

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

February 6, 2017

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, February 6, 2017 at 6:30 P.M.

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

Staff members present included: Finance Officer Pauline Sumption, City Attorney Joel Landeen, Police Chief Karl Jegeris, Interim Fire Chief Rod Seals, Interim Public Works Director Dale Tech, Parks and Recreation Director Jeff Biegler, Community Resources Jeff Barbier, Planning Division Manager Vicki Fisher, Current Planner III Fletcher Lacock, Administrative Coordinator Heidi Weaver-Norris and Administrative Secretary Paula Arthur.

**ADOPTION OF AGENDA**

Mayor Allender suggested moving Item 46 to Item 1A and moving the Executive Session to the end of the meeting. Motion was made by Doyle, second by Wright. Motion was carried to adopt the agenda with the changes.

**AWARDS AND RECOGNITIONS**

Interim Fire Chief Rod Seals presented an employee recognition award to Tyler Wilcox. Seals thanked Wilcox for his 25 years of service and dedication to the City of Rapid City.

Mayor Allender took a moment of personal privilege to recognize and remember Mayor Dave Gray of Hill City, who passed away this weekend.

**GENERAL PUBLIC COMMENT**

**1A. No. CC020617-04.1 – Snow Removal Appeal by Joshua Nicolaisen**

Joshua Nicolaisen, a disabled veteran who recently underwent surgery, addressed the council regarding a bill he received for snow removal on his property. Code enforcement was able to release him of the administrative fee, but he is still responsible for the fee that was paid to the business that removed the snow. In response to a question from Nicolaisen, Mayor Allender explained that there was not an exemption in the code for elderly, disabled veterans or disabled people. Nicolaisen, on unpaid leave from work with medical bills, questioned if he could be exempt from the fee. Motion made by Drew, second by Wright to waive the fee. Roberts expressed concern about opening a Pandora's Box and questioned if council could find a way to get the bill paid for by the community. An anonymous citizen, also a fellow veteran, stated that he would pay the bill. Substitute motion was made by Scott, second by Estes to acknowledge the bill being paid for by the anonymous donor. Motion passed 9-0.

Joe Forgey, a family member of Kasie Lord, stated that we need to get control of alcohol in our communities. He stated that he has contact information of legislators that are willing to help him put this on the ballot. Forgey would like to take the convenience out of alcohol. He would like to get it out of children's hands and out of convenience stores. There are establishments for alcohol where people of age can go and purchase it. Forgey stated that alcohol doesn't need to be in the gas stations.

Brandi Cook, a family member of Kasie Lord, also addressed alcohol sales in convenience stores. She feels it needs to be a little more controlled and not as easily accessible. Cook stated that the officers did an amazing job and that she is very thankful for them in the incident that involved her family member.

She is asking for options to take the alcohol out of convenience stores or at least get it locked up so it is not so easily accessed.

Mark Millar spoke about the crime problem in our city. He feels that justice for the citizens of Rapid City is a huge problem right now and having more police is not the answer. Millar feels it is time for the City of Rapid City to address the States Attorney's issue of not serving our needs. Millar thinks that our community could support a city court. He stated that when justice is handed out accordingly then justice serves all people. When perpetrators aren't brought to justice, then the victim pays for the crime and the whole burden is on the victim. Millar doesn't think we need a ten story building on a parking lot, but we need justice in this community.

**NON-PUBLIC HEARING ITEMS** -- Items 2 – 46

**CONSENT ITEMS** – Items 2 – 43

The following were removed from the Consent Items:

24. No. PW013117-18 – Approve extending contract bid to Pete Lien & Sons, Inc. for Ice Sanding Materials for the 2017 calendar year.
27. No. PW013117-01 – Authorize Staff to Advertise for Bids for WRF Potable Water Improvements, Project No. 15-2266 / CIP No. 51079. Estimated Cost: \$525,000.00.
28. No. PW013117-15 – Approve the Assessment Roll for Countryside Water System Conversion, Project No. 15-2257 / CIP No. 51086.

Motion was made by Scott, second by Drew and carried to approve Items 2 – 43 as they appear on the Consent Items with the exception of Items 24, 27, and 28.

***Approve Minutes***

2. Approve Minutes for the January 17, 2017 Regular Council meeting.
3. Approve Minutes for the January 23, 2017 Special Council meeting.

***Alcoholic Beverage License Applications Set for Hearing (February 21, 2017)***

4. Rapid City Chamber of Commerce for a SPECIAL EVENT Malt Beverage and Wine License for an Event scheduled for March 14, 2017 at Liberty Dodge Ram, 1120 E Omaha Street
5. Main Street Square for a SPECIAL EVENT Malt Beverage and Wine License for Events scheduled for June 10, 2017 and August 13, 2017 at Main Street Square, 526 Main Street
6. Wal-East Development Inc. DBA Joker's Casino South III, 1320 Mt. Rushmore Rd #B for a Retail (on-sale) Liquor license TRANSFER from Wal-East Development Inc. DBA Wal-East Development Inc., 2205 N LaCrosse Street
7. Rapid City Chamber of Commerce for a SPECIAL EVENT Malt Beverage and Wine License for an Event Scheduled for March 16, 2017 at First Interstate Bank, 711 N. Creek Drive
- 7A. Black Hills Works / Flutter Productions for a SPECIAL EVENT Malt Beverage and Wine License for an Event Scheduled for July 8, 2017 at Founders Park, 1520 W Omaha

***Public Works Committee Consent Items***

8. No. PW013117-21 – Confirm the Appointment of Rachel Caesar as Alternate #2 to the Planning Commission.
9. No. PW013117-02 – Authorize Staff to Advertise for Bids Tatanka Road Water Main Extension, Project No. 16-2357 / CIP No. 51152. Estimated Cost \$110,000.00.
10. No. PW013117-03 – Authorize Staff to Advertise for Bids Red Rock Booster Pump Station Upgrades, Project No. 14-2177, CIP # 50812.B. Estimated Cost: \$1,200,000.00.
11. No. PW013117-04 – Authorize Staff to Advertise for Bids East Rapid Water Expansion Valley View and Radar Hill Road North Extensions, Project No. 14-2197 / CIP No. 50964.E. Estimated Cost: \$950,000.00.

12. No. PW013117-05 – Authorize Staff to Advertise for Bids East Rapid Water Expansion Morris Lane Pressure Reducing Valve (PRV) Facility, Project No. 14-2195 / CIP No. 50964.C. Estimated Cost: \$530,000.00.
13. No. PW013117-06 – Authorize Mayor and Finance Officer to Sign Joint Funding Agreement between U.S. Department of Interior, U.S. Geological Survey and City of Rapid City for 2017 Water Resource Investigations to include the operation and maintenance of selected gaging stations and for various hydrologic investigations.
14. No. PW013117-07 – Authorize Mayor and Finance Officer to Sign Agreement between the City of Rapid City and Upper Deck Architects for Professional Services for Fire Station 5 Improvements, Project No. 17-2073 / CIP No. 51158, in the amount of \$52,800.00.
15. No. PW013117-08 – Authorize Mayor and Finance Officer to Sign Amendment No. 3 to the Agreement between the City of Rapid City and HDR Inc. for Southside Drive Sanitary Sewer Extension, Project No. 14-2095 / CIP No. 50328, in the amount of \$21,547.00.
16. No. PW013117-09 – Authorize Mayor and Finance Officer to Sign Construction Professional Services agreement between City of Rapid City and Ferber Engineering Company, Inc. for West Omaha Drainage and Utility Improvements – Mountain View Road to 11th Street, Project No. 15-2316 / CIP No. 50904.1, in the amount of \$359,105.00.
17. No. PW013117-10 – Authorize Mayor and Finance Officer to Sign Agreement Between the City of Rapid City and Jenner, LLC for Tatanka Road Water Main Extension.
18. No. PW013117-11 – Approve Request for Stormwater Drainage Utility Fee Abatement for Diane Stephens for 2770 Enchanted Pines Drive, Tax ID 66392, in the amount of \$215.25 (2017).
19. No. PW013117-12 – Approve Acceptance of Infrastructure for Meadowlark Mobile Home Park Expansion Public Water Main - DEV13-1161.
20. No. PW013117-13 – Authorize Lowering the Percentage of Work that the General Contractor Must Perform from 50% to 35% for the WRF Potable Water Improvements, Project No. 15-2266 / CIP No. 51079.
21. No. PW013117-14 – Approve One-time Waiver of New Account Fees for New Garbage-only Accounts for Mobile Home Park Residents Following Tyler Utility Billing Conversion.
22. No. PW013117-16 – Approve acceptance of water system transferred from Countryside Homeowners Association, Inc. pursuant to 2014 annexation agreement.
23. No. PW013117-17 – Authorize Staff to Submit a Grant Application to the Rapid City Area MPO/SDDOT Transit and accept funds if awarded.
25. No. PW013117-19 – Authorize Staff to Purchase Two (2) New Current Model Year, ½ Ton 4X4 Regular Cab Long Box Pickups off State Bid number 16998.
26. No. PW013117-20 – Authorize Staff to Purchase a 2017 Groundsmaster 4000 T4 AWD Mower with 3 Decks, Auto Reversing Fan, Air Ride Seat, Full 2 Yr. Warranty, Light Adaptor Kit and Road Light Kit from Midwest Turf with IPA Pricing in the Amount of \$61,807.00.

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

29. No. LF020117-04 – Confirm the Appointment of Daniel Kline to the Civic Center Board of Directors
30. No. LF020117-05 – Confirm the Appointment of Casey Martin to the Rapid City Library Board of Trustees
31. No. LF020117-08 – Confirm the Appointments of Steve Massopust, Heather Schopp, Melanie Barclay, Marti Nesland, Laura Hovey Neubert, Malik Dixon, Chad Ratigan, Kyle Kircher and Sammi Jo Kenzy to the Mayor’s Committee for People with Disabilities
32. No. LF020117-02 - Authorize Mayor and Finance Officer to Sign 48 month Agreement between Dakota Business Center and the Rapid City Fire Department for print/copy/scan/fax machine for Fire Stations 1, 3, 4, 5, 6, and 7
33. Acknowledge the Following Volunteers for Worker’s Compensation Purposes: Amy Carlson, Jack Dalle, Leslie Lysenko, Sally Anderson, Dan Kneip, Elnora Delirl
34. No. LF020117-01 – Acknowledge November 2016 Sales Tax Report
35. No. LF020117-03 – Acknowledge December 2016 General Fund Cash Balance Report

36. No. LF020117-06 – Authorize Mayor and Chief of Police to sign the 2017 Federal Equitable Sharing Agreement
37. No. LF020117-09 – Authorize Mayor and Finance Officer to Sign Memorandum of Understanding between the City of Rapid City and the FOP Retroactively Providing Holiday Pay for New Employees
38. No. LF020117-10 – Authorize Mayor and Finance Officer to Sign Memorandum of Understanding between the City of Rapid City and the FOP Providing Holiday Pay for New Employees
39. No. LF020117-11 – Authorize Mayor and Finance Officer to Sign Memorandum of Understanding between the City of Rapid City and AFSCME Providing Holiday Pay for New Employees
40. No. LF020117-13 – Authorize Mayor and Finance Officer to Sign Covenant Agreement with Merlin Stromer and Gloria Stromer Joint Living Trust
41. No. LF020117-07 – Acknowledge Human Relations Commission – Semi-Annual Update.

***Bid Award Consent Items***

42. No. CC020617-02.1 – Approve award of Total Bid for Water Reclamation Cationic Sludge Polymer opened on January 31, 2017 to the lowest responsible bidder Polydyne, Inc. (SNF) in the amount of \$50,400.00.
43. No. CC020617-02.2 - Approve award of Total Bid for West Omaha Drainage & Utility Improvements, Mountain View Road to 11th Street, Project No. 15-2316 / CIP No. 50904.1 opened on January 31, 2017 to the lowest responsible bidder, Lind-Exco, Inc. in the amount of \$4,099,992.79.

**END OF CONSENT ITEMS**

Mayor read in item (No. PW013117-18) Approve extending contract bid to Pete Lien & Sons, Inc. for Ice Sanding Materials for the 2017 calendar year. Motion was made by Estes, second by Salamun to approve. Motion carried 8-0 with Scott abstaining.

Mayor read in item (No. PW013117-01) Authorize Staff to Advertise for Bids for WRF Potable Water Improvements, Project No. 15-2266 / CIP No. 51079. Estimated Cost: \$525,000.00. In a response to a question from Drew, Tech explained that this Water Reclamation Facility is very unique in the state of South Dakota and is one of the only facilities that don't have a fresh supply of water. The water isn't used strictly for drinking water for the employees that work there. There are many processes in the plants where they use recycled water. In order to use the recycled water, they have to use a pumping system that cost tens of thousands of dollars a year to operate. The water reclamation facility is also one of the largest users of electricity in the city, so the possibility of fire out there is very real. There is really no fire protection available. This will also solve the fire protection issue that we have had since that plant was built. The recent expansions that have been done with the airport water projects allow a sufficient supply of water where we can extend a water main to the water reclamation facility and it will provide an opportunity for other properties adjacent to that to hook up to it in the future. Motion was made by Wright, second by Modrick to approve. Motion carried 9-0.

Mayor read in item (No. PW013117-15) Approve the Assessment Roll for Countryside Water System Conversion, Project No. 15-2257 / CIP No. 51086. Nordstrom deferred this item to Sumption. Sumption explained that the proper process has not been followed on this, so this item will need to be tabled and then a resolution will be brought forth setting a public hearing date to approve the assessment roll. Motion was made by Nordstrom, second by Wright to table the item. Motion carried 9-0.

**NON-CONSENT ITEMS** – Items 44 – 46

Ron Weifenbach spoke on Item 44. Weifenbach stated that he can't add anything more to this item other than what the city attorney has set forth in his memos or what is called for by the state of South Dakota or the federal government when we come to due process. This has never been thought of as being applied to anything but a Quasi-Judicial hearing for the fair treatment and due process of somebody involved in one of those specific hearings. Weifenbach is asking for the council to adopt this doctrine to

bring forth the situation that he doesn't think any of the council really realized existed. He is hoping that in moving forward, the council can change the policy to be sure we are operating under state and federal law.

Bill Freytag spoke on Item 44. Freytag stated that this ordinance only deals with Quasi-Judicial and if you want to substitute the words, property rights, then you are probably safe. This ordinance has no effect on legislative items or administrative items. He stated when working with Landeen on this, there were six words that he wanted to add saying you had to recuse yourself if you had ex-parte communications. Freytag asked that council ignore the six words that he added to Landeen's version and to approve the ordinance. He agreed to go with Landeen's words.

Connie Olson, Development Director for Youth and Family Services, spoke on Item 45. Olson expressed deep gratitude for the benefits that the vision funds have provided to our community over the years. She feels that the items funded last year will really impact our community in a very positive way. Olson questioned if there will be vision fund applications available for 2018 and if the council can expedite the decision and application process this year. YFS has a strong start on their campus expansion campaign. They have acquired the land that is needed and secured about 4 million dollars in funding towards their project. Vision funds are essential for YFS to receive new market tax credits. Olson stated that they have re-worked their plan to save about 2 million dollars. YFS has three entities that have expressed interest in their project, yet YFS is told that without a commitment from the vision funds the entities will not be able to move forward and support the YFS project. This project will help with child care, middle school programming and the meth project. Olson states that they are hoping that the council will expedite the process so that they can start the discussions earlier this year than last year.

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

Roberts read in item (No.LF020117-12) Request from Bill Freytag and Ron Weifenbach to Adopt the Appearance of Fairness Doctrine for Quasi-Judicial Proceedings by Adding Section 2.04.130 to the Rapid City Municipal Code. Wright stated he thought there were some good intentions in this, but he thinks it is wrong. He feels it is horribly unfair that our community is told that the City Council meets in secret meetings when they don't. The City Council is as transparent as they possibly can be. The City Council is not a judicial or administrative body. Wright stated that the City Council is a legislative body. The City Council is not appointed officials, they are elected. Wright will not support this ordinance. He states that the City Council operates under the law and is subject to the law. Roberts stated that he disagrees with Wright that the council is not Quasi-Judicial because when the council is voting on a person's property rights or something that has a monetary value to them, the council does become Quasi-Judicial in the fact that council has the ability to affect a person's livelihood. Roberts thinks that the doctrine is fair and is the way the governments are going. He is comfortable voting yes on this. Roberts made a motion to approve, but the motion failed due to lack of a second. Mayor Allender stated that there was a point of order. Doyle pointed out that the draft brought forward by Freytag, with the six words being struck, was not being reflected in the motion. Doyle is unclear if the document without the six words is verbatim with what Landeen proposed. Freytag commented that today the council is not voting on Landeen's proposal, but voting on Freytag's proposal minus the six words. Doyle asked for clarification from the motion maker on this. Roberts clarified that his original motion was a motion to vote on the ordinance that Landeen brought forward. Landeen was asked to clarify if they could vote on that motion when it was not the actual item that was on the agenda. Landeen stated that the item was not put on the agenda because it was brought forward by a citizen. Landeen provided a draft because there was that disagreement and the draft gave the council an alternative. If council wants to move forward with the draft, the ordinance is not set for first reading. Landeen advised that the ordinance can't be approved tonight, but council can make a motion to set the draft that they want to approve for first reading at the next council meeting. Estes made a substitute motion, second by Drew to schedule ordinance written by Landeen for first reading at the next legal & finance meeting. In response to a question from Estes, Landeen stated that he would provide an attachment showing any differences or deviations from state law that the ordinance may have, so council can make the determination if it is significant or not. Modrick stated the strongest words that she heard throughout the conversations, is that we already have state

law in effect. She feels that we are at a time in our country, state and city that we are building trust and we are trying to delay government on top of government. Modrick would recommend not supporting the motion, as she feels very confident in the state law and that law holding the council accountable. Wright has been reviewing the wording in both drafts and he stated that council members are elected. Council members are not appointed and they are not administrative. He feels council is subject to due process of law, but he doesn't feel that the council should have their positions stifled by control. Wright thinks this is wrong. Scott stated that she would support the motion if this doesn't take a whole lot more of Landeen's time. She is not so sure she can support adopting an ordinance if it is so close to state law because council is already governed by state law. In response to a question from Scott, Landeen stated that it will not take very long to do a comparison of the proposed ordinance with the state law. Mayor Allender asked for a roll call. The motion was approved 7-2 with Wright and Modrick voting no.

Roberts read in the item he brought forward for a discussion on Vision Funds. In response to a question from Scott, Mayor Allender stated that the ordinance typically has an end of July timeframe for the Mayor's office to assemble a committee to vet the Vision projects in the upcoming five year plan. Last year, the council modified that ordinance to be a one year project for 2017. He anticipates that we will follow the same timeline in July for selecting a new committee, but he would ask the council if they had a desire to do another one year plan as opposed to a five year plan. Scott, from her recollection, thought that the council voted that instead of being locked in to a five year plan, the power or the authority would be given to the City Council each time council goes to set a plan, to determine at that time whether it would be a one year plan, two year plan or three year plan for balance. Scott stated that one of the great needs that are still sitting out there is the Civic Center and the Vision Fund would be one of the primary sources of any of the solutions needed for the Civic Center. In response to a question from Scott, Landeen stated he would need to take a look at the ordinance to see if the process could start earlier than the July timeframe. Scott is not opposed to have a discussion brought back to Legal and Finance to review what the ordinance is on the Vision Fund and get talk started on what kind of project plan the City Council may be interested in. Salamun thinks it is a fair question to ask about the timeline, although there is no guarantee that YFS would receive any Vision Funds, YFS would at least like the opportunity to not lose out on new market tax credits. Salamun would be open, if it is allowed, to begin the process sooner. Salamun's only concern is whether or not it matters that there is an election right in the middle of all of that. Wright cautioned the council to be careful. If council gets into the funds that are available to retire the debt of the Civic Center cost, council may jeopardize some options they may want to exercise. He asked the council to proceed with great caution. Wright reminded council that there is a huge shortfall in infrastructure and streets alone. Nordstrom stated that he has the same concerns along with the concern of sales tax collection coming in right now. The sales tax collection is less than one percent from last year. Roberts stated that if we can possibly move this up a few months and bring it forward to the next Legal and Finance meeting, with the attorney looking into it first, council should do that. He doesn't feel that the political season or the sales tax is something that council needs to worry about with this. Roberts stated that council should bond and use cheap money while they have the opportunity. Doyle stated that the sales tax is important, particularly when it is coming in lower than projected. Council needs to look at how this is going to affect the things that council has already approved versus projections for future rounds. Motion was made by Estes, second by Roberts to ask Landeen to look into the ordinance and have this on the February 15<sup>th</sup> Legal and Finance agenda. Estes stated council wants whatever they do with the Vision money to have the greatest impact in the community as possible. He stated council needs to know the legal capacity that they have regarding moving the timeline up. Motion carried 9-0.

#### **PUBLIC HEARING ITEMS** – Items 47 – 56

Parastou Ghazvini spoke on Item 56. Ghazvini moved here from the east coast and she was attracted by the low population density, open country and natural beauty of this area. She has concerns about the affordable living project that is to be built on her block. Ghazvini likes the unique set up and landscape of this particular small city lot. She is worried that the three story high buildings being built on this lot will block the views from her windows. Ghazvini has been talking to the city planner and is a big proponent of affordable housing herself, but she has concerns.

Chuck Rausch spoke on Item 56. Rausch stated that he testified before the planning committee and he issued concerns about pets and crowding with this project. Since then, he has asked himself what he would do if he owned one of these homes. Rausch decided that he would close the garage up as soon as he could and convert it into living space. This is a big concern of his due to having more cars out on the street and more living space created to allow more people. He is also concerned that by closing off the garages, that it would push more items outside of these homes. Rausch wants a privacy fence between the properties if this does go through. He has lived in North Rapid for 30 years now and feels that his neighborhood is on the verge of being one of the best neighborhoods in Rapid City. Rausch questions if the city is stepping into this a little quick.

Lisa Houghton spoke on Item 56. Houghton stated that this neighborhood is such a beautiful community and the neighbors are so wonderful. What has happened since just the idea of this project is that the quiet neighborhood is not anymore and there is a lot more people there. Houghton is concerned that five extra families in one space will bring more traffic and more noise to the area. It has changed and change is difficult.

Charles Baumgartner spoke on Item 56. Baumgartner is concerned with the tiny houses. Tiny houses are normally individual units on their own lots and not all crammed together. He is concerned that when you build these tiny houses, owned individually, that we are actually going to be building slums. The least maintenance of one unit is going to affect all the other five. Baumgartner thinks that the city is putting in too many units in too small of an area.

Joy McCracken, Executive Director for Neighbor Works, spoke on Item 56. McCracken stated that she agrees that this is a lovely neighborhood. Neighbor Works has been working in North Rapid area for over six years and have worked hard to bring up the standards. The lot was chosen because it is in a lovely neighborhood and is in walking distance of downtown. Affordable housing is described as a person not spending more than 30 percent of their income on housing. Neighbor Works has very strict covenants in place for these homes and there will be a homeowner's association. The covenants will restrict a lot of the citizens' concerns. Neighbor Works will stay with the organization to make sure that the homeowners association is up and running and that it is well maintained. This is not a new concept and there have been 1600 homes just like this built in other communities outside of South Dakota. McCracken stated that the garage can't be converted by city code. The consultant working with Neighbor Works has had total success in other areas and Neighbor Works feels very confident that they can have total success in North Rapid as well.

**CONSENT PUBLIC HEARING ITEMS** – Item 47 – 51

Motion was made by Estes, second by Doyle to approve Items 47-51. Motion carried 9-0.

***Alcohol Licenses***

47. Pennington County Democratic Party for a SPECIAL EVENT Wine License for an Event Scheduled for February 10, 2017 at Prairie Edge, 606 Main Street
48. Lawrence Adams, Rumours Inc. DBA LMN LLC, DBA Pure Bean SW, 5509 Bendt Drive Ste. 305 for a Retail (on-off sale) Wine and Retail (on-off sale) Malt Beverage TRANSFER from Rumours Inc. DBA Rumours, 5509 Bendt Drive Ste. 305
49. K & P, LLC DBA Hay Camp Brewing Co., 601 Kansas City Street for a Retail (on-off sale) Malt Beverage TRANSFER from K & P LLC DBA Hay Camp Brewing Company, 201 Main Street Suite 109
50. K & P, LLC DBA Hay Camp Brewing Co., 601 Kansas City Street for a Retail (on-off sale) Wine License
51. Youth & Family Services, Inc. for a SPECIAL EVENT Malt Beverage and Wine License for an Event scheduled for February 24-25, 2017 at 120 E Adams Street

END OF CONSENT PUBLIC HEARING CALENDAR

**NON-CONSENT PUBLIC HEARING ITEMS** – Items 52 – 56

Mayor read in item (No. 16TI005) Approve Resolution 2016-104 - A request by Doyle Estes and Kathy Johnson for a Resolution approving Revision #2 Project Plan Reallocating Project Costs for Tax Increment District No.38 for property generally described as being located in the southeast quadrant of Elk Vale Road and Interstate 90. Motion was made by Wright, second by Modrick to approve. Motion carried 8-0 with Estes abstaining.

Resolution 2016-104  
RESOLUTION APPROVING REVISION #2 PROJECT PLAN FOR  
HEARTLAND RETAIL CENTER TAX INCREMENT DISTRICT NUMBER THIRTY-EIGHT  
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, the Heartland Retail Center Tax Increment District Number Thirty-Eight was established on January 17, 2003; and

WHEREAS this Revision #2 Project Plan will replace the Project Plan approved by the City Council on January 17, 2003 and the revision approved by the City Council on May 24, 2004; and

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

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

WHEREAS, the 2003 base valuation of the District as determined by the South Dakota Department of Revenue was \$3,362,500 and the 2016 year end valuation of the District is \$37,797,400, evidence that the District has stimulated the general economic welfare and prosperity of the state through the promotion and advancement of industrial and commercial development as required in South Dakota Codified Law 11-9-8; and

WHEREAS, Revision #2 Project Plan reallocates costs to accurately reflect actual expenditures for the water main and water main loop, the water main to East Anamosa Street, Eglin Street Phase I and II, Detention Dam Phase I and II, Engineering Design and Construction Administration for Phase I and II, and financing costs; and

WHEREAS, the Council considered Revision #2 Project Plan submitted by the Planning Commission and determined that Revision #2 Project Plan for Heartland Retail Center Tax Increment District Number Thirty-Eight is economically feasible; and

WHEREAS, the Council further determined that the Revision #2 Project Plan is in conformity with the adopted Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that Revision #2 Project Plan for Heartland Retail Center Tax Increment District Number Thirty-Eight be and hereby is approved as attached and submitted by the Rapid City Planning Commission.

Dated this 6th day of February, 2017.

CITY OF RAPID CITY  
s/ Steve Allender  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

Mayor read in item (No. 16TI006) Approve Resolution 2016-105 - A request by City of Rapid City for a Resolution Reallocation of Project Costs for Tax Increment District No. 64 for property generally described as being located northeast of the intersection of Interstate 90 and Dyess Avenue. Motion was made by Modrick, second by Drew to approve. Motion carried 9-0.

Resolution 2016-105  
RESOLUTION APPROVING REVISION #1 PROJECT PLAN FOR  
CABELA'S TAX INCREMENT DISTRICT NUMBER SIXTY-FOUR 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, the Cabela's Tax Increment District Number Sixty-Four was established on August 6, 2007; and

WHEREAS, this Revision #1 Project Plan will replace the Project Plan approved by the City Council on August 6, 2007; and

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

WHEREAS, the 2007 base valuation of the District as determined by the South Dakota Department of Revenue was \$8,730,800 and the 2016 year end assessed valuation of the District is \$79,065,400, evidence that the District has stimulated the general economic welfare and prosperity of the state through the promotion and advancement of industrial and commercial development as required in South Dakota Codified Law 11-9-8; and

WHEREAS, Revision #1 Project Plan reallocates approved project plan costs to reflect actual expenditures for real property assembly costs for the Cabela's retail facility, improvements to the Elk Vale Lift Station, professional service costs and financing costs; and

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

WHEREAS, Revision #1 Project Plan has been developed for this Tax Increment District which proposes these improvements; and

WHEREAS, the Council has considered Revision #1 Project Plan submitted by the Planning Commission and determined that the Revision #1 Project Plan for Cabela's Tax Increment District Number Sixty-Four is economically feasible; and

WHEREAS, the Council has further determined that this Revision #1 Project Plan is in conformity with the adopted Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that Revision #1 Project Plan for Cabela's Tax Increment District Number Sixty-Four be and hereby is approved as attached and submitted by the Rapid City Planning Commission.

Dated this 6th day of February, 2017.

CITY OF RAPID CITY  
s/ Steve Allender  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

Mayor read in item (No. 16RZ034) Second Reading, Ordinance 6154, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by Steve Wynia for a Rezoning from General Commercial District to Light Industrial District for property generally described as being located at 1300 E. Centre Street. Motion was made by Salamun, second by Roberts that the title be read the second time. Upon vote being taken the following voted AYE: Nordstrom, Drew, Salamun, Doyle, Estes, Scott, Wright, Modrick and Roberts. NO: None: whereupon the Mayor declared the motion passed and Ordinance 6154 was declared duly passed upon its second reading.

Mayor read in item (No. 16RZ035) Second Reading, Ordinance 6155, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by KTM Design Solutions for A and J Meier LLC for a Rezoning from General Agricultural District to Light Industrial District for property generally described as being located at the northwest terminus of Seger Drive between Dyess Avenue and Elk Vale Road. Motion was made by Estes, second by Scott that the title be read the second time. Upon vote being taken the following voted AYE: Nordstrom, Drew, Salamun, Doyle, Estes, Scott, Wright, Modrick and Roberts. NO: None: whereupon the Mayor declared the motion passed and Ordinance 6155 was declared duly passed upon its second reading.

Mayor read in item (No. 16PD058) Appeal of Planning Commission's decision of a request by Neighbor Works Dakota Home Resources for Dakota Land Trust for a Final Planned Development Overlay to Create a townhome development for property generally described as being located at 612 Dilger Avenue. Scott asked Ghazvini to finish her list of concerns that she would like the council to consider. Ghazvini stated that the project is proposed as a pilot project and if this is successful, it can be duplicated elsewhere. She feels that leaves a lot of unknown issues that are hard to predict ahead of time. Ghazvini discussed the density and exceptions that are being allowed for this project and she feels they are extreme. In a response to a question from Scott, Fisher discussed the stipulations on this project. This is a 10,054 square foot lot, so divided by five; it is over 2,000 square feet per lot. There is a requirement that every single family residential unit has to provide two off street parking spaces, therefore the garages must be maintained as garage space. In order to ensure that we have the minimum required parking for any single family residence and to meet the minimum lot size requirement for a townhome development, the planning commission had to look at this as a campus. Instead of each individual lot they had to look at the whole property as one, divided by five, and then come together with what would be owned individually versus what would be maintained as a part of the association. In doing so, it does meet the minimum standards. An apartment building is a permitted use in this district, but the fact is that they are creating the individual lots that bring owner occupancy to these properties. There was discussion at the planning commission regarding the fencing. The fencing did not factor in to keeping the home prices affordable. The rear yard is twenty feet and it does provide a separation between this

residential development and the properties to the south. The planning commission did identify a thick row of lilac bushes on the adjacent property owner's property and at that point they did not feel that it was necessary to require fencing. The stipulations of approval are specific to what was requested and if there is a change in the character of the structures, they would need to come back before the planning commission and seek approval for that. The height doesn't exceed thirty-five feet. Salamun allowed Ghazvini to use his time to finish expressing her concerns before the council. Ghazvini stated that there is a problem offering the housing to a very narrow population with only offering one bedroom. There is such a thing as too small. She is wondering what happens if family size changes once a homeowner moves in. Ghazvini feels that these homes are not child friendly or elderly friendly. The alley is currently unpaved and Ghazvini is concerned as to why they even would consider paving it to allow parking when there is less than six feet from the two proposed parking spaces to the back of the east unit on this property. Motion was made by Nordstrom, second by Drew to uphold the planning commission recommendations. Nordstrom appreciates all of the homeowners and the neighbors bringing their concerns to the City Council and he believes the Neighbor Works organization will address these concerns as they are brought forward. In a response to a question from Nordstrom, McCracken explained that there are covenants, by laws and elected officers that go with the homeowner's association. She assured council that Neighbor Works will stay with the association for as long as it takes to maintain the property and neighborhood. McCracken stated that lilacs, if they are maintained, do make some beautiful hedges and they would provide decent screening between the properties. Modrick stated that the lilacs may be removed by the homeowner and the screening will be gone. She stated that we shouldn't count on someone else's screening. In response to a question from Modrick, McCracken stated that screening could not be included with their project because they are trying to keep the affordability of the homes. In a response to a question from Modrick, McCracken explained that a land trust doesn't release the governance of the land. Upon entering into the land trust, there is a very lengthy lease agreement that you abide to, you are required to maintain the property and you have exclusive use of the property. Dakota Land Trust is a way of creating affordable housing perpetually because it is an agreement between the homeowner and the land trust. Modrick stated on top of that, we have our own city code and ordinances, but there is never enough man/woman power or money to resolve neighborhood issues. In a response to a question from Modrick, McCracken stated that they enforce covenants through negotiations with the residents. There is always a chance that somebody may not abide by the rules, but there is ability through the land trust to force that person or foreclose on the property. McCracken is not sure if that is in the covenants of this project. In response to a question from Roberts, McCracken explained that the prices for these homes are in the \$140,000 range and they are still negotiating on what it will cost to get water to the sites. She stated that Neighbor Works does want to apply for a TIF, which will help to bring the cost down. Neighbor Works also has their own down payment and closing cost assistance, which is a zero percent loan due on sale, so they can bring the mortgage down to \$120,000 and under \$100,000 for the one bedroom units. In response to another question from Roberts, McCracken stated that it cost about \$105 per square foot to build the living space, which excludes the garage. Roberts has some concerns. He wants to make sure that these units are really affordable. Roberts has a very big concern about the units being three stories, not having sprinklers and all of the bedrooms being on the third story. Roberts doesn't see the affordability of this project. In response to a question from Doyle, Fisher explained that based on the zoning of medium density residential you could put a three to four unit, three story apartment building with parking and accessory structures, such as sheds, on this lot with a building permit and no review before the City Council or the Planning Commission. Doyle stated she would definitely take this proposal over an apartment building in her backyard any day. Doyle thinks that the people who are taking out these mortgages will be vested in these properties. These are property owners and not renters. Doyle thinks it is important to give this a chance. Drew stated there was a great deal of effort on the part of the staff and the commission to look at this project extremely closely and she supports their efforts. As far as affordable housing solutions, she stated that you will see more of these smaller townhomes going up in our communities. Young people are looking for choices and Drew thinks we have to try and fill this niche in our community. In response to a question from Wright, Rausch stated that the lilac bushes that are being discussed are his and he is still asking for a fence. Estes stated that this reminds him a lot about a decision that council had to make months ago on a North Haines empty lot. Townhouses are not new in town, but at least these have

architectural flare and character in keeping with the area. The great thing about this is the fact that you will have neighbors that will hopefully have pride in ownership. Townhouses are not an experiment in this town. Estes does not view this as an experiment. He views this as trying to build smaller square footage homes which are something a little new to the area. Motion carried 8-1 with Roberts voting no.

**BILLS**

The following bills have been audited.

**BILLIST - FEBRUARY 6, 2017**

P/ROLL PERIOD END 01/07/17, PD 01/13/07	1,181,108.4
P/ROLL PERIOD END 01/21/17, PD 01/27/17	1,040,405.53
P/ROLL PERIOD END 01/31/17, PD 01/31/17	1,555,790.67
CDEV P/ROLL PERIOD END 01/07/17, PD 01/13/17	4,286.71
CDEV P/ROLL PERIOD END 01/21/17, PD 01/27/17	4,792.25
PIONEER BANK & TRUST 01/07/17 P/ROLL TAXES, PD 01/13/17	261,795.23
PIONEER BANK & TRUST 01/21/17 P/ROLL TAXES, PD 01/27/17	267,288.72
PIONEER BANK & TRUST 01/31/17 P/ROLL TAXES, PD 01/31/17	400,104.89
CDEV PIONEER BANK & TRUST 01/07/17 P/ROLL TAXES, PD 01/13/17	1,006.40
CDEV PIONEER BANK & TRUST 01/21/17 P/ROLL TAXES, PD 01/27/17	1,083.02
SOUTH DAKOTA DEPARTMENT OF REVENUE SALES TAX PAYABLE PD 01/20/17	43,640.01
SOUTH DAKOTA DEPARTMENT OF REVENUE EXCISE TAX PAYABLE PD 01/20/17	205.45
SOUTH DAKOTA DEPT. OF REVENUE CCTR SALES TAX PAYABLE PD 01/20/17	22,229.21
SOUTH DAKOTA DEPT. OF REVENUE CCTR SALES TAX PAYABLE PD 01/30/17	7,802.43
WELLMARK INC HEALTH CLAIMS THROUGH 01/06/17, PD 01/12/17	35,435.00
WELLMARK INC HEALTH CLAIMS THROUGH 01/13/17, PD 01/19/17	131,499.73
WELLMARK INC HEALTH CLAIMS THROUGH 01/20/17, PD 01/26/17	226,834.23
WAGE WORKS SECTION 125 CLAIMS THROUGH 01/17/17, PD 01/18/17	6,228.09
WAGE WORKS SECTION 125 CLAIMS THROUGH 01/23/17, PD 01/24/17	11,633.30
WAGE WORKS SECTION 125 CLAIMS THROUGH 01/30/17, PD 01/31/17	6,336.08
SD RETIREMENT SYSTEM SPECIAL PAY PLAN-BURGAD & VANDEUSEN, PD 01/13/17	90.00
SD RETIREMENT SYSTEM SPECIAL PAY PLAN-LEGROS, PD 01/27/17	45.00
US BANK – CDEV CREDIT CARD CHARGES, PD 02/01/17	300.00
US BANK CREDIT CARD CHARGES, PD 02/01/17	36,237.55
SOUTH DAKOTA DEPT OF LABOR UNEMPLOYMENT BENEFIT CHARGES, PD 02/01/17	14,172.00
BANK WEST TID47 TOWER RD, PD 01/23/17	40,238.07
BANK WEST TID54 RAINBOW RDIGE, PD 01/23/17	14,861.16
BANK WEST TID56 RUSHMORE CROSSING, PD 01/23/17	2,228.94
BANK WEST TID65 MINNESOTA ST, PD 01/23/17	972.72
BANK WEST TID69 NORTH FIRE STATION, PD 01/23/17	1,777.07
CITY OF RAPID CITY TID42 ELK VALE/TIMMONS, PD 01/23/17	7,930.96
CITY OF RAPID CITY TID56 RUSHMORE CROSSING, PD 01/23/17	424.56
CITY OF RAPID CITY TID64 CABELA'S, PD 01/23/17	5,000.87
FIRST INTERSTATE BANK TID50 FEDERAL BEEF/FOUNDERS PARK DEV, PD 01/23/17	987.82
BERKLEY ASSIGNED RISK SERVICES DEC16 CLAIMS, PD 01/12/17	34,772.88
BLACK HILLS ENERGY ELECTRICITY, PD 01/12/17	18,649.96
BLACK HILLS ENERGY ELECTRICITY, PD 01/25/17	196,894.62
MONTANA DAKOTA UTILITIES NATURAL GAS, PD 01/25/17	71,231.88
WEST RIVER ELECTRIC ASSOCIATION ELECTRICITY, PD 01/12/17	52,974.67
COMPUTER BILL LIST	3,594,467.9
CDEV COMPUTER BILL LIST	4,558.72
SUBTOTAL	9,308,322.86
RSVP P/ROLL PERIOD END 01/07/17, PD 01/13/17	3,330.59
RSVP P/ROLL PERIOD END 01/21/17, PD 01/27/17	3,330.58

RSVP PIONEER BANK & TRUST, 01/07/17 P/ROLL TAXES, PD 01/13/17	983.39
RSVP PIONEER BANK & TRUST, 01/21/17 P/ROLL TAXES, PD 01/27/17	990.48
RSVP COMPUTER BILL LIST	21.91
TOTAL	9,316,979.81

Sumption presented the bill list total of \$9,316,979.81. Motion was made by Nordstrom, second by Doyle and carried to authorize (No. CC020617-01) the Finance Officer to issue warrants or treasurers checks, drawn on proper funds, in payment thereof.

**EXECUTIVE SESSION** pursuant to SDCL 1-25-2(3) to consult with legal counsel about proposed or pending litigation. Motion was made by Doyle, second by Scott and carried 8-0, with Estes abstaining, to go into Executive Session at 8:41 p.m. Motion was made by Doyle, second by Scott and carried to come out of Executive Session at 9:57 p.m.

**STAFF DIRECTION** - Direction regarding Rapid City v. Big Sky L.L.C; Motion was made by Scott, second by Salamun and carried 8-0, with Estes abstaining, to direct staff to authorize the City Attorney to proceed with an appeal.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Scott, second by Wright and carried to adjourn the meeting at 9:58 p.m.

Dated this 6th day of February, 2017.

CITY OF RAPID CITY

ATTEST:

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

\_\_\_\_\_  
Mayor

(SEAL)