes Storm went through the revisions that have been made to the Agreement. The paragraph regarding economic feasibility has been deleted because the Finance Office has not reviewed the feasibility of this project. Preston also noted that the City is paying ten percent interest on the money being used to finance the construction of this project. Storm stated that the Agreement has been modified to allow prepayment of the loan after 3 or 4 years. Also, there is a built-in fee for supervising the project. If the city has a project manager they would like to monitor this project, this fee could be deleted. Storm stated that the project must be completed by March 1, 2004 in order for the golf committee to get clients for the cart barn. Preston also requested that the Agreement be modified to show a total project cost of not more than \$140,000. Waugh explained that the Golf Advisory Board has been working on this issue for nearly a year. They looked at other funding sources (2012 and CIP), however, no funding was available. We went to the private sector and found an organization that will build and fund this project. Waugh stated that he feels the city can pay off the loan before the fifteen year time frame. One of the reasons Meadowbrook has had difficulty growing in membership is that there is a waiting list for private carts. This project will allow the golf course to store approximately 80 additional carts with very little overhead. Asst. City Attorney Jason Green requested that the Council clarify whether they want 3 or 4 years before prepayment can be made. Waugh amended his motion to include the changes brought forward by Preston and Storm, and stipulate that the Agreement can be prepaid after three years. Hanks requested that the motion include authorization for the Mayor and Finance Officer to sign the Agreement, after the modifications have been made and reviewed by the City Attorney's Office. Waugh agreed to add this to the original motion, as amended. Upon vote being taken, the motion carried unanimously.

The following Resolution was introduced, read, and Hanks moved its adoption (No. LF100103-09):

RESOLUTION DECLARING PROPERTY SURPLUS

WHEREAS the below-described property is no longer necessary, useful or suitable for municipal purposes

NOW, THEREFORE, BE IT RESOLVED that the following property be declared surplus and disposed of according to state statutes, including disposal, sale, transfer to other government agency, or trade-in on new equipment:

Police Department  
Miscellaneous radio equipment

Street Department  
1987 S1900 International Sander Truck & Plow, VIN 566710 (trade-in)  
1987 S1900 International Sander Truck & Plow, VIN 566711 (trade-in)

BE IT FURTHER RESOLVED that the Mayor and Finance Officer may do all acts necessary to dispose of this property according to state law.

Dated this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. Kooiker asked about the condition of these vehicles. Preston explained that the vehicles were included as trade-ins in the contract that was approved when two new sander trucks were bid and purchased earlier this year. Vore explained that the trucks are in operable condition, but not very good condition. The trucks are in the Sanitation Products yard in Sioux Falls awaiting action of the City Council. Vore explained that the new trucks were delivered and they drove the trade-in trucks back to Sioux Falls. Vore noted that for future contracts, if a bid includes a trade-in, that equipment will be declared surplus at the time the bid is awarded. Roll call vote was taken: AYE: Hanks, French, Murphy, Rodriguez, Waugh, Kroeger, Kriebel and Partridge; NO: Kooiker and Hadley. Motion carried 8-2.

Motion was made by Hadley, seconded by Kooiker and carried to direct staff to attach a Resolution Declaring Property Surplus to the documents when bids are requested that include a trade-in.

Motion was made by Hanks and seconded by Rodriguez to approve a recommendation from the CIP Committee that the City Council Allocate \$25,000 from the General Fund to be used for construction of offices and meeting rooms in the lower level of **Fire Station No. 6**, and that these funds be repaid from the EMS Enterprise Fund. Kroeger noted that a portion of these funds was for design of the mechanical and electrical systems in the lower level of Fire Station No. 6. That issue was continued at the last Legal & Finance Committee meeting, but Kroeger recommended that the Council consider it in conjunction with the allocation of these funds. Upon vote being taken, the motion carried unanimously.

Motion was made by Kroeger, seconded by Rodriguez and carried to authorize the Mayor and Finance Officer to sign an Agreement with Skyline Engineering for the **mechanical and electrical design** for the lower level of Fire Station No. 6, not to exceed \$5,000. Hanks noted that the funding source for this Agreement is the \$25,000 General Fund allocation that was just approved for Fire Station No. 6.

### ***Public Hearings***

The Mayor announced that the meeting was open for consideration of the assessment roll for Miscellaneous Property Cleanup (No. CC100603-02). Notice of hearing was published in the Rapid City Journal on September 29, 2003 and mailed to affected property owners on September 3, 2003. Preston requested that the assessments for Jacklyn Smith and Edward Bettelyoun, Sr. be removed from the Assessment Roll. These assessments were paid in full in the Finance Office. The following Resolution was introduced, read and Hanks moved its adoption:

#### RESOLUTION LEVYING ASSESSMENT FOR CLEANUP OF MISCELLANEOUS PROPERTIES

BE IT RESOLVED by the City Council of the City of Rapid City, South Dakota, as follows:

1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by the property clean up is the amount stated in the proposed assessment roll.
2. The assessment roll for Miscellaneous Property Cleanup is hereby approved and assessments thereby specified are levied against each and every lot, piece or parcel of land thereby described.
3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City

Finance Office in accordance with the procedure in Section 9-43-43 to 9-43-53 of the South Dakota Compiled Laws of 1967, as amended, and shall be payable in one annual installment bearing interest at the rate not to exceed nine percent (9%).

Dated this 6th day of October 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Murphy. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

**Planning Department – Hearings**

The Mayor presented No. 03CA018, a request by Renner & Sperlich Engineering Company for Steve Moore for an **Amendment to the Comprehensive Plan to change the future land use designation on a 1.327 acre parcel of land from Agriculture to Low Density Residential**, located at 1600 Creek Drive. The following Resolution was introduced, read and Kooiker moved its adoption:

RESOLUTION AMENDING THE COMPREHENSIVE PLAN  
OF THE CITY OF RAPID CITY

WHEREAS the Rapid City Council held a public hearing on the 6<sup>th</sup> day of October, 2003 to consider an amendment to the Comprehensive Plan to change the future land use designation on a 1.327 acre parcel of land from Agriculture to Low Density Residential, on a portion of Tract 2 of L-b of Lot L, of the NE1/4 of the SW1/4, and a portion of Lot C of Lot 2 of the SE1/4 of SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northwesterly corner of Tract 2 of Lot L-b of Lot L of the NE1/4 of the SW1/4, common to the southwesterly corner of Tract 4 of Lot L-b of Lot L of the NE1/4 of the SW1/4, common to the easterly edge of Right-of-Way of Creek Drive, and the Point of Beginning; Thence first course: N90°00'00"E, along the northerly boundary of said Tract 2, common to the southerly boundary of said Tract 4, a distance of 250.00 feet; Thence, second course: S00°00'00"E, a distance of 164.09 feet, to a point on the southerly boundary of said Tract 2, common to a point on the northerly boundary of Lot C of Lot 2 of the SE1/4 of the SW1/4; Thence, third course: S10°06'33"E, a distance of 203.45 feet, to a point on the northerly boundary of the south 200 feet of said Lot C; Thence, fourth course: N89°57'11"W, along the northerly boundary of the south 200 feet of said Lot C, a distance of 88.00 feet, to a point on the westerly boundary of said Lot C, common to the southeasterly corner of Lot B of Lot 2 of the SE1/4 of the SW1/4 and common to the northeasterly corner of Lot A of Lot 2 of the SE1/4 of the SW1/4; Thence, fifth course: N00°13'40"E, along the westerly boundary of said Lot C, common to the easterly boundary of said Lot B, a distance of 200.22 feet, to the northwesterly corner of said Lot C, common to the northeasterly corner of said Lot B; Thence, sixth course: N90°00'00"W, along the southerly boundary of said Tract 2, common to the northerly boundary of said Lot B, a distance of 218.05 feet, to the southwesterly corner of said Tract 2, common to the northwesterly corner of said Lot B, and common to the easterly edge of Right-of-Way of said Creek Drive; Thence, seventh course: N00°00'00"E, along the westerly boundary of said Tract 2, common to the easterly edge of Right-of-Way of said Creek Drive, a distance of 123.00 feet, to the westerly corner of said Tract 2, common to a corner on the easterly edge of Right-of-Way of said Creek Drive; Thence, eighth course: N25°26'00"E, along the westerly

boundary of said Tract 2, common to the easterly edge of Right-of-Way of said Creek Drive, a distance of 45.50 feet, to the northwesterly corner of said Tract 2, common to the southwesterly corner of said Tract 4, and common to the easterly edge of Right-of-Way of said Creek Drive, and the Point of Beginning and good cause appearing therefore,

BE IT RESOLVED by the Rapid City Council, pursuant to the recommendation of the Rapid City Planning Commission, that the Rapid City Comprehensive Plan be amended as attached to the original hereof and filed in the Finance Office.

Dated this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 03CA019, a request by Walgar Development for an **Amendment to the Comprehensive Plan to change the future land use designation on a 0.823 acre parcel of land from Low Density Residential to Low Density Residential II**, located along Sitka Street. Motion was made by Kooiker and seconded by Rodriguez to deny the request as recommended by the Planning Commission. Walt Lindeman explained that this property is in an area with a variety of residential living styles including single family homes, duplexes and apartment complexes. Also, two of the lots abut a trailer park and are in close proximity to the Pennington County Highway Department Maintenance Shop. The Planning Commission denied to request to change the designation on this property to Low Density Residential II and Lindemann requested that the Council consider approving it. Elkins stated that she inspected the existing land uses in this area. To get to the subject property, you go past 27 single family residences. There is one townhouse, a group home and some multi-family uses in the general area. Hanks noted that he drove through this area earlier today also. The request by the petitions will not increase the density in this area. Under the current zoning in this area, a property owner could construct an apartment building if it meets the setback requirements. Substitute motion was made by Hanks to approve the following Resolution:

RESOLUTION AMENDING THE COMPREHENSIVE PLAN  
OF THE CITY OF RAPID CITY

WHEREAS the Rapid City Council held a public hearing on the 6<sup>th</sup> day of October, 2003 to consider an amendment to the Comprehensive to change the future land use designation on a 0.823 acre parcel of land from Low Density Residential to Low Density Residential II, on Lot 19, Block 2, Robbinsdale No. 9; Lot 26, Block 13, Robbinsdale No. 8; Lot 42, Block 11, Robbinsdale No. 8; all located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota and good cause appearing therefore,

BE IT RESOLVED by the Rapid City Council, pursuant to the recommendation of the Rapid City Planning Commission, that the Rapid City Comprehensive Plan be amended as attached to the original hereof and filed in the Finance Office.

Dated this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by French. The following voted AYE: Hanks, French, Murphy, Waugh, Rodriguez, Kroeger, Hadley and Kriebel; NO: Kooiker and Partridge, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 03CA020, a request by Walgar Development for an **Amendment to the Comprehensive Plan to change the future land use designation on a 0.21 acre parcel of land from Low Density Residential to Medium Density Residential** on Lot 16, Block 28, Robbinsdale No. 10, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located in the northeast corner of Alta Vista Drive and Anamaria Drive. Motion was made by Kooiker, seconded by Rodriguez and carried to deny this item without prejudice.

The Mayor presented No. 03CA021, a request by William Schleining for an **Amendment to the Comprehensive Plan to change the future land use designation on a 12.3 acre parcel of land from General Commercial to Public**, located at the intersection of U.S. Highway 16 and Moon Meadows Road. The following Resolution was introduced, read and Kooiker moved its adoption:

RESOLUTION AMENDING THE COMPREHENSIVE PLAN  
OF THE CITY OF RAPID CITY

WHEREAS the Rapid City Council held a public hearing on the 6<sup>th</sup> day of October, 2003 to consider an amendment to the Comprehensive Plan Amendment to the Comprehensive Plan to change the future land use designation on a 12.3 acre parcel of land from General Commercial to Public, on the east 400 feet of Lot 3, Moon Ridge Subdivision, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and good cause appearing therefore,

BE IT RESOLVED by the Rapid City Council, pursuant to the recommendation of the Rapid City Planning Commission, that the Rapid City Comprehensive Plan be amended as attached to the original hereof and filed in the Finance Office.

Dated this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 03CA022, a request by William Schleining for an **Amendment to the Comprehensive Plan to change the future land use designation on a 19.33 acre parcel of land from Limited Agriculture, Agriculture and Forest to Public**, located at the intersection of U.S. Highway 16 and Moon Meadows Road. The following Resolution was introduced, read and Kooiker moved its adoption:

RESOLUTION AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF RAPID CITY

WHEREAS the Rapid City Council held a public hearing on the 6<sup>th</sup> day of October, 2003 to consider an amendment to the Comprehensive Plan Amendment to the Comprehensive Plan to change the future land use designation on a 19.33 acre parcel of land from Limited Agriculture, Agriculture and Forest to Public, on Lot 3 less the east 400 feet, Moon Ridge Subdivision, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and good cause appearing therefore,

BE IT RESOLVED by the Rapid City Council, pursuant to the recommendation of the Rapid City Planning Commission, that the Rapid City Comprehensive Plan be amended as attached to the original hereof and filed in the Finance Office.

Dated this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Waugh. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

The Mayor presented No. 03SV029, a request by Fisk Land Surveying & Consulting Engineers for Canyon Lake Church of God for a **Variance to the Subdivision Regulations to allow a sidewalk on one side of streets in lieu of both sides as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 and 2 of Hillsvie Subdivision #2 and dedicated right-of-way, Section 4, SW1/4 SW1/4 of T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 in SW1/4 SW1/4, less Lot H1 and H2 of said Lot 1 of the SW1/4 SW1/4, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1829 Hillsvie Drive. Motion was made by Kooiker, seconded by Waugh and carried to approve the requested Variance.

The Mayor presented No. 03SV030, a request by Fisk Land Surveying & Consulting Engineers for Dan O'Brien for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalks on one side of the street as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 through 33 of Block 10 of Fairway Hills P.R.D. and dedicated Right-of-Way, located in the W1/2 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3 and a portion of Lot 3A of Fairway Hills P.R.D. and a portion of the unplatted portion, less Lot H1, of the NW1/4 SW1/4 of Section 15, T1N, R7E, BHM, located in the W1/2 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Sheridan Lake Road and Heidiway Lane and along Fairway Hills Drive. Motion was made by Kooiker, seconded by French and carried to approve the requested variance.

The Mayor presented No. 03VE005, a request by Dream Design International for Art Janklow for a **Vacation of a portion of a 33 foot wide Private Access Easement** on a portion of Tract C of the NE1/4 NW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota, located in the Cimarron Mobile Home Park. The following Resolution was introduced, read and Kooiker moved its adoption:



RESOLUTION OF VACATION  
PRIVATE ACCESS EASEMENT

WHEREAS, the City of Rapid City approved on August 18<sup>th</sup>, 2003 a Resolution of Vacation for a private access easement on Tract C of the NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, Section 17, T2N, R7E, BHM, Pennington County, South Dakota, more generally described as being located in the Cimarron Mobile Home Park; and

WHEREAS, the incorrect exhibit was attached to the August 18<sup>th</sup> 2003 resolution; and

WHEREAS, the owner of Lot 4 as shown on the attachment to the August 18<sup>th</sup> 2003 did not concur with the vacation of the private access easement, rendering any attempt to vacate the portion of the easement providing access to Lot 4 invalid; and

WHEREAS, the City of Rapid City wishes to correct the prior resolution to reflect the vacation of only the portion of the access easement adjoining those properties whose owners concur in the vacation; and

WHEREAS it appears that a portion of the 33 foot wide private access easement on Tract C of the NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, Section 17, T2N, R7E, BHM, Pennington County, South Dakota, more generally described as being located in the Cimarron Mobile Home Park easement is not needed for public purpose; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the private access easement to be vacated and released;

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the portion of the private access easement heretofore described, and as shown on Exhibit "A", attached hereto, be and the same is hereby vacated.

Dated this 6<sup>th</sup> day of October, 1003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Waugh. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon said Resolution was declared duly passed and adopted.

**Ordinances & Resolutions**

The Mayor presented No. 03OA007, second reading of **Ordinance 3967** entitled An Ordinance Increasing the Spacing Requirements for Adult Oriented Businesses from 400 Feet to 1000 Feet and to Clarify the Prohibition of Adult Oriented Businesses in the Central Business District by Amending Chapter 17.50 of the Rapid City Zoning Ordinance. Motion was made by Hanks, seconded by Partridge and carried to table this item at the request of the City Attorney. (Secretary's Note: Ordinance 3991 relative to adult oriented businesses will be considered later in this meeting.)

The Mayor announced the meeting was open for hearing on No. 03RZ030, second reading of **Ordinance 3974**, a request by Renner & Sperlich Engineering Company for Steve Moore for a **Rezoning from Flood Hazard District to Low Density Residential District** on the

following property: A portion of Tract 2 of L-b of Lot L, of the NE1/4 of the SW1/4, and a portion of Lot C of Lot 2 of the SE1/4 of SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northwesterly corner of Tract 2 of Lot L-b of Lot L of the NE1/4 of the SW1/4, common to the southwesterly corner of Tract 4 of Lot L-b of Lot L of the NE1/4 of the SW1/4, common to the easterly edge of Right-of-Way of Creek Drive, and the Point of Beginning; Thence first course: N90°00'00"E, along the northerly boundary of said Tract 2, common to the southerly boundary of said Tract 4, a distance of 250.00 feet; Thence, second course: S00°00'00"E, a distance of 164.09 feet, to a point on the southerly boundary of said Tract 2, common to a point on the northerly boundary of Lot C of Lot 2 of the SE1/4 of the SW1/4; Thence, third course: S10°06'33"E, a distance of 203.45 feet, to a point on the northerly boundary of the south 200 feet of said Lot C; Thence, fourth course: N89°57'11"W, along the northerly boundary of the south 200 feet of said Lot C, a distance of 88.00 feet, to a point on the westerly boundary of said Lot C, common to the southeasterly corner of Lot B of Lot 2 of the SE1/4 of the SW1/4 and common to the northeasterly corner of Lot A of Lot 2 of the SE1/4 of the SW1/4; Thence, fifth course: N00°13'40"E, along the westerly boundary of said Lot C, common to the easterly boundary of said Lot B, a distance of 200.22 feet, to the northwesterly corner of said Lot C, common to the northeasterly corner of said Lot B; Thence, sixth course: N90°00'00"W, along the southerly boundary of said Tract 2, common to the northerly boundary of said Lot B, a distance of 218.05 feet, to the southwesterly corner of said Tract 2, common to the northwesterly corner of said Lot B, and common to the easterly edge of Right-of-Way of said Creek Drive; Thence, seventh course: N00°00'00"E, along the westerly boundary of said Tract 2, common to the easterly edge of Right-of-Way of said Creek Drive, a distance of 123.00 feet, to the westerly corner of said Tract 2, common to a corner on the easterly edge of Right-of-Way of said Creek Drive; Thence, eighth course: N25°26'00"E, along the westerly boundary of said Tract 2, common to the easterly edge of Right-of-Way of said Creek Drive, a distance of 45.50 feet, to the northwesterly corner of said Tract 2, common to the southwesterly corner of said Tract 4, and common to the easterly edge of Right-of-Way of said Creek Drive, and the Point of Beginning, located at 1600 Creek Drive. Notice of Hearing was published in the Rapid City Journal on September 6 and September 13, 2003. Ordinance 3974, having had the first reading on September 3, 2003, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3974 the second time.

**Ordinance 3975** entitled An Ordinance to Eliminate Water Impact Fees by Repealing Sections 13.04.800, 13.04.810, and 13.04.820 of the Rapid City Municipal Code Regarding Impact Fees (No. LF091003-12), having passed the first reading on September 15, 2003, it was moved by Hanks and seconded by Waugh that the title be read the second time. Kriebel state that he feels it is too soon to overturn what the voters of the city enacted. Kooiker asked for information about the last water rate increase. Vore stated that the rate increased from \$1.33 to \$1.40 effective July 1, 2003. Kooiker asked if this rate increase should have been reviewed by the City Council. Asst. City Attorney Green stated that his recollection is that the ordinance was effective by its own terms and did not require review by the City Council. He stated that he would have to review the initiated measure to be certain. Green reviewed the initiated measure document and noted that if the Council did not do anything to change the ordinance based on the recommendation of the Public Works Department, the rate went into effect. Substitute motion was made by Kooiker and seconded by Hadley to amend the motion to also remove the water rate provisions contained in this ordinance. Green stated that within the ordinance as it is currently proposed, the Council is not able to effect those sections of the ordinance that deal with the rates. Those sections are not called out in the title and therefore, cannot be amended by the ordinance before the Council at this time. Shaw deemed the first substitute motion to be out of order. Roll call vote was taken on the motion to approve second reading of Ordinance 3975: AYE: Hanks, Kooiker, Rodriguez, Waugh,

Hadley, Kroeger and Partridge; NO: Kriebel, French, and Murphy. Motion carried, 7-3 and Mayor Shaw declared Ordinance 3975 duly passed upon its second reading.

Motion was made by Waugh and seconded by Rodriguez to refer the remainder of Ordinance 3975 to the Ordinance Review Committee for consideration. Kriebel stated that he doesn't feel this issue is something that should be submitted to the Ordinance Review Committee. That committee was established to review issues that were problematic or not serving the citizens well. Kooiker stated that Public Works Director Vore is going to bring forward recommendations on rates and tap fees, etc, so perhaps this issue should be discussed at that time. Substitute motion was made by Kooiker and seconded by Waugh to refer this issue to the Public Works Committee for discussion. Upon vote being taken, the motion carried unanimously.

**Ordinance 3976**, entitled An Ordinance Amending the Property Known as Rapid City Regional Airport by Amending Section 13.12.080 of Chapter 13.12 of the Rapid City Municipal Code (No. LF091003-11), having passed the first reading on September 15, 2003, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 3976 was declared duly passed upon its second reading.

The Mayor announced the meeting was open for hearing on **Ordinance 3977** (No. 03RZ031) a request by Walgar Development for a **Rezoning from Low Density Residential District to Low Density Residential II District** on Lot 19, Block 2, Robbinsdale No. 9; Lot 26, Block 13, Robbinsdale No. 8; Lot 42, Block 11, Robbinsdale No. 8; all located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Sitka Street. Notice of hearing was published in the Rapid City Journal on September 20 and September 27, 2003. Motion was made by Rodriguez and seconded by Kooiker to deny second reading of this ordinance, as recommended by the Planning Commission. Substitute motion was made by Hanks and seconded by Kriebel to approve second reading of Ordinance 3977. Upon vote being taken, the following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3977 the second time.

The Mayor announced the meeting was open for hearing on **Ordinance 3978** (No. 03RZ032) a request by Walgar Development for a **Rezoning from Low Density Residential II District to Medium Density Residential District** on Lot 16, Block 28, Robbinsdale No. 10, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northeast corner of Alta Vista Drive and Anamaria Drive. Motion was made by Hanks, seconded by Rodriguez and carried to continue this public hearing until November 3, 2003.

The Mayor announced the meeting was open for hearing on **Ordinance 3979** (No. 03RZ033) a request by City of Rapid City for a **Rezoning from No Use District to General Agriculture District** on the following property: The balance of Tract A in the E1/2 SW1/4 and the W1/2 SE1/4, Lot 2 of Tract A of the NE1/4 SW1/4, Lot H1 in Tract A in the E1/2 SW1/4 and the W1/2 SE1/4, Lot H1 in Lot 1 of the Well Addition in the SW1/4, Lot H1 in the N1/2 SE1/4 NW1/4, Lot H2 in the N1/2 SW1/4 NE1/4 lying south and west of SD Highway 44 and railroad right-of-way, Lot H5 in the NE1/4 NW1/4 lying south and west of SD Highway 44, and Lot H2 in the NW1/4 NE1/4 lying south and west of SD Highway 44 and railroad right-of-way, the 100 foot South Dakota Railroad Authority right-of-way lying adjacent and north of Lot H2 in the NW1/4NE1/4 and Lot H5 in the NE1/4NW1/4 and Lot H2 in the N1/2SW1/4NE1/4, all located in Section 9, T1N, R8E, BHM, Pennington County, South Dakota; and, Lot H1 amending the original plat of Lot H1 as recorded in Book 9 Hwy of Plats – Page 54 – dated January 5, 1998 in the N1/2NW1/4 of Section 16, T1N, R8E, BHM, Pennington County, South Dakota; and, Lot H1 amending the original plat of Lot H1 as recorded in Book 9 Hwy of Plats – Page 52 – dated January 5, 1998 in the S1/2NW1/4 of Section 16, T1N, R8E, BHM,

excepting therefrom the following described land: the west 210 feet of the north 600 feet of the NE1/4SE1/4NW1/4 and the east 190 feet of the north 600 feet of the NW1/4SE1/4NW1/4 of said Section 16; the balance of the S1/2NE1/4SE1/4NW1/4 of said Section 16; and the SW1/4SW1/4SW1/4NW1/4 of said Section 16, Pennington County, South Dakota; and, Lot H1 in the NE1/4SE1/4 of Section 17, T1N, R8E, BHM, Pennington County, South Dakota, located south of SD Highway 44, west of Jolly Lane Drive and east of SD Highway 79. Notice of hearing was published in the Rapid City Journal on September 20 and September 27, 2003. Ordinance 3979, having had the first reading on September 15, 2003, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3979 the second time.

The Mayor announced the meeting was open for hearing on No. 03RZ034, second reading of **Ordinance 3980**, a request by City of Rapid City and Walter Linderman for a **Rezoning from Office Commercial District to Medium Density Residential District** on the following property: A portion of Lots 3 thru 6, Block 1 Terracita Park Subdivision, Section 13, T1N, R7E, BHM Rapid City, Pennington County, South Dakota, more fully described by metes and bounds as follows: Commencing at the southwest corner of Block 27 of Robbinsdale Addition No. 10, Thence, N89°42'39"E along the southerly boundary of said Block 27 of Robbinsdale Addition No. 10, a distance of 92.68 feet, to the Point of Beginning; Thence, first course: N89°42'39"E along the southerly boundary of said Block 27 of Robbinsdale Addition No. 10, a distance of 537.51 feet, to the westerly edge of the right-of-way of Fifth Street; Thence, second course: southeasterly, along the westerly edge of said Fifth Street right-of-way, curving to the right on a curve with a radius of 1345.32 feet, a delta angle of 02°36'31", a length of 61.25 feet, a chord bearing of S16°44'21"E, and a chord distance of 61.25 feet; Thence, third course: S89°41'26"W, a distance of 554.84 feet; Thence, fourth course: N00°18'34"W, a distance of 58.94 feet, to a point on the southerly boundary of said Block 27 of Robbinsdale Addition No. 10, and the Point of Beginning; and, BEGINNING at the northwesterly corner of said Parcel of Land, said corner bears S57°50'33" E a distance of 109.85 feet from the southwesterly corner of Block 27 of Robbinsdale No. 10 which is marked by a 5/8" rebar with survey cap stamped LS 3095 said Block 27 being recorded in the Pennington County Register of Deeds Office in plat book 27, page 182, said corner being known as the true Point of Beginning; THENCE FIRST COURSE: a bearing of N89°41'26" E and a distance of 554.84 feet to an intersection with the westerly Right of Way line of Fifth Street as recorded in the Pennington County Register of Deeds Office in plat book 27, page 181; THENCE SECOND COURSE: along said Fifth Street Right of Way line along a curve with a radius of 1345.32 feet and an arc length of 288.80 feet (Chord Bearing of S09°17'06" E and a distance of 288.25 feet) to an angle point corner of said Fifth Street Right of Way line, which is marked by a 5/8" rebar with survey cap stamped LS 2652; THENCE THIRD COURSE: continuing along said Fifth Street Right of Way line a bearing of S67°58'34" W and a distance of 41.30 feet to an angle point corner of said Fifth Street Right of Way line, which is marked by a 5/8" rebar with survey cap stamped LS 2652; THENCE FOURTH COURSE: a bearing of S89°41'26" W and a distance of 561.44 feet to the southwesterly corner of said parcel of land; THENCE FIFTH COURSE: a bearing of N00°18'34"W and a distance of 300.00 feet to the Point of Beginning; Said Parcel of land contains 4.011 acres more or less. Said Parcel of land is located in the NW1/4 of the SE1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest corner of the intersection of Minnesota Street and Fifth Street; that portion lying within Lots 3 thru 6, Block 1, Terracita Park Subdivision, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northeast of the intersection of Alta Vista Drive and Minnesota Street. Notice of hearing was published in the Rapid City Journal on September 20 and September 27, 2003. Ordinance 3980, having had the first reading on September 15, 2003, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel

and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3980 the second time.

The Mayor announced the meeting was open for hearing on No. 03RZ035, second reading of **Ordinance 3981**, a request by William Schleining for a **Rezoning from General Commercial District to Public District** on the following property: A portion of Lot 3 of Moon Ridge Subdivision located in the E1/2 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at the northeasterly corner of said Lot 3 of Moon Ridge Subdivision and the Point of Beginning; thence, first course: S07°20'00"W, along the easterly boundary of said Lot 3, common with the westerly edge of the right-of-way of U.S. Highway 16, a distance of 1337.09 feet, to the southeasterly corner of said Lot 3, common with the northeasterly corner of the right-of-way of Moon Meadows Drive; thence, second course: N82°35'35"W, along the northerly edge of the right-of-way of said Moon Meadows Drive, a distance of 42.53 feet, to a point of curve; thence, third course: northwesterly, along the northerly edge of the right-of-way of said Moon Meadows Drive, curving to the left on a curve with a radius of 1050.00 feet, a delta angle of 06°35'17", an arc length of 120.73 feet, a chord bearing of N86°00'00"W, and a chord distance of 120.67 feet, to a point of tangency; thence, fourth course: N89°15'53"W, along the northerly edge of the right-of-way of said Moon Meadows Drive, a distance of 337.71 feet; thence, fifth course: N89°16'12"W, along the northerly edge of the right-of-way of said Moon Meadows Drive, a distance of 231.26 feet, to the southwesterly corner of said Lot 3 of Moon Ridge Subdivision, common with the southeasterly corner of Lot 1 of Moon Ridge Subdivision; thence, sixth course: N00°12'56"E, along the westerly boundary of said Lot 3 of Moon Ridge Subdivision, common with the easterly boundary of said Lot 1 of Moon Ridge Subdivision, a distance of 245.52 feet; thence, seventh course: N26°53'52"E, a distance of 990.49 feet; thence eighth course: N07°53'52"E, a distance of 178.06 feet, to a point on the northerly boundary of said Lot 3 of Moon Ridge Subdivision; thence, ninth course: N89°53'10"E, along the northerly boundary of said Lot 3 of Moon Ridge Subdivision, a distance of 818.71 feet, to the northeasterly corner of said Lot 3 of Moon Ridge Subdivision, and the Point of Beginning; said parcel contains 18.177 acres more or less, located at the intersection of U.S. Highway 16 and Moon Meadows Road. Notice of hearing was published in the Rapid City Journal on September 20 and September 27, 2003. Ordinance 3981, having had the first reading on September 15, 2003, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3981 the second time.

The Mayor announced the meeting was open for hearing on No. 03RZ036, second reading of **Ordinance 3982**, a request by William Schleining for a **Rezoning from Medium Density Residential District to Public District** on the following property: A portion of Lot 3 of Moon Ridge Subdivision located in the E1/2 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at the northwesterly corner of said Lot 3 of Moon Ridge Subdivision and the Point of Beginning; thence, first course: N89°53'10"E along the northerly boundary of said Lot 3 of Moon Ridge Subdivision, a distance of 818.71 feet; thence, second course: S07°53'52"W, a distance of 178.06 feet; thence, third course: S26°53'52"W, a distance of 990.49 feet, to the easterly boundary of Lot 1 of Moon Ridge Subdivision; thence, fourth course: N00°12'56"E, a distance of 169.48 feet, to the northeasterly corner of said Lot 1 of Moon Ridge Subdivision; thence, fifth course: N89°16'12"W, along the northerly boundary of said Lot 1 of Moon Ridge Subdivision, a distance of 350.00 feet, to the northwesterly corner of said Lot 1 of Moon Ridge Subdivision, common with the southwesterly corner of said Lot 3 of Moon Ridge Subdivision; thence, sixth course: N00°12'56"E, along the westerly boundary of said Lot 3 of Moon Ridge Subdivision, a distance of 446.88 feet; thence, seventh course: N00°11'53"E along the westerly boundary of said Lot 3 of Moon Ridge Subdivision, a distance of 436.16 feet, to the northwesterly corner of said Lot 3 of Moon Ridge Subdivision, and the Point of

Beginning; said parcel contains 13.469 acres more or less, located at the intersection of U.S. Highway 16 and Moon Meadows Road. Notice of hearing was published in the Rapid City Journal on September 20 and September 27, 2003. Ordinance 3982, having had the first reading on September 15, 2003, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3982 the second time.

The Mayor presented No. 03RZ037, second reading of **Ordinance 3983**, a request by Renner and Sperlich for Doeck, LLC for a **Rezoning from No Use District to Medium Density Residential District** on the following property: A portion of the NW1/4 of the SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at the southwest corner of Lot 11 of Block 6 of Auburn Hills Subdivision, and the Point of Beginning; thence, first course: S00°12'10"W, along a 1/16 Section Line of Section 13, a distance of 59.68 feet, to the Southwest 1/16 Section Corner of said Section 13; thence, second course: S89°42'30"W, along the 1/16 Section Line of said Section 13, a distance of 1319.48 feet, to the South 1/16 Section Corner common to Sections 13 and 14; thence, third course: N00°02'42"E, along the 1/16 Section Line common to Sections 13 and 14, a distance of 430.21 feet; thence, fourth course: easterly, curving to the right on a curve with a radius of 474.00 feet, a delta angle of 09°57'36", an arc length of 82.40 feet, a chord bearing of N85°13'22"E, and a chord distance of 82.29 feet, to a point of tangency; thence, fifth course: S89°47'50"E, a distance of 632.92 feet, to a point of curve; thence, sixth course: easterly, curving to the right on a curve with a radius of 274.00 feet, a delta angle of 30°10'33", an arc length of 144.31 feet, a chord bearing of S74°42'34"E, and a chord distance of 142.65 feet, to a point of tangency; thence, seventh course: S59°37'17"E, a distance of 178.46 feet, to a point of curve on the southerly edge of the right-of-way of Auburn Drive; thence, eighth course: easterly, along the southerly edge of the right-of-way of said Auburn Drive, curving to the left on a curve with a radius of 326.00 feet, a delta angle of 30°27'47", an arc length of 173.33 feet, a chord bearing of S74°51'10"E, and a chord distance of 171.29 feet, to a point of tangency; thence, ninth course: N89°54'56"E, along the southerly edge of the right-of-way of said Auburn Drive, a distance of 66.02 feet, to a point of curve; thence, tenth course: easterly, along the southerly edge of the right-of-way of said Auburn Drive, curving to the right on a curve with a radius of 274.00 feet, a delta angle of 17°26'22", an arc length of 83.40 feet, a chord bearing of S81°21'53"E, and a chord distance of 83.08 feet, to the northwesterly corner of said Lot 11 of Block 6 of Auburn Hills Subdivision; thence eleventh course: S00°12'10"W along the westerly boundary of said Lot 11 of the Block 6 of Auburn Hills Subdivision, a distance of 183.43 feet, to the southwesterly corner of said Lot 11 of Block 6 of Auburn Hills Subdivision, and the Point of Beginning; said parcel contains 11.564 acres more or less, located at the intersection of Chalkstone Drive and Auburn Drive. Motion was made by Hanks, seconded by Rodriguez and carried to continue this hearing until October 20, 2003.

**Ordinance 3984** entitled An Ordinance Creating the Department of Public Works by Repealing Chapter 2.46 of the Rapid City Municipal Code in its Entirety and Amending Chapter 2.44 of the Rapid City Municipal Code (No. LF100103-21), having passed the first reading on September 15, 2003, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and read the title of Ordinance 3984 the second time.

**Ordinance 3985**, Regarding Supplemental Appropriation No. 5 for 2003 (No. LF100103-12), was introduced. Motion was made by Hanks and seconded by Waugh to approve first reading and set second reading for October 20, 2003. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Kroeger, Kriebel and Partridge; NO: Hadley; whereupon the Mayor declared the motion passed.

**Ordinance 3986** (No. 03OA006) entitled An Ordinance Authorizing Administrative Approval of Certain Plats by Adding Section 16.08.035 to the Rapid City Municipal Code, was introduced. Doug Sperlich spoke in favor of the administrative approval of final plats. At times it can be difficult to get everything submitted and approved in the short window of time between Council meetings. It would be advantageous to the construction industry if items that were approved by the Council at the preliminary plat stage were able to be approved by staff for final approval. Upon motion made by Hanks, seconded by Waugh and carried, Ordinance 3986 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, October 20, 2003.

**Ordinance 3987** (No. LF100103-20) entitled An Ordinance Establishing the Approved Meeting Minutes as the Official Journal of the Rapid City Common Council by Adding Section 2.08.110 to the Rapid City Municipal Code, was introduced. Motion was made by Hanks and seconded by French to approve first reading. Kriebel asked what would happen if the minutes contained an error. Asst. City Attorney Green explained that the Council has always approved and published the minutes of the Council meetings. State law requires that the Council keep a journal, however, it was not specific about what constitutes the journal. The ordinance amendment before the Council at this time will specifically say that the journal is the minutes of the meeting, as approved by the City Council. If the minutes are published prior to approval, they are not official until the Council approves them. If it is determined that there is an error in the minutes, the Council can pass a resolution acknowledging the prior error and correcting it. Kooiker suggested that the ordinance be amended to say that video tapes of the meeting shall be a supplement to the journal. Often times, the minutes are not exactly a picture of what took place because we can't afford to publish absolutely everything. He suggested that the Council implement a mechanism to save and archive the tapes of the meetings because it is important that the public have access to them. Green recommended that the video tapes not be included as part of the journal because he feels state law contemplates a written record. Regarding archiving of video tapes, the Council would only need to pass a resolution directing that staff save the tapes. Upon vote being taken, the first reading of Ordinance 3987 carried unanimously.

Motion was made by Kooiker and seconded by Hanks to direct the City Attorney's Office to draft a resolution regarding **videoing and archiving Council proceedings**, for consideration at the next Legal & Finance Committee meeting. Hanks suggested that a copy of the tape be made available at the Public Library. Kooiker accepted this as part of the motion. Roll call vote was taken: AYE: Hanks, French, Kooiker, Rodriguez, Waugh, Hadley, Kroeger and Kriebel; NO: Murphy and Partridge. Motion carried, 8-2.

**Ordinance 3988** (No. LF100103-24) entitled An Ordinance Modifying the Regulation of the Rapid City Economic Development and Civic Improvements Fund by Amending Section 3.16.020 of the Rapid City Municipal Code, was introduced. Motion was made by Hanks and seconded by Rodriguez to approve first reading and set second reading for Monday, October 20, 2003. Kriebel stated that the City has no idea of the demands that will be put on the city in the future for use of these funds. For example, if there is no eligible project being done for economic development, these funds will just sit there. Kriebel stated that he is leery of creating three categories and establishing a percentage of funds that must be spent in each category. He spoke in favor of keeping these funds in a separate fund, but not categories and percentages. Substitute motion was made by Partridge and seconded by Kriebel to refer this issue back to the 2012 Task Force for additional review. Roll call vote was taken: AYE: Murphy, Hadley, Kroeger, Kriebel and Partridge; NO: Hanks, French, Kooiker, Rodriguez and Waugh. Mayor Shaw voted AYE to break the tie and the substitute motion carried, 6-5.

**Ordinance 3989** (No. 03RZ038) a request by Renner and Sperlich Engineering Company for 16 Plus LLP for a **Rezoning from No Use District to General Commercial District** on the following property, was introduced: A portion of Tract 2 of Pioneer Subdivision, located in the NE1/4 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South

Dakota; more fully described as follows: Commencing at a point on the section line highway between Sections 27 and 34, common to northeasterly corner of said Tract 2 of Pioneer Subdivision, and the Point of Beginning; thence, first course: S00°00'00"E, along the easterly boundary of said Tract 2 of Pioneer Subdivision, common with the westerly edge of the statutory section line right-of-way, and common with the westerly edge of U.S. Highway 16 right-of-way, a distance of 109.69 feet, to an angle point; thence, second course: S07°20'00"W, along the easterly boundary of said Tract 2, common with the westerly edge of the right-of-way of U.S. Highway 16, a distance of 303.97 feet, to the northeasterly corner of Lot 3 of Moon Ridge Subdivision; thence, third course: S89°53'10"W, along the northerly boundary of said Lot 3 of Moon Ridge Subdivision, a distance of 1247.37 feet, to a point on the westerly boundary of said Tract 2, common with the northwesterly corner of said Lot 3 of Moon Ridge Subdivision; thence, fourth course: N00°11'53"E, along the westerly boundary of said Tract 2, a distance of 411.10 feet, to a point on the section line common to Section 27 and 34, common to a point the southerly boundary of Lot 5 of Godfrey Addition, and common to the northwesterly corner of said Tract 2; thence fifth course: N89°52'53"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 4 and 5 of said Godfrey Addition, a distance of 796.18 feet, to an angle point; thence, sixth course: N89°50'57"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 3 and 4 of said Godfrey Addition, a distance of 466.12 feet, to an angle point; thence, seventh course: S89°10'40"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, a distance of 22.45 feet, to the northeasterly corner of said Tract 2, and the Point of Beginning; said parcel contains 12.00 acres more or less, located northwest of the U.S. Highway 16 and Moon Meadows Road. Upon motion made by Hanks, seconded by Murphy and carried, Ordinance 3989 was placed upon its first reading and the title was fully and distinctly read. The Finance Officer was authorized and directed to publish notice of hearing thereon, said hearing to be Monday, October 20, 2003 at 7:00 P.M.

**Ordinance 3990** (No. 03RZ040), a request by Dream Design International, Inc. for a **Rezoning from No Use District to Medium Density Residential District** on the following property, was introduced: A previously unplatted parcel of land in the SW1/4 of the NW1/4 of Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the found corner stamped R.L.S. No. 4208 of the center 1/4 corner of Section 26; thence S72°37'41"W along a non-visual line, 1200.17 feet to the TRUE POINT OF BEGINNING; thence N09°37'30"E 863.62 feet; thence along a curve to the left having a radius of 893.51 feet through a central angle of 13°26'11" with an arc length of 209.06 feet, a chord bearing of N76°41'20"E and a chord length of 170.60 feet along said curve; thence S20°01'46"E 210.75 feet; thence along a curve to the right having a radius of 526.00 feet through a central angle of 21°19'55" with an arc length of 194.71 feet, a chord bearing of S09°21'48"E and a chord length of 195.84 feet along said curve; thence S01°18'09"W 376.86 feet; thence N88°41'51"W 440.00 feet to the Point of Beginning; said parcel containing 7.26 acres more or less, located south of Catron Boulevard and east of U.S. Highway 16. Upon motion made by Hanks, seconded by Murphy and carried, Ordinance 3990 was placed upon its first reading and the title was fully and distinctly read. The Finance Officer was authorized and directed to publish notice of hearing thereon, said hearing to be Monday, October 20, 2003 at 7:00 P.M.

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

The Mayor presented No. 03TI011, A request by the City of Rapid City for a **Resolution Creating Tax Increment District #43** on property located north and west of Sheridan Lake Road and Muirfield Drive and north of Countryside Subdivision. The following Resolution was introduced, read and Hanks moved its adoption:

#### A RESOLUTION CREATING TAX INCREMENT DISTRICT #43



RED ROCK WATER RESERVOIR  
CITY OF RAPID CITY

WHEREAS the property within the following described District meets the qualifications and criteria set forth in SDCL 11-9; and,

WHEREAS the Council of the City of Rapid City finds that the aggregated assessed value of taxable property in this District, plus the assessed values of all other districts currently in effect, does not exceed ten percent (10%) of the total assessed value of taxable property in the City of Rapid City; and,

WHEREAS the Council finds that:

- (1) Not less than twenty-five percent (25%), by area, of the real property within the district is a blighted area as defined in SDCL 11-9-9 through 11-9-11; and,
- (2) The improvement of the area is likely to significantly enhance the value of substantially all of the other real property in the district.

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the real property legally described as:

Beginning at the NW corner of Section 29, T1N, R7E, BHM, Pennington County, South Dakota; which shall be the true point of Beginning;

Thence east along the Section line a distance of 2147.50 feet; thence north a distance of 233.00 feet; thence west a distance of 2180.51 feet; thence south a distance of 233.00 feet; thence east a distance of 33.01 feet, more or less, to the true point of Beginning; lying within the SW1/4 of Section 20 and the SE1/4 of Section 19, T1N, R7E, BHM, Pennington County, South Dakota; and,

Beginning at the NW corner of Section 29, T1N, R7E, BHM, Pennington County, South Dakota; which shall be the true point of Beginning;

Thence south along the Section line a distance of 4000.00 feet; thence west a distance of 250.00 feet; thence north a distance of 1090.00 feet; thence east a distance of 216.99 feet; thence north a distance of 2910.00 feet; thence east a distance of 33.01 feet; more or less, to the true point of Beginning; lying within the NE1/4 and SE1/4 of Section 30, T1N, R7E, BHM, Pennington County, South Dakota; and,

Lots 1-11 of Block 1, Lots 1-19 of Block 2, Lots 1-3 of Block 3, Lot 1 of Block 4, Lot 1 of Block 5, Lots 7-9 of Block 7, Lots 1-6 and Outlot G-1 of Block 10, Lots 1-37 of Block 11, Lots 1-13 of Block 12, Lots 1-5 of Block 13, Lot 1A, Lot 1B and Lots 2-6 of Block 14, Outlot 1, Outlot G, Lot P (Utility Lot) and dedicated streets, all in Red Rock Estates, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Lots 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6, 7, 8, 9, 10A, 10B, 11A, and 11B of Block 6, Red Rock Estates Phase 1A, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Lots 4-16 of Block 3, Lot 2 and Lot 3 of Block 4, Lots 1-6 of Block 7, Lots 1-3 of Block 8, all in Red Rock Estates Phase 2, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Outlot A of Tract A, Countryside Sub, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Well Lot, and Balance of Picardi Ranch Road, and Balance of Tract 1 less Red Rock Estates and less ROW, all in Red Ridge Ranch, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; and Unplatted W1/2 NW1/4 NE1/4 less Red Ridge Ranch, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Unplatted E1/2 NW1/4 NE1/4 less Red Ridge Ranch and

ROW, SW1/4 NE1/4 less Red Ridge Ranch, less Red Rock Estates, less Red Rock Estate Phase 1A, and Less Row, E1/2 NW1/4 less Red Rock Estates and Less ROW, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Unplatted N1/2 NW1/4 SW1/4 less Red Rock Estates and less Countryside Sub; N1/2 NE1/4 SW1/4 less Red Rock Estates & Less Countryside Sub; E1/2 NE1/4, and W1/2 NW1/4 less Red Rock Estates and less ROW, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.

is hereby designated as Tax Increment District Number 43, City of Rapid City.

Dated this 6<sup>th</sup> day of October, 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Murphy. Kriebel stated that he supports extending the city's infrastructure and he wants the tank in this location, however, he feels this is the wrong funding mechanism for the project. The project should be funded by the water enterprise fund, not property taxes. Roll call vote was taken: AYE: Hanks, Murphy, Waugh, Rodriguez, Kroeger and Partridge; NO: French, Kooiker, Hadley and Kriebel; whereupon the Mayor declared the motion carried, 6-4, and the Resolution was declared duly passed and adopted.

The Mayor presented No. 03TI012, a request by the City of Rapid City for a **Resolution Approving Tax Increment District #43 - Project Plan** on property located north and west of Sheridan Lake Road and Muirfield Drive and north of Countryside Subdivision. The following Resolution was introduced, read and Hanks moved its adoption:

RESOLUTION APPROVING THE PROJECT PLAN FOR TAX INCREMENT  
DISTRICT #43 – RED ROCK WATER RESERVOIR  
AS SUBMITTED BY THE RAPID CITY PLANNING COMMISSION

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

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

WHEREAS there has been established Tax Increment District #43 – Red Rock Water Reservoir; and,

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

WHEREAS the Project Plan submitted helps make this development feasible by assisting with the development of a water reservoir; and,

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

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

WHEREAS the Council has considered the Project Plan submitted by the Planning Commission and determined that the Project Plan for Tax Increment District #43 – Red Rock Water Reservoir is economically feasible; and,

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

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the Tax Increment District Project Plan for Tax Increment District #43 – Red Rock Water Reservoir be, and is hereby, approved as attached hereto.

Dated this 6<sup>th</sup> day of October 2003.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. Roll call vote was taken: AYE: Hanks, Murphy, Waugh, Rodriguez, Kroeger and Partridge; NO: French, Kooiker, Hadley and Kriebel; whereupon the Mayor declared the motion carried, 6-4, and the Resolution was declared duly passed and adopted.

Motion was made by Hanks and seconded by Rodriguez to request the City Attorney’s Office to prepare an ordinance amendment authorizing the City Finance Officer to **add annexed areas** to the appropriate ward and precinct without an ordinance change. Hadley spoke against the motion noting issues that came up when the redistricting was done in 2001. Kriebel also stated that he doesn’t feel the re-districting was handled right because of the confusion created for voters. Kooiker stated he feels the current system for placing annexed property into wards and precincts works well and he doesn’t feel it needs to be changed. Partridge stated that he feels the elected officials need to be involved with putting annexed property into specific wards. Hadley suggested that the ward and precinct information be in the annexation resolution when it is approved by the City Council. Asst. City Attorney Green explained that information on wards and precincts is not necessary to accomplish an annexation, therefore, it would not be appropriate to include it in the annexation resolution. Planning Director Elkins suggested that a separate item be on the agenda that would identify the ward and precinct information for property being annexed into the city. Green noted that second reading of the ordinance establishing ward and precinct boundaries for newly annexed areas cannot occur until the annexation becomes effective (20 days after publication in the newspaper). Substitute motion was made by Kooiker and seconded by Hadley to request that staff draft a resolution to bring forward ward and precinct lines concurrently with annexations. Roll call vote was taken: AYE: French, Kooiker and Hadley; NO: Hanks, Murphy, Rodriguez, Waugh, Kroeger, Kriebel and Partridge. Substitute motion failed, 3-7. Preston noted that the item on the agenda at this time is a request to draft an ordinance. Staff will incorporate the Council’s concerns into the proposal. Substitute motion was made by Hanks and seconded by Kooiker to refer this issue back to the Legal & Finance Committee for further discussion. Roll call vote was taken: AYE: Hanks, French, Kooiker, Murphy, Kriebel and Partridge; NO: Rodriguez, Waugh, Hadley and Kroeger. Motion carried, 6-4.

The next item before the Council was No. LF100103-10, a recommendation from the **Property Disposal Task Force** on proposals to lease Maple and Wood Avenue properties. Preston explained that the Task Force, consisting of Ron Kroeger, Ray Hadley, Rod Johnson, Jason Green and himself, met on September 9, 2003 and reviewed the proposals that were submitted. Vicki Fisher from the Planning Department also attended the meeting to

provide guidance on zoning issues. After lengthy discussion, the Task Force recommends that the City not get into the landlord business by leasing either property. The recommendation is that both properties be declared surplus and staff be authorized to start the process to select a real estate agenda and sell the properties. David Hillard encouraged the Council to lease the space recently vacated by Youth & Family Services on North Maple Avenue, to Working Against Violence, Inc. They propose using the space to house the "Common Ground" program which provides a safe, neutral, child-friendly environment for children to visit their parents and other significant adults in their lives. This location would move the visitation facility from the office-type setting into a more domestic setting. The North Maple property would also allow more visitation and, with separate entrances, would guarantee that partners who legally cannot see each other, don't. Hillard noted that Common Ground is the only facility of its type in western South Dakota and the second largest in the state. Phyllis Boernke and Bob French asked that the Council consider leasing the facility on Wood Avenue to the Unity of the Black Hills Church. They plan to offer an outreach program to the young people in the community that may not have access to music, drama, sports and other facilities. David Parish encouraged the Council to consider the proposal from Young Life-Rapid City to lease the property on Wood Avenue. They are looking for a permanent location for this program which has grown from 30 young people to a weekly group of approximately 125. Parish explained that Young Life is a Christian mentoring program for at-risk kids. They are proposing a no-cost lease in exchange for the community service that this program provides. Young Life will pay for routine maintenance of the facility and the lease is contingent upon receiving a report from the city inspector verifying that the building is in need of no structural repairs and that the heating, ventilation, air conditioning and water heating units are in good condition. It is also conditional on approval from our national headquarters. We can enter into a lease for only two years at a time, with an option to renew. Alan Christopherson from the Rapid City Gospel Assembly spoke in favor of the city putting the property on Maple Avenue up for sale. They are interested in purchasing this property for use by the church. Motion was made by Rodriguez and seconded by Hanks to accept the proposal from WAVI, Inc. for the 924 N. Maple Avenue facility, to be used for the "Common Ground" program; and that they be responsible for all maintenance, upkeep and insurance on the building. Green noted that this would be a lease to a private entity so the issue would come back to the Council in the form of a public hearing. The Council would also see the lease in its final form. Murphy stated that five groups have expressed an interest in using this facility. He asked what makes WAVI any better than the others. This process should be fair and open to all groups who submitted proposals. Murphy stated that he feels the City should own property only if it is going to use it. This property should be sold and put back on the tax rolls. Substitute motion was made by Murphy and seconded by French to declare these properties surplus to be sold. Kriebel suggested that the city let an organization use these properties for the good of the community. Kooiker moved the previous question. French objected. Roll call vote was taken: AYE: Kooiker, Waugh, Hadley, Kroeger, and Partridge; NO: Hanks, French, Murphy, Rodriguez and Kriebel. Motion to call the question failed because of a tie vote. Discussion continued. French asked why the city purchased these properties. She also stated that the City must be fair if we intend to lease the properties to a private entity. Roll call vote was taken on the motion to declare the properties surplus: AYE: French, Kooiker, Murphy, Waugh, Kroeger and Partridge; NO: Hanks, Rodriguez, Hadley and Kriebel. Motion carried, 6-4.

The next item discussed by the council was the Lease/Leaseback Issue. Finance Officer Preston explained that the Council denied the previous documents that were submitted by Allco. He asked if the Council wishes to pursue this issue and review the modified documents. Murphy stated that he doesn't want to shut the door on an opportunity to provide economic growth for the city. Motion was made by Murphy and seconded by Kroeger to keep a dialogue open on this issue. Substitute motion was made by Kriebel and seconded by Kooiker to cease all discussion and negotiations on the lease/leaseback issue. Kooiker stated that he is concerned about the lack of information on this issue and the statements being made by the financing company. No new information has been presented to the city for

consideration. He also stated that it doesn't make sense for a government entity to sign over taxpayer-owned infrastructure to a private third party so that the third party can get a tax deduction for depreciation of a tax-payer owned facility that they do not own. Kooiker stated that if the City intends to proceed with this type of financing issue, we should solicit proposals from several companies who do this type of work. Roll call vote was taken: AYE: French, Kooiker, Hadley and Kriebel; NO: Hanks, Murphy, Rodriguez, Waugh, Kroeger and Partridge. Substitute motion failed, 4-6. Partridge asked if the opinion of the City Attorney's Office has changed on this issue. Asst. City Attorney Green explained that no new documents have been presented, so, based on those documents, the opinion has not changed. However, the attorney hired to represent cities throughout South Dakota has been in contact with the office. He is optimistic that terms that are acceptable to the city can be reached. Based on that, Green recommended that the council continue the dialogue. He added that any final documents for this type of issue will be scrutinized very closely by the Attorney's Office. Partridge stated that he would like to see some of the "cost modeling" for the project and the numbers that are involved. Kriebel stated that he doesn't feel the City should deal with the present company because of the mistakes that have been made so far on this issue. Substitute motion was made by Partridge, seconded by Rodriguez and carried to amend the motion to get initial information and answers to the following questions before this issue is discussed again: 1) will we have to go to New York to represent ourselves in court; 2) do we waive the right to a jury trial 3) who will do the appraisal, when will it be done and are we going to come up with \$255 million dollars; 4) what are the exhibits that go with the actual contract 5) what about the Cayman Islands clause with the AIG affiliate. Are they based there or are we concerned about that loop loan issue; 6) do we have a targeted closing date; 7) what is the city's liability for transaction costs; are we going to have to pay if someone fails; 8) are we going to have to pay for KCB to fly around the country; and 9) who makes the interest on the escrow. Shaw stated that if any other council members have questions they should be submitted to the Finance Officer as soon as possible so that information can be gathered. Roll call vote was taken on the original motion, as amended: AYE: Hanks, Murphy, Rodriguez, Waugh, Kroeger and Partridge; NO: French, Kooiker, Hadley and Kriebel. Motion carried, 6-4.

Motion was made by Rodriguez, seconded by Murphy and carried to allocate funding for the **Catron Boulevard Project** in the amount of \$514,500 from the 2012 Fund.

The next item on the agenda was a request that staff send a notice for a 2012 meeting to be held on Monday, October 6, 2003, at 7:00 p.m. to be held immediately after the Council meeting is called to order. It was noted that the notice was published. Motion was made by Hanks, seconded by Rodriguez and carried to table this item.

Motion was made by Hanks and seconded by Murphy to request that staff **amend the CIP Operating Procedures**, Reporting Procedures, to read as follows: "...shall provide an update to the Legal & Finance Committee monthly". Rodriguez stated that she feels reporting the actions of the CIP Committee to the Legal & Finance Committee would be repetitive. Four of the five members of the Legal & Finance Committee also sit on the CIP Committee. Kooiker stated that the purpose of amending these procedures is to bring forward the actions taken at CIP to the City Council for final action. The Legal & Finance Committee would act as the filtering body for those actions. Kooiker stated that he feels the motions made by the CIP Committee should come to the Council just like Legal & Finance and Public Works committee items. He doesn't feel the motion on the floor will accomplish that. Hanks noted that several items from the CIP Committee were delayed at the last committee meeting so that the required ten day notice could be made. Kroeger noted that all members of the city council are welcome to attend the monthly CIP committee meeting. Also, the minutes of every meeting are distributed to the Council members so that they are informed of what goes on. Hanks noted that the CIP Committee only prioritizes items in a five year plan for the community. They have no legal authority to spend taxpayer dollars. That responsibility lies with the City

Council. Roll call vote was taken: AYE: Hanks, Kooiker, Murphy, Waugh, Hadley and Partridge; NO: Rodriguez, Kroeger and Kriebel. Motion carried, 6-3.

Motion was made by Hanks and seconded by Murphy to request that staff prepare an ordinance amendment to **implement the CIP Operating Procedures** as recommended (No. LF100103-18). Green explained that the item before the Council at this time is direction to the City Attorney's Office to draft an ordinance that will implement the operating procedures as recommended by the CIP Committee, rather than the current ordinance requirement containing the ten day notice requirement. Upon vote being taken, the motion carried with Kriebel voting no.

The next item discussed by the Council was No. LF100103-23 – Options relating to **condemned signs**. Asst. City Attorney Jason Green indicated there are three options for condemned signs: 1) proceed under the current ordinance. Green stated that he feels the current ordinance operates as it was intended at the time the sign code was adopted. 2) create an exception for signs that have been condemned. Green stated that there are legal pitfalls with this option. And 3) reconsider the sign code in its entirety. The City may be able to deal with the pitfalls of creating exceptions with this option. Green also asked for direction from the City Council on an appeal procedure. Motion was made by Murphy and seconded by Hanks to refer this issue to the Ordinance Review Committee for recommendation. Upon vote being taken, the motion carried unanimously.

Motion was made by Hanks and seconded by Murphy to request the City Attorney's Office to prepare an ordinance amendment **allowing murals** and bring it before the full Council on November 3, 2003, for discussion (No. LF100103-03). Asst. City Attorney Jason Green noted that there are a number of legal issues that come up with regard to murals. He suggested that this issue be referred to the Ordinance Review Committee for discussion. Roll call vote was taken: AYE: Murphy and Hadley; NO: Hanks, French, Waugh, Kroeger, Kriebel and Partridge. Motion failed, 2-6.

Motion was made by Hanks, seconded by Kroeger and carried to authorize Mayor and Finance Officer to sign **Loan and Infrastructure Development Agreement** between City of Rapid City and Lazy P-6 Land Company, Inc. (No. LF100103-26).

Motion was made by Hanks, seconded by Kroeger and carried to authorize Mayor and Finance Officer to sign **Promissory Note** between City of Rapid City and Lazy P-6 Land Company, Inc. (No. LF100103-26A).

The next item discussed by the Council was the **11-6-19 Review Procedure**. Green explained that this issue is before the Council at this time because he needs guidance on how to proceed with any changes in state law. This is the section of state law that the county used to establish the work release facility on Adams Street which was contrary to the unanimous vote of the City Council and City Planning Commission. To facilitate discussion, Green suggested that 1) the city seek complete repeal of the section, 2) eliminate the provision that allowed the County to override the City's decision, 3) implement a right of review by a circuit court, or 4) clarify which projects the review process would apply to. Motion was made by Hanks, seconded by French and carried to direct the City Attorney's Office to move forward to clarify this section of the law, and implement a review by the court system.

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

Motion was made by Kooiker, seconded by Rodriguez and carried to approve No. PW090903-11 – Authorize Mayor and Finance Officer to sign a Professional Service Agreement with Ferber Engineering Company, Inc., to Design **East Mall Drive** from East North Street to Dyess Avenue Project No. SSW03-1334 for an amount not to exceed

\$91,345. (Secretary’s Note: Action taken later in the meeting to continue this item until October 20, 2003.)

The Mayor presented No. PW093003-01, a request by Dave Semerad, 3724 Morningview Drive for an **Exception to the City design standards** regarding sewer service connection to sewer main; and granting an easement for a sewer service extension across the Rapid City Fire Department property. Motion was made by Kooiker, seconded by Rodriguez and carried to continue this item until October 20, 2003, as requested by the applicant.

Motion was made by Kooiker, seconded by Waugh and carried to approve No. PW093003-07 – Authorize Mayor and Finance Officer to sign Amendment No. 01 to a Professional Service Agreement with Ferber Engineering to Design **Fifth Street Extension Project** No. ST00-914 for an amount not to exceed \$30,000.

Motion was made by Kroeger, seconded by Rodriguez and carried to reconsider Agenda Item No. 117 regarding SSW03-1334, design of **East Mall Drive**. Green explained that no funding source has been identified for this project. Motion was made by Hanks, seconded by Rodriguez and carried to continue this item until October 20, 2003.

**Addendum Items**

Upon motion made by Hanks, seconded by Murphy and carried, the Finance Officer was directed to publish notice of hearing on the application of Waneta & Dick Ragels dba **Executive Golf** Course, 200 Twelfth Street, for an On-Off Sale Malt Beverage License Transfer, said hearing to be held on Monday, October 20, 2003.

**Ordinance 3991** entitled An Ordinance to Amend the Regulation of Adult Oriented Businesses Within the City of Rapid City by Amending Section 17.50.186 of the Rapid City Municipal Code, was introduced. Upon motion made by Hanks, seconded by French and carried, Ordinance 3991 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, October 20, 2003.

**Approval of Bills**

The following bills having been audited, it was moved by Hanks and seconded by Rodriguez to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof:

Payroll Paid Ending 09-20-03, Paid 09-26-03	597,280.28
Payroll Paid Ending 09-20-03, Paid 09-26-03	397.03
Payroll Paid Ending 09-30-03, Paid 9-30-03	963,711.09
Pioneer Bank, Taxes Paid 09-26-03	145,566.11
Pioneer Bank, Taxes Paid 09-26-03	30.37
Pioneer Bank, Taxes Paid 09-30-03	236,924.06
1 <sup>st</sup> National Bank in Sioux Falls, SRF loan payment No. 1-5	294,996.14
First Administrators, claims Paid 9-17-03	112,920.08
First Administrators, claims Paid 9-24-03	85,540.21
First Administrators, claims Paid 9-30-03	116,024.02
Wells Fargo Corp. Card, credit card charges	146.76
BH Power & Light, electricity	39,847.86
BH Power & Light, electricity	80,867.41
MDU, gas service	4,106.75
US Postmaster, billing postage	2,200.00
Computer Bill List	<u>3,218,085.21</u>
Total	<u>\$5,898,643.38</u>

Payroll Paid Ending 09-20-03, Paid 09-26-03	2,658.40
Pioneer Bank, Taxes Paid 09-26-03	194.60
City of Rapid City, petty cash, ink cartridge	27.97
City of Rapid City, postage	18.84
Philfleet Advantage, gasoline	151.55
SD School of Mines, telephone	55.30
Angie Weeks, mileage	42.24
Total	<u>\$5,901,792.28</u>

Vore requested that the payment to Nichols Associates in the amount of \$5,050 be removed from the Bill List and continued until October 20, 2003. Hanks amended his motion to approve the bill list with the exception of this payment. Rodriguez concurred. Upon vote being taken, the motion carried unanimously.

As there was no further business, the meeting adjourned at 12:05 A.M.

CITY OF RAPID CITY

ATTEST:

\_\_\_\_\_
   
Mayor

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

(SEAL)