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, August 1, 2016 at 10:00 A.M.

The following members were present: Mayor Steve Allender and the following Alderpersons: Ritchie Nordstrom, Darla Drew, Jason Salamun, Brad Estes, Jerry Wright, Lisa Modrick, John Roberts and the following Alderpersons arrived during the course of the meeting: NONE; and the following were absent: Charity Doyle, Amanda Scott and Steve Laurenti.

Staff members present included: Finance Officer Pauline Sumption, Assistant City Attorney Wade Nyberg, Acting Public Works Director Dale Tech, Fire Chief Mike Maltaverne, Police Chief Karl Jegeris, Community Resources Director Jeff Barbier, Parks & Recreation Director Jeff Biegler and Administrative Coordinator Heidi Weaver-Norris.

ADOPTION OF AGENDA
Motion was made by Wright, second by Roberts and carried to adopt the agenda.

CONSENT ITEMS
The following item was removed from the Consent Items:


Motion was made by Estes, second by Salamun and carried to approve Consent Items 1-31 as they appear on the Consent Items with the exception of Item 26.

Approve Minutes
1. Approve Minutes for the July 18, 2016 Regular Council meeting.

Alcoholic Beverage License Applications Set for Hearing (August 15, 2016)
2. Story Book Island for a SPECIAL EVENT On-Sale Dealer for an Event Scheduled for September 9, 2016 at Story Book Island, 1301 Sheridan Lake Road
4. Calm Waters LLC DBA Hilton Garden Inn, 815 E Mall Drive for a Retail (on-sale) Liquor License (Inactive) TRANSFER from AJ Inc. DBA Shotgun Willies, 2201 Mt. Rushmore Rd (formerly held at 2808 W Main Street)
5. PT Operations LLC DBA Philly Ted’s Cheezsteaks, 502 Main Street, Suite 200, for a Retail (on-off sale) Malt Beverage License

Public Works Committee Consent Items
6. No. PW072616-01 – Confirm the Reappointment of Vicky Fenhaus to the Historic Sign Review Committee.
8. No. PW072616-03 – Approve Change Order #1 to RCS Construction for Water and Sanitary Sewer Extension, Project No. 14-2155 / CIP No. 50961.5 for an increase of $9,265.68.
10. No. PW072616-05 – Authorize Staff to Advertise for Bids on Cobalt Drive Sanitary Sewer Bypass, Project No. 14-2127 / CIP No. 50957. Estimated Cost: $575,000.00.
11. No. PW072616-06 – Authorize Staff to Advertise for Bids on Backhoe for the Water Reclamation Utility Maintenance Group.
12. No. PW072616-07 – Authorize Mayor and Finance Officer to Sign Agreement between the City of Rapid City and Kadmas, Lee and Jackson for Rapid City Primary and Secondary Control Survey, Project No. 16-2336 / CIP No. 51117 in the amount of $54,410.00.
13. No. PW072616-08 – Authorize Mayor and Finance Officer to Sign Purchase Agreement for Well Lot between Terracotta Estates Homeowners Association and City of Rapid City.
14. No. PW072616-09 – Authorize Staff to Seek Proposals for Catron Boulevard Widening Project; Project No. 16-2343 / CIP No. 51115. Estimated Cost: $1,300,000.00.
15. No. PW072616-11 – Deny the Request from Vista Village, LLC for a Variance to Waive the Requirement to Install Sidewalk per City Ordinance 12.08.060 along East North Street adjacent to 544 Century Road.

Legal & Finance Committee Consent Items
16. No. LF072716-03 – Confirm the Reappointment of Chris Connely to the Hotel Business Improvement District (BID) Board
17. No. LF072716-06 – Confirm the Appointment of Ross McKie and Lisa Modrick and the Reappointment of Anna Huntington to the Performing Arts Board
18. No. LF072716-04 – Authorize Fire Chief to Sign Mutual Aid Agreement with Ellsworth for Ambulance Mutual Aid
19. Acknowledge the Following Volunteers for Worker’s Compensation Purposes: Elyse Jensen, Julianna Miller, Madison Romeo, Ashley Parr, Ashton Parr, Al Calderon
21. No. LF072716-07 – Approve Request for Property Tax Abatement as Follows: Alan Skeen, 2015, $192.50
22. No. LF072716-11 – Resolution No. 2016-054A Fixing Time and Place for Hearing on Assessment Roll for Cleanup of Miscellaneous Property

RESOLUTION No. 2016-054A
RESOLUTION FIXING TIME AND PLACE FOR HEARING ON ASSESSMENT ROLL FOR CLEANUP OF MISCELLANEOUS PROPERTY

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

1. The Assessment Roll for Cleanup of Miscellaneous Property was filed in the Finance Office on the 1st day of August, 2016. The City Council shall meet at the City / School Administration Center in Rapid City, South Dakota, on the 6th day of September, 2016 at 6:30 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.

2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time, and place of hearing thereon; that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.

3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her, or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 1st day of August, 2016.
CITY COUNCIL

CITY OF RAPID CITY

s/ Steve Allender
Mayor

AUGUST 1, 2016

ATTEST:
s/ Pauline Sumption
Finance Officer

(SEAL)

23. No. LF072716-09 – Authorize Mayor and Finance Officer to Sign FY2015, SF-424 and Certifications and Approve Final Consolidated Annual Performance and Evaluation Report (CAPER)

24. No. LF072716-12 – Authorize Mayor and Finance Officer to Sign Master Service Agreement, Addendum to Master Service Agreement and Two Service Orders with Midcontinent Communications

25. No. LF072716-08 – Acknowledge Update Regarding Ordinance Regulating Short Term Rentals.

27. No. LF072716-05 – Approve Request to Eliminate RapidRide Public Transportation Fee for K-12 Students.

Community Planning & Development Services Department Consent Items

28. 16CA003 – Acknowledge Report and Presentation of the Downtown Area Master Plan (Draft).

Bid Award Consent Items

29. No. CC080116-02.1 – Approve award of Total Bid for Pavement Rehabilitation Project – Watertown Street, Project No. 15-2303 / CIP No. 50549 opened on July 26, 2016 to the lowest responsible bidder, Hills Materials Company in the amount of $295,413.90.

30. No. CC080116-02.2 - Approve award of Total Bid for Pavement Rehabilitation Project – North Plaza Drive, Project No. 15-2299 / CIP No. 50844 opened on July 26, 2016 to the lowest responsible bidder, Hills Materials Company in the amount of $279,601.30.

31. No. CC080116-02.3 – Approve award of Total Base Bid plus Alternate 1B for Southside Drive Sanitary Sewer Extension, Project No. 14-2095 / CIP 50328 opened on July 26, 2016, to the lowest responsible bidder, Highmark, Inc., in the amount of $2,095,099.40.

END OF CONSENT ITEMS

Wright asked that Sandy Schwan give a brief presentation on (No. LF072716-01) Acknowledge Update on Summer Nights. Schwan is the President of the Board of Directors for Summer Nights. She said there have been very minor problems. She said crowds are larger from last year by about 20%. She stated $9144.00 was sent to the Department of Revenue for June sales. She noted they have invested in refrigerated beverage trailers which makes things more convenient and efficient. She said there was an agreement in 2015 between Rapid City Summer Nights and the Rapid City Downtown Association. The agreement was for a portion of the summer night sales to go to the Rapid City Downtown Association in exchange for some volunteers from their Board of Directors. Summer Nights was asked for funds to help with marketing downtown during the Christmas of 2015, but the amount was negative at that time so there was no money to give back. She said Summer Nights would be getting together with the Destination Rapid City group to see how money could be best used. Summer Nights and DRC plan to enter into a new agreement. She believes the best use for the money is for marketing. Motion was made by Wright, second by Estes to acknowledge the update. In response to a question from Drew, Sandy said there is no downtown association, but there is a committee that is still part of Destination Rapid City. Dues are paid to DRC for marketing. In response to a question from Estes, Schwan said that Summer Nights on 7th was a result of the Leadership Rapid City Class of 2007. Motion carried 7-0.

NON-CONSENT ITEMS – Items 32 - 45
Mike Quasney addressed the Council regarding (LF072716-10). He said he would not repeat himself from last weeks’ Legal & Finance meeting. He asked Council why he couldn’t count on them to follow the rules. He said Dove Christian Center keeps putting on activities that the neighbors do not want. He asked that the motocross event not take place. Chelly Halterman said the neighborhood is Low Density Residential and she doesn’t want the zoning to be changed. She stated that the center can’t have a revival tent and wants them to abide by the zoning rules. She does not want any commercialized events in their neighborhood. Dennis Halterman said the City has a legal obligation to protect the zoning and this is the wrong place to hold this type of event. The neighbors don’t want rodeos or motocross racing in their backyard. He does not want this event to take place. Dean McQuay said there are three churches on that service road and there is only one way in and one way out. He does not feel this amount of traffic is safe.

**Ordinances**

Ordinance 6122 (No. LF060116-10A) An Ordinance Adopting Section 16.090 of the Rapid City Municipal Code Requiring Registration of Vacant Residential Properties. Motion was made by Roberts, second by Wright that Ordinance 6122 be placed on its first reading and the title was fully and distinctly read.

Ordinance 6132 (No. LF071316-06) An Ordinance to Modify the Procedure for Approval of Vision Account Projects by Amending Section 3.16.090(B) of the Rapid City Municipal Code having passed the first reading on July 18, 2016 motion was made by Roberts, second by Wright that the title be read the second time. Nordstrom said he was in support of this ordinance. He advocates prioritizing the projects. Upon vote being taken, the following voted AYE: Nordstrom, Drew, Salamun, Estes, Wright, Modrick and Roberts. NO: None: whereupon the Mayor declared the motion passed and Ordinance 6132 was declared duly passed upon its second reading.

Motion was made by Roberts, second by Modrick and carried to (No. LF071316-06A) Approve a 1 year Plan Period for 2017 Vision Account Revenue.

Ordinance 6133 (No. LF071316-07) An Ordinance to Update the Contracting Authority Delegated to Department Directors by Amending Section 3.04.090 of the Rapid City Municipal Code. Motion was made by Roberts, second by Modrick that the title be read the second time. Upon vote being taken, the following voted AYE: Nordstrom, Drew, Salamun, Estes, Wright, Modrick and Roberts. NO: None: whereupon the Mayor declared the motion passed and Ordinance 6133 was declared duly passed upon its second reading.

Ordinance 6126 (No. 16RZ021) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by Gordon Howie for Black Hills Crisis Pregnancy Center for a Rezoning from Medium Density Residential District to Office Commercial District for property generally described as being located in the southeast corner of the intersection of Haines Avenue and Anamosa Street. Motion was made by Roberts, second by Wright and carried that Ordinance 6126 be placed on its first reading and the title was fully and distinctly read.

Ordinance 6127 (No. 16RZ022) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by KTM Design Solutions, Inc. for ZCO Incorporated for a Rezoning from Office Commercial District to Light Industrial District for property generally described as being located in the southeast corner of the intersection of Creek Drive and Marlin Drive. Motion was made by Roberts, second by Drew and carried that Ordinance 6127 be placed on its first reading and the title was fully and distinctly read.

Ordinance 6128 (No. 16RZ023) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by KTM Design Solutions, Inc. for ZCO Incorporated for a Rezoning from General Agricultural District to General Commercial District for property generally described as being
located south of Elk Vale Road between Creek Drive and Marlin Drive. Motion was made by Roberts, second by Wright and carried that Ordinance 6128 be placed on its first reading and the title was fully and distinctly read.

Ordinance 6129 (No. 16RZ024) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by KTM Design Solutions, Inc. for ZCO Incorporated for a Rezoning from General Agricultural District to Light Industrial District for property generally described as being located east of the intersection of Creek Drive and Marlin Drive. Motion was made by Roberts, second by Drew and carried that Ordinance 6129 be placed on its first reading and the title was fully and distinctly read.

Ordinance 6130 (No. 16RZ025) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by KTM Design Solutions, Inc. for SSST, LLC for a Rezoning from General Agricultural District to General Commercial District for property generally described as being located south of the intersection of Elk Vale Road and East Minnesota Street. Motion was made by Roberts, second by Wright and carried that Ordinance 6130 be placed on its first reading and the title was fully and distinctly read.

Ordinance 6131 (No. 16RZ026) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by KTM Design Solutions, Inc. for SSST. LLC for a Rezoning from General Agricultural District to Office Commercial District for property generally described as being located west of E. Minnesota Street and south of Marlin Drive. Motion was made by Roberts, second by Wright and carried that Ordinance 6131 be placed on its first reading and the title was fully and distinctly read.

Public Works Committee Items
Drew read in item (No. PW072616-10) Approve with the requirement to sign a waiver of right to protest the Request from Richard and Carol Bell for a Variance to Waive the Requirement to Install Sidewalk per City Ordinance 12.08.060 along 1206 Clark Street, Rapid City. Motion was made by Estes, second by Salamun to approve. Motion carried 6-1 with Nordstrom voting no.

Legal & Finance Committee Items
Motion was made by Roberts, second by Wright to (No. LF072716-10) Acknowledge Discussion Regarding 2K16 Dove Family Fair Freestyle Motocross Event. Modrick said she appreciates that the congregation is thinking outside the box but understands why the neighbors don’t want this use near their properties. She said the City needs to look forward so every neighborhood isn’t coming in with a request for a conditional use permit. She would like staff to review and make some updates to the Conditional Use Permit stipulations. Drew said she is in support of the neighbors. She doesn’t think it’s a good excuse that the church has spent $10,000 on advertising, so that’s why the event can’t be cancelled. She thinks the neighborhood will be clogged up with cars and people for the event. Drew said she would be willing to work with the group to change locations. In response to a question from Wright, Nyberg said there is currently no mechanism in place for Council to stop the event. In response to a question from Roberts, Jegeris said the event in 2013 had a constant flow of traffic but volunteers worked with them. He added if an emergency vehicle would have needed to enter, it would be accomplished without a problem. Jegeris said he has been approached by the church regarding logistics with the traffic and will have a lieutenant on site to help them with the event. In response to a question from Roberts, Maltaverne said they have been provided with a site plan and operational plan. The fire department will have a fire response and medical response on site as part of the motocross contract for the riders, as well as the visitors. He said they rely heavily on the police department for traffic control. He feels they have adequate coverage to help with any emergency that would come up. Nordstrom said he voted no in 2013 and does not want to this event take place. He said the City Attorney suggested they do an ordinance a few years back and he thinks it’s time to revisit that suggestion. In response to a question from Salamun, Nyberg said each conditional use permit has to be looked at on a case by case basis. Salamun said the church has the right to do what they want on their property based on the stipulations in their Conditional Use Permit but he also thinks they should be mindful of their neighbors and what they
want. Estes said the Council doesn’t have the authority to stop the event because the church can legally operate the event under the conditional use permit. Estes thinks the rules regarding a church under a conditional use permit should be updated. He would like the uses narrowed down more to what a church can and can’t do. In 2013 they had a rodeo. In 2014-2015 they put on fairs. The City can’t control the event that they want to have. He said the neighbors have every right to be concerned. At this time, there isn’t a process of what a church can or can’t do. Estes said in 2013 the topography on the site map for the rodeo didn’t work. Next thing you know they had machines on the property moving dirt with no permit. He’s frustrated because it seems the church thinks it’s easier to ask for forgiveness than permission.

In response to a question from Modrick, Nyberg said there is a list of permitted uses in the low density residential district. He said there is also a list of permitted uses under churches and it says revival tents are not allowed. Modrick thinks the ordinance needs to be revised regarding churches since it has been updated from 1987. She wants there to be exclusion for sporting events. Mayor said homeowners are upset regarding this event and that’s why it’s being brought forward. The Mayor said the original Conditional Use was to put a church in a low density residential neighborhood. He clarified that it didn’t specify what type of church or denomination; it only says there can be no revival tent or rescue mission. He said he didn’t think anyone would dispute youth night, annual church fair, extra church services, he said all of these things are ok. On the other end of the spectrum, he thinks motorcycles, hauling in of dirt and bleachers, and having tons of people, is clearly outside of an acceptable use. Mayor indicated that this is the church’s annual time of year when they have a fair and the motocross portion of the fair is an added bonus. Recourse for future events could possibly be for the City to file a lawsuit against the church, saying this use is outside the realm of what is allowed. Mayor said he doesn’t really want to do that. He stated City staff can easily go back and add other restrictions. He thinks the City should go back to the drawing board and look at this. And search internally and find out what the City’s position is and how to get comments from the Council, at a later time, on their willingness to pursue legal action on events of this nature. Motion passed 4-3 with Modrick, Nordstrom and Drew voting no.

Motion was made by Roberts, second by Salamun and carried to approve (No. LF072716-13) Authorize Mayor and Finance officer to Sign Letter Agreement with Crown Castle LA for Cell Tower Lease Amendment.

**Mayor’s Items**

Mayor read in the item. Motion was made by Wright, second by Estes and carried to approve (No. CC080116-04.1) Confirm the appointments of Mark Massa, Tim Johnson, Bob DeMersseman, Megan Reder-Schopp, Dawn Connor, Jo Lynn Little Wounded, Heather Forney, Katy Kinnan, and George Grassby as Committee Chair to the Vision Fund Citizen Committee. Drew thanked the Mayor for his efforts and for selecting a diversified group.

**Alcohol Licenses**

46. Ryan Schendzielos dba West Dakota Improv, LLC, 632 ½ St. Joseph Street for a Retail (on-off sale) Malt Beverage License and Retail (on-off sale) Wine License
47. NAJA Shrine Temple for a SPECIAL EVENT On-Sale Dealer for an Event Scheduled for September 3, 2016 at Rapid City Shrine Center, 4091 Sturgis Road
48. LC Beer LLC dba Lost Cabin Beer Co., 1401 W. Omaha Street, Suite 3 for a Retail (on-off sale) Wine License

Motion was made by Wright, second by Salamun and carried that items 46-48 be approved.

END OF CONSENT PUBLIC HEARING CALENDAR

**NON-CONSENT PUBLIC HEARING ITEMS** – Items 49 - 53

Ordinance 6124 (No. 16RZ019) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by City of Rapid City for a Rezoning from No Use District to General Commercial District for property generally described as being located south and east of the intersection...
of 5th Street and Catron Boulevard having passed the first reading on July 18, 2016 motion was made by Roberts, second by Wright that the title be read the second time. Upon vote being taken, the following voted AYE: Nordstrom, Drew, Salamun, Estes, Wright, Modrick and Roberts. NO: None: whereupon the Mayor declared the motion passed and Ordinance 6124 was declared duly passed upon its second reading.

Ordinance 6125 (No. 16RZ020) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by City of Rapid City for a Rezoning from No Use District to Light Industrial District for property generally described as being located south and east of the intersection of 5th Street and Catron Boulevard having passed the first reading on July 18, 2016 motion was made by Roberts, second by Wright that the title be read the second time. Upon vote being taken, the following voted AYE: Nordstrom, Drew, Salamun, Estes, Wright, Modrick and Roberts. NO: None: whereupon the Mayor declared the motion passed and Ordinance 6125 was declared duly passed upon its second reading.

Motion was made by Roberts, second by Drew to continue to the August 15, 2016 City Council meeting (No. 16VR003) - A request by Fisk Land Surveying and Consulting Engineers, Inc., for Roger and Heidi Hanzlik for a Vacation of Right-of-Way for property generally described as being located at 4018 Calle Baja Street. In response to a question from Wright, Tech said this has been continued due to issues with the service lines that need to be taken care of before it can be approved. Motion carried 7-0.

Motion was made by Roberts, second by Estes to approve (No. 16VR007) A request by AE2S for Black Hills Federal Credit Union for a Vacation of Right-of-Way for property generally described as being located west of 2nd Street and north of Main Street with the following stipulation: Prior to City Council approval, revised Exhibits for the proposed alley vacation and public access and utility easement shall be submitted for recording as needed. Motion carried 6-0 with Salamun abstaining.

RESOLUTION 2016-043
RESOLUTION OF VACATION OF RIGHT-OF-WAY

WHEREAS, it appears that the alley right-of-way located between and adjacent to Lots 1 thru 12 and 21 thru 32 of Block 78 of Original Town of Rapid City, located in the NW1/4 of the NE1/4 of Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being the alley right-of-way lying between a portion of the 200 block of Main Street and Rapid Street, is not needed for public purposes; and

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

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

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

Dated this 1st day of August, 2016.

CITY OF RAPID CITY
s/ Steve Allender
Mayor

ATTEST:
s/ Pauline Sumption
Finance Officer

(SEAL)
Motion was made by Roberts, second by Wright to continue to the August 15, 2016 City Council meeting (No. 16TI003) Highway 16 Sewer, A request by Kent Hagg for Alta Terra Development to consider an application to Amend Project Plan for Tax Increment District No. 70 - Highway 16 Sewer for property generally described as being located Catron Boulevard from 5th Street to South U.S. Highway 16, then south along U.S. Highway 16 to Sammis Trail and east to the proposed Hyland Crossing Subdivision. Motion carried 7-0.

**BILLS**
The following bills have been audited.

**BILLIST - AUGUST 1, 2016**

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Sumption requested to add a payment to the Pennington County Treasurer in the amount of $42,390.00. This is for the Terra Cotta Estates Homeowner Association property purchase. Sumption presented the new bill list total of $3,059,775.65. Motion was made by Estes, second by Salamun and carried to authorize (No. CC080116-01) the Finance Officer to issue warrants or treasurers checks drawn on proper funds, in payment thereof.

**ADJOURN**
There being no further business to come before the Council at this time, motion was made by Drew, second by Roberts and carried to adjourn the meeting at 11:10 a.m.

ATTEST:

CITY OF RAPID CITY

Finance Officer

Mayor

(SEAL)