A Legal and Finance Committee meeting was held at the City Administration Center in Rapid City, South Dakota, on Wednesday, July 27, 2022, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: Laura Armstrong, Ritchie Nordstrom, Pat Jones, Jason Salamun and Pat Roseland Absent: None

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Agenda.)

ADOPTION OF AGENDA
Motion was made by Nordstrom second by Jones and carried to adopt the agenda.

GENERAL PUBLIC COMMENT
None

CONSENT ITEMS
Motion was made by Jones second by Salamun and carried to approve Items 1 - 15 as they appear on the Consent Items.

CONSENT ITEMS -- Items 1 – 15

Public Comment opened – Items 1 – 15
Public Comment closed

Remove Items from the “Consent Items” and Vote on Remaining Consent Items

1) Approve Minutes for July 13, 2022

MAYOR’S ITEMS
2) LF072722-02 – Confirm the Appointment of David Zehntner to the Public Parking Advisory Board

3) LF072722-03 – Confirm the Appointment of Brook Kaufman to the Planning Commission

POLICE DEPARTMENT
4) LF072722-06 – Authorize Mayor and Finance Director to Accept and Sign the Additional Project Safe Neighborhood (PSN) Grant Funding in the Amount of $85,148.00

5) LF072722-07 – Authorize Mayor and Finance Director to Sign and Accept the Supplemental Project Safe Neighborhood Grant Funding in the Amount of $8,598.00

6) LF072722-08 – Authorize the Mayor and Finance Director to Accept and Sign the Johns Hopkins Agreement and subsequent JourneyOn Contract Providing Wages to JourneyOn’s Project Director in the Amount of $20,000.00

7) LF072722-09 – Authorize Staff to Apply for and Accept if Awarded, the 2022 JAG Grant, in the Amount of $118,961.00 used to Purchase Forensic Equipment

FIRE DEPARTMENT
8) LF072722-13 – Authorize Staff to Purchase a Live Fire Training Tower from American Fire Training Systems, Inc. in the Amount of $908,000 Through a General Services Administration Contract (GSA)

FINANCE DEPARTMENT
9) Acknowledge the Following Volunteers for Worker’s Compensation Purposes: Karen Collings (Library), Joan Bachmeier (RSVP+), Geraldine Ness (RSVP+), Ranae Pickar (RSVP+)
10) LF072722-04 – Approve Resolution No. 2022-064 a Resolution Cancelling Checks or Warrants Not Presented for Payment Within One Year of Date of Issuance
11) LF072722-05 – Approve Resolution No. 2022-059B a Resolution Levying Assessment for Downtown Business Improvement District 2022

PARKS AND RECREATION
12) LF072722-01 – Accept Property (Tax IDs 71363 and 71365) Donated by Yasmeen Dream LLC and Authorize the Mayor and Finance Director to Sign All Documentation Related to the Donation.

COMMUNITY DEVELOPMENT
13) LF072722-01 – Approve Resolution No. 2022-062 a Resolution to Dissolve Tax Increment District #78 (Property generally described as being located east and west of Elk Vale Road between E. Highway 44 and the current terminus of East Fairmont Street)

CITY ATTORNEY’S OFFICE
14) LF072722-10 – Authorize Staff to Employ Outside Counsel and Authorize Counsel to File Suit Against Weston Engineering, Inc. Concerning Well No. 8 Pump Replacement 2018 Project No. 17-2421 / CIP No. 51188
15) LF072722-11 – Youth City Council Requests Authorization for Expenditure of $250.00 of Approved Budget for Lunch and Snack Expenses During Their Summer Tour

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Item 16

Public Comment opened – Item 16
Mark Bowron, professor from SDSM&T, spoke on item 16. He is concerned about the proposed resolution and some of the factual information and is surprised that the council is willing to consider a resolution based on an opinion rather than on facts. He said there has been no outreach to the School of Mines and he would like to suggest that the council have a joint meeting with the School of Mines to discuss this item. Bowron provided the following pieces of information: 1) exploration is not mining; 2) if a project were to go forward, the permitting process would probably take 10 years if it was ever completed; 3) the project would require an environmental impact statement; 4) multiple people in the area would have opportunity to comment and to have influence over the impact statement and the permit decision; 5) exploration companies simply explore; 6) operating companies do the mining. He added that if in the event there was a mine to be developed, it would be by an operator who has ample experience, deep pockets, and listed on the New York Stock Exchange. He closed by saying that a 20 billion dollar company is more than adequate in financial assets in order to take care of any problems.

Larry Mann, representing F3 Gold, spoke on item 16. He began by clarifying three things: 1) F3 will not be sourcing any water from Rapid Creek (it will be made from a commercial or municipal source probably from Lead and trucked in); 2) no water will be discharged into the Rapid Creek drainage; 3) there is no interest in digging underneath Pactola. Mann asked the committee to keep in mind that the Black Hills have been explored for decades and even within the last 40 years he would expect there are tens of
thousands of drill holes that have been drilled in the Black Hills. Mann explained the approval process. He relayed that F3 first submitted their plan of operation to the Forest Service in December of 2018 and by the end of the objection period, it will have taken almost 4 years and in excess of half a million dollars to drill holes on five acres. He addressed concerns regarding leaking fluids and informed the committee that the drilling fluids are biodegradable (natural). He is clearly convinced that there is a good chance that some of this exploration drilling will hit intercepts (gold). He said the question then becomes, is it just coincidental or where within the geology does it exist, so additional discovery would have to be made to determine what its width, depth, and strike are. All of this would take 8 to 10 years just to determine whether or not it was an economic ore body. Mann has not been familiar with an exploration project that has found a new ore body. He added that everything that has been mined in the last 40 years has been mined on historic sites, and there is nothing new that has been found.

Tim Rensch, citizen of Rapid City, spoke on item 16. He began by pointing out that the Forest Service here requires a bond for all damages to forest service resources including water. He mentioned the State requires a $10,000.00 bond for damage to state property. Rensch brought forward the following questions keeping in mind the City has the right to 89% of the water in Pactola Lake: 1) who pays for the damage if the exploration pollutes the water in Rapid City; 2) who is liable for that trouble; 3) what would be the cost of upgrading the water treatment facility and monitoring to know if there was some type of environmental spill or leak and more so, how will the City be notified; 4) Will the Forest Service be onsite consistently to monitor the work to ensure there is no contamination. He asked the council when looking at this type of a resolution to realize that municipalities have the right to protect the water source of the community and to consider and research what powers the City has and may want to demand in case there is some horrible disaster.

Suzanne Martley, citizen of Rapid City, spoke on item 16. She told the committee that the City has a duty to protect its citizens, protect the drinking water and has the power to prevent pollution or injury to any water supply within a mile of the city or belonging to the municipality by placing regulations. She would like to see the City take further action to protect the water source.

Cathy Thrash, member, and Alan Anderson, Chair, of the Sustainability Committee spoke on item 16. Anderson read a letter of support from the Sustainability Committee supporting the Legal and Finance Committee in objecting to the permitting of drilling for its exploration of gold in the areas of Jenny Gulch in the Rapid City watershed and recommend that the Rapid City Common Council prepare and submit a formal response to the US Forest Service opposing the proposed project. Anderson listed the following key points: 1) the entire Rapid Creek watershed and the areas above the Madison limestone aquifer outcrop are fully connected and potentially influenced by the drilling and possible future mining; 2) the Madison outcrop runs all along the exterior of the Black Hills; 3) the Madison aquifer serves as the main water supply for Rapid City and many other communities; 3) the project site is located approximately one half mile from Pactola Reservoir of which as stated earlier, Rapid City has 89% of the water rights and any release of materials or chemicals from the project site intended or not, has great potential to pollute the water supply; 4) the risk of contamination of both surface and groundwater from the proposed exploratory drilling and potential subsequent mining activities has not been quantitatively defined; 5) the cost to replace local and regional water supplies needs to be fully documented in the risk and provided for with sufficient bonding and sureties; 6) the environmental assessment prepared by the US Forest Service considered environmental factors only as required by NEPA, but the full environmental effects of Diamond Core Exploratory Drilling being proposed by F3 Gold, LLC may not be entirely known; 7) technology and drilling methods outpace the studies and laws made to protect the environment in which they are taking place.

Thrash read a statement: Several years ago, Homestake did deep exploration to find gold ore to continue mining and resolved to eventually close that deep underground mine and what we are considering and asking is what probability exists to find the gold ore and then mine enough of it to make it an economic benefit. It seems to me that doing the exploration that will not lead to mining eventually or may or may not be. It is just kicking the can 8 to 10 years down the road saying it still won’t be our problem then, but it will be a problem then. The company that is doing the exploratory drilling say they will not mine, but will rather sell the rights to the mining companies that come in and do their job. We can sit back and say we hope
that they don’t find anything or if they do, then we will handle it later, but we do not feel it is an adequate response. We feel that the environmental assessment or preferably a more adequate environmental impact statement should clearly show the risks and the justification of mining to support that exploration drilling. Sadly, there are more mining companies and drilling exploration proposals in the Black Hills area, so this will not be the last discussion that we are having around protecting our region’s water supply and livelihood. Almost a quarter of the Rapid Creek watershed upstream from Rapid City is subject to gold mining claims according to the Rapid Creek Watershed.org website. Rapid City and the surrounding region is growing at break neck speed and the protection of the water supply is vital to our sustainability, to our wellbeing and to the growth of our community. We just cannot emphasize this enough. Everything in our community depends on a sustainable source of the clean water that we need and for the health of our residents, to our recreational opportunities, to our food supply, tourism, industry, the wildlife, economic development, our future growth, and just the quality of life we have living here. Water is truly life and is essential not only to our existence but to our future generations as well and the cost to replace a water supply would be tremendous if it were ever contaminated. Can we just learn from the other communities that have been impacted by spills and disasters and just work on this to protect our water supply before it is too late.

Patricia Scarborough, citizen of Rapid City and member of the Sustainability Committee, spoke on item 16 regarding her opposition to the proposed project. She is concerned that if the company is allowed to perform its exploratory drilling and if they find what they are looking for, it seems that the money will have all the power to proceed with the mining and the subsequent impact to our water sources and recreational areas cannot be undone. She urges the committee to please use what power they have to oppose this exploratory drilling.

Justin Harreman, citizen of Rapid City and member of RCWA (Rapid Creek Watershed Action), spoke on item 16 regarding his opposition to the proposed project and the consequences of allowing the project to move forward. He feels F3 is playing Russian roulette with our economy and we need to stop and consider the motivation in the half million dollars that they have already spent on this project and the additional million dollars they are going to spend. Harreman said he is motivated to protect generations to come to make sure they have clean drinking water and believes what F3 cares about is just money. He asked the committee if they are going to focus on infrastructure, development, future safety of the watershed, the economy of Rapid City and the economic benefit that comes to the community from that watershed, such as tourism and agriculture, which are the industries that drive the community. He would like the Council to focus on the industries we know are going to grow the economy and make future jobs for future generations. He understands that this is just exploratory drilling and the chances of it causing degradation are not substantial but to consider the long term consequences when they do find gold. He also pointed out that F3 would not be spending this money if they were not confident that there is gold there; so it is not a matter of if, but when, and then what are the consequences for our community. He does not want to see this kicked down the road and then have to deal with it 10 or 12 years later which would cost a lot more money.

Annie Bachand, citizen of Rapid City, spoke on item 16 regarding her opposition to the exploration project. She began by reminding everyone that mining goes back a really long time here and it was really at the crux that allowed the United States government to break its treaties with our people here, so it is not something that is new but rather has been faced on a repeated basis over and over and over again. She pointed out that the City Council has repeatedly said that the treaties with the Indian Nations are important to respect and honor. Bachand said you can see in the hills the consequences that have already occurred and the destruction of the land, adding that those destructive forces of drilling are not invisible and there are plenty of spaces that were never taken care of responsibly. She noted that there is no history of responsible action in this industry. She believes this is very serious and people are trusting the council as leaders of the community to do the right thing and she also thanked all the people who brought this forward.

Public Comment closed

ALDERMAN ITEMS
LF072722-12 – Jones shared his thoughts on this project and made known he is not in favor of any mining project that would negatively impact the watershed. Nordstrom would like to see more collaboration with the School of Mines. He also conveyed that he is more concerned with septic tanks in the area than core drilling. Salamun said he does not oppose responsible mining but thinks the rewards to the company for this project are not worth the potential risk to our water supply. He would like to see the information independently verified by experts to be sure that it is factual before making any decision on a resolution. He would like the School of Mines to weigh in on this. Salamun’s priority is doing whatever it takes to protect the water as best as possible. Jones asked where this resolution came from. Armstrong informed the committee that the resolution was drafted by a citizen in the community. She had Water Superintendent Jeff Crocket look over the resolution and he gave his seal of approval on the technical terms. Armstrong said in addition, Assistant City Attorney Justin Williams has reviewed the resolution as well along with other professional members and the wording is up to par. She noted that although a resolution does not have much teeth to it, it can serve as a formal objection. Armstrong announced that Rapid City was notified today that the State is recognizing Rapid City for “drinking water excellent” for the nineteenth year in a row. She finds the timing of this award to be spot on. She then reiterated that exploratory drilling turns into mining and as Mr. Mann said earlier there is no doubt they will hit gold. She also reiterated that people do not invest millions of dollars to write off to the IRS. It is a business model exploring to look for gold and then sell the rights to the highest bidder; they are most often out of state like F3 and the tax payers are then dealing with the aftermath. She does not want this in her backyard. Armstrong said $12 million dollars has been invested in Elevate to recruit businesses to Rapid City. She further stated that this project will not benefit indigenes people, businesses, property owners, tourists, etc. but will only benefit F3. She also read one of the items from the FAQ’s attached which stated “one of the most egregious gaps in the process has been the failure of the Forest Service to conduct meaningful tribal consultations or provide access by tribal officials, resource users and stakeholders to have a voice”. Her understanding is that a letter went out last week to the US Agriculture Secretary Tom Vilsak in Washington, DC and it appears that tribal leaders are against this mining and any kind of drilling. Armstrong asked City Attorney Joel Landeen what if any are the City’s legal remedies or options to prevent any future gold mining in the Rapid Creek watershed. Landeen said it is something that can be looked into but he does not believe the City has any authority to prevent anyone from requesting the opportunity to explore or mine in the Black Hills and that it is probably going to be a state or federal question. Roseland moved to send the Discussion about Jenny Gulch Exploration Drilling Project by F3 Gold, LLC – Laura Armstrong and the proposed resolution to council without recommendation. Second by Jones. Motion carried unanimously.

ADJOURN
There being no further business to come before the Committee at this time, motion was made by Salamun second by Jones and carried to adjourn the meeting at 1:51 p.m.