

Kroeger moved, second by Olson and carried to approve the following alcohol license applications.

Special Malt Beverage and Wine License

37. Jackie Barr dba **Rushmore Soccer Clubs, Inc.** for a Special Malt Beverage and Wine License for use on February 5, 2005

Set for Hearing (February 7, 2005)

Chapman moved, second by Hadley and carried, and the Finance Officer was directed to publish notice of hearing on the following application, said hearing to be held on Monday, February 7, 2005.

On-Sale Retail Liquor License Transfer

38. Shotgun Willies, Inc. dba **Shotgun Willies** for an On-Sale Retail Liquor License Transfer from Hotel Management Co., Inc. dba **Jefferson Bar**, 523 6th Street

Special Malt Beverage and Wine License

39. **Pennington County Democratic Party** for a Special Malt Beverage and Wine License for use on February 18, 2005 at Prairie Edge Gallery

CONSENT CALENDAR ITEMS – 41-78

The following items were removed from the Consent Calendar:

42. No. CC010305-01 Affirm the decision of the Sign Code Board of Appeals with the additional variance to allow the sign to exceed the 30 foot height limit up to 37 feet for Herman F. Jones, Stagecoach West Sign Company, Inc.
60. No. LF011205-15 Approve Travel Request for Mayor Shaw, Tom Johnson, Ron Kroeger, Sam Kooiker, and Bob Hurlbut to attend National League of Cities Congressional City Conference, March 11-15, 2005, Washington, D.C. in the approximate amount of \$11,930.
75. No. 04PL186 - A request by Sperlich Consulting, Inc. for a **Preliminary Plat** on Lots 1 and 2 of Lot B of Block 16, Major Drainage Easement of a portion of Lot B of Block 16, and Public Access Easement of a portion of Lot B of Block 16, Trailwood Village, all located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of Lot B of Block 16 of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot B of Block 16 of Trailwood Village, common to the northeasterly corner of the intersection of the right-of-ways of SD State Highway 44, and Covington Street, and the Point of Beginning; thence, first course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; thence, second course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 8°34'58", an arc length of 89.88 feet, a chord bearing of N36°07'40"E, and chord distance of 89.79 feet, to

made to use the sign as an on-premise sign, it can not go back to an off-premise sign. The structure becomes illegal and it must be removed. Green pointed out the proposed structure is a prohibited sign according to the Sign Code because it has multiple faces on multiple sides of the same structure. Green indicated any conversion from on-premise to off-premise necessitates full compliance with the sign code. Substitute motion by made by Olson, second by Johnson to affirm the decision of the Sign Code Board of Appeals with the additional variance to allow the sign to exceed the 30 foot height limit up to 37 feet; and deny the additional applicant's request to double stack the signs. Motion carried.

French moved, second by Kroeger and carried (No. LF011205-15) to approve a Travel Request for Mayor Shaw, Tom Johnson, Ron Kroeger, Sam Kooiker, and Bob Hurlbut to attend National League of Cities Congressional City Conference, March 11-15, 2005, Washington, D.C. in the approximate amount of \$11,930; noting that Alderman Chapman would attend in Alderman Kooiker's stead, and a change in the dates as March 10-15, 2005.

Hadley moved, second by Johnson and carried to continue No. 04PL186, a request by Sperlich Consulting, Inc. for a **Preliminary Plat** on Lots 1 and 2 of Lot B of Block 16, Major Drainage Easement of a portion of Lot B of Block 16, and Public Access Easement of a portion of Lot B of Block 16, Trailwood Village, all located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of Lot B of Block 16 of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot B of Block 16 of Trailwood Village, common to the northeasterly corner of the intersection of the right-of-ways of SD State Highway 44, and Covington Street, and the Point of Beginning; thence, first course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; thence, second course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 8°34'58", an arc length of 89.88 feet, a chord bearing of N36°07'40"E, and chord distance of 89.79 feet, to a point on the easterly edge of the right-of-way of said Covington Street; thence, third course: S51°11'35"E, a distance of 461.43 feet, to a point on the easterly boundary of said Lot B of Block 16, common to a point on the westerly boundary of Lot B of Lot 2 of Ridgeview Place Subdivision; thence, fourth course: S38°38'57"W, along the easterly boundary of said Lot B of Block 16, common to the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 67.21 feet, to a point on the easterly boundary of said Lot B of Block 16, common to the southwesterly corner of said Lot B of Block 2 of Ridgeview Place Subdivision, and common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; thence, fifth course: S38°53'52"W, along the easterly boundary of said Lot B of Block 16, common to the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southeasterly corner of said Lot B of Block 16, common to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, and common to a point on the northerly edge of the right-of-way of SD State Highway 44; thence, sixth course: N51°11'35"W, along the southerly boundary of said Lot B of Block 16, common to the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of the right-of-ways of said SD State Highway 44, and said Covington Street, and the Point of Beginning; all located in the SE1/4 of the SW1/4, Section 10, T1N, R8e, BHM, Pennington County, South Dakota, located at the corner of SD State Highway 44 and Covington Street to the February 7, 2005 Council meeting.

shall be revised to show a non-access easement along Elm Avenue, along the west lot line of Lots 12 and 18 of Block 2 and the first 50 feet of all corner lots; 10. Prior to submittal of a Final Plat application, a different street name for "Court A" shall be submitted to the Emergency Services Communication Center for review and approval. In addition, the plat document shall be revised to show the approved street name; 11. Prior to Preliminary Plat approval by the City Council, a subdivision cost estimate shall be submitted for review and approval; and, 12. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

76. No. 04PL188 - A request by Rhonda Haskell for a **Preliminary Plat** on Lots 40R and 41R, Block 6, Hall Subdivision, located in Government Lot 3, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as west half of Lot 38, and all of Lots 29 thru 41 in Block 6, Hall Subdivision located in Government Lot 3, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4030 Hall Street. (APPROVE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: 1. Prior to Preliminary Plat approval by the City Council, the Variance to the Subdivision Regulations to allow a lot twice as long as it is wide as per Chapter 16.16 of the Rapid City Municipal Code be approved or the plat document be revised; 2. Prior to Preliminary Plat approval by the City Council, the Flood Report and Flood Plan shall be revised using the actual existing flow calculations and resubmitted for review and approval; and, 3. Prior to submittal of the Final Plat application, the plat document shall be revised to show floodway boundaries and any necessary drainage easements.)

END OF CONSENT CALENDAR

Raffles

Hadley moved, second by French and carried to Acknowledge a request from Fellowship of Christian Trailriders International, Inc. to conduct a raffle beginning February 2, 2005 until October 1, 2005 for a saddle valued at \$1,000

The Mayor presented No. CC010305-01, to affirm the decision of the Sign Code Board of Appeals with the additional variance to allow the sign to exceed the 30 foot height limit up to 37 feet for Herman F. Jones, Stagecoach West Sign Company, Inc.; whereupon Johnson moved, second by Hadley to approve. Herman Jones approached the Council with a request to allow a single pole structure billboard to be used as an on-premises sign and off-premises sign jointly; and with the aid of an overhead Jones pointed out the location of the sign. Jones explained that Lazy J Campground is the property owner and they have the possibility of using 3,700 SF of billboard space on their existing property; and at this time, they are only using approximately 500 SF of the 3,700 SF allowed by City code. Jones proposed to put 240 SF on each side of the upper billboards to allow them to advertise the business. He pointed out that the access to the campground for left turn movements is being closed by the DOT. Jones indicated his need for a waiver to allow an on-premise sign on top of the existing off-premise sign, with the designation that this could be the only use. Responding to a question from Alderman French, City Attorney Green explained the definition of a sign, whether it is an on-premise or off-premise, is included in the code. If the property on which the sign is located, has a business located there that is advertising on the sign, the sign should advertise that message. The Sign Code prohibits any sign that is converted from an on-premise to an off-premise sign; and once the conversion is

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

January 3, 2005

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, January 3, 2005 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Malcom Chapman, Jean French, Ron Kroeger, Tom Johnson, Karen Olson, Sam Kooiker, Bob Hurlbut and Bill Waugh. The following Alderpersons arrived during the course of the meeting: Tom Murphy; and the following were absent: Ray Hadley.

Staff members present included City Finance Officer Jim Preston, Public Works Director Dirk Jablonski, City Attorney Jason Green, Growth Management Director Marcia Elkins, Fire Chief Gary Shepherd, Police Chief Craig Tieszen, Parks and Recreation Director Jerry Cole and Administrative Assistant Jackie Gerry.

APPROVE MINUTES

Kroeger moved, second by Chapman to approve the minutes of December 20 and Special Council of December 28, 2004. Substitute motion was made by Hurlbut, second by Waugh to approve the minutes of the Special Council of December 28, 2004 and continue approval of the minutes of December 20. Motion carried.

ADOPTION OF THE AGENDA

The following items were added to the agenda:

- 6.a. Swear in new Public Works Director, Dirk Jablonski
- Executive Session to discuss pending litigation, contractual and personnel matters
- Continue agenda item #99 after the executive session
- 7.a. 5th/St Cloud intersection traffic issues, Alderman Kooiker

Kroeger moved, second by Waugh and carried to adopt the agenda as amended.

AWARDS AND RECOGNITIONS

Judge Michael O'Connor and members of the Imaichi Sister City Association, who recently traveled to Sister City Imaichi, Japan shared with the Council their experiences and gifts received during their visit to Imaichi.

GENERAL PUBLIC COMMENT

The Mayor acknowledged Herman F. Jones, Stagecoach West Sign Company, Inc., who made a formal request to appeal the December 15, 2004 decision of the Sign Code Board of Appeals (No. CC010305-01). In response to an inquiry from City Attorney Green, Mr. Jones assured the Council he had presented evidence of his certified mailing as it related to his request and

hearing before the Council. Jones related his ownership of a billboard located along Hwy 16 south of Rapid City near the Lazy J Campground and explained this billboard has been in this location since 1969. He proposed to replace the existing flat-faced billboard with a standard single-pole, V-shaped billboard that will be fifteen feet off the ground. He requested a Variance to the sign height and square foot requirement. He explained that under the current Ordinance, if he removed the billboard, he could not replace his advertising billboard; but the Sign Code Board granted a waiver to put the billboard back up, but with only one face on the billboard. He suggested this directional advertising sign would be more visible above the tree line, and the size of the billboards would remain the same size as the flat-faced billboard. He stressed the importance of this billboard because of the Department of Transportation's intent to close the access to Hwy 16 for his business. City Attorney Green summarized the discussion of the Sign Code Board of Appeals, explaining they granted the Variance for the spacing, because there are other off-premises signs located in the same area. The sign could not go back up because it did not comply with the spacing requirements. The Sign Code Board granted a Variance for the spacing; however, they did not grant a Variance to allow more than one face on the billboard. He explained this is a prohibitive sign in the ordinance, and it specifically states that the Sign Code Board can not grant a Variance for a prohibitive sign. He pointed out the Sign Code Board did not grant a Variance for the square footage on the face that was allowed. Alderman French suggested it was appropriate to allow the Variances requested; whereupon she moved to grant the Variance for height and square foot. The Chair ruled the motion died for lack of a second. In response to an inquiry from Alderman Johnson, Green advised that it would his opinion the Council does not have the authority to grant a Variance to allow the construction of a prohibitive sign. Responding to a question from Alderman Kroeger, Green explained the off-premise sign code, as adopted, is designed to effect the removal of nonconforming signs. The ordinance accomplishes that through a couple of mechanism; one of those is that it does not allow nonconforming signs to be created, and it does not allow newly created signs to be nonconforming. It requires all new signs meet all the requirements. The Sign Code Board has given a Variance on the spacing which is the extent of what is permissible under the current ordinance. Responding to an inquiry from Alderman Olson, Green pointed out that without the Variance granted by the Sign Code Board there would be no ability to have the sign. Because they did grant a Variance on the spacing, there will be an ability to have some sign but much less that what is being proposed by the applicant. Alderman Hurlbut expressed his concerns on the effects this advertising billboard will have on the business and suggested this item be continued to the Public Works Committee to explore options on how this can be done in a way that least impacts the business while also being in compliance, granting variances, or identifying needs for whatever amendments may be required if that is an identified solution. Substitute motion was made by Hurlbut, second by Kooiker to continue the Formal request to appeal the December 15, 2004 decision of the Sign Code Board of Appeals, Herman F. Jones, Stagecoach West Sign Company, Inc. to the January 11, 2005 Public Works Committee meeting. Motion carried.

The Mayor announced that the meeting was open for consideration of the Security License Application for John Emerson. No one appeared to enter objections to the Police Department's denial of the application. Waugh moved, second by Kooiker to affirm the Police Department's decision to deny a Security License Application for John Emerson. Motion carried.

Paul Brankin, Dakota Plains Legal Services appeared before the Council and explained the organization and its viability as it pertains to future community development block grants.