

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

September 18, 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, September 18, 2017 at 6:30 P.M.

The following members were present: Mayor Steve Allender and the following Alderpersons: Amanda Scott, Darla Drew, Ritchie Nordstrom, Lisa Modrick, Jason Salamun, Chad Lewis, Laura Armstrong, Steve Laurenti, Becky Drury and John Roberts the following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included: Finance Officer Pauline Sumption, City Attorney Joel Landeen, Public Works Director Dale Tech, Assistant Police Chief Don Hedrick, Interim Fire Chief Rod Seals, Deputy Finance Officer Tracy Davis, Parks and Recreation Director Jeffrey Biegler and Administrative Coordinator Heidi Weaver-Norris

ADOPTION OF AGENDA

Motion was made by Lewis, second by Salamun and carried unanimously to adopt the agenda.

AWARDS AND RECOGNITIONS

Mayor Allender presented the Veteran of the Month for September 2017 to Wiley Cress and recognized his service and dedication to the service of his country and community.

PRESENTATION

Scott Engmann and Amber Wodzinski presented the Habitat for Humanity - Garfield Green Project Update. Engmann said a few years ago the city awarded Habitat just under \$400,000.00 for infrastructure for the Garfield project. He stated that Habitat builds affordable homes and remodels homes. They have completed 135 projects in the Rapid City area. He said the need for affordable housing continues to expand. Market rent averages \$800.00 per month. Habitat owners pay less than 33% of their gross monthly income. Wodzinski stated that she is the community outreach coordinator with Black Hills Habitat. They are currently building eight homes around the old school. They not only wanted to build homes but a community as well. They currently have the first garage up and framed. They would like to have all the exterior work done and all the garages done by winter. She said all of the homes will have two stall garages and be energy efficient. They have done four home repairs in the Garfield neighborhood. They are starting a neighborhood watch. Black Hills Energy will support motion activated lights. This project will generate approximately \$300,000 in new property taxes over the next ten years. Engmann thanked the city for their support. He said the expected completion date is set for June 2018. Motion was made by Lewis, second by Laurenti to acknowledge the update.

GENERAL PUBLIC COMMENT

Andrew Pressley said he wanted to speak about youth soccer. His son plays for Club Amistad. He said Black Hills Rapids Soccer is trying to push them out. He's asked them to work with him on different tournaments but won't allow them to play. Club Amistad is a youth club that has an indoor facility in Box Elder. He said BH Soccer charges \$1200 for kids to play soccer and people can't afford that. He wants BH Soccer to be able to play against his club but they say they can't. He wants all soccer in Rapid City to be fair. He wants help from the city or parks department in order to use the soccer fields. He would like help within 30 days.

Carol Merwin addressed the Council. She said Rapid City has the arts, culture, recreation, scenery and sense of community. She said let's keep it. Keep the vision funds for the arts and culture.

Chuck Henrie addressed the Council about the Red Cross. He said he is the logistics leader for the Red Cross. He stated they have sent volunteers to Texas and Florida. They do a lot of shelter preparing, which involves opening shelters for people who have to leave their homes. They need more volunteers and encourage people to volunteer. For more information go to www.Redcross.org

Chuck Henrie stated the Mayor gave a great presentation on the Civic Center. He agrees that the city should build a bigger and better arena. We are not getting the top performers to come to Rapid City. He said Garth Brooks was just in Sioux Falls and did 9 shows. Garth Brooks didn't come to Rapid City. He encourages the council to support the Mayor in building a new Civic Center.

NON-PUBLIC HEARING ITEMS

Chuck Henrie spoke against Item 5. The item is for a new malt beverage license for The Man Salon. He doesn't want the council to approve any more alcohol licenses for Rapid City.

Greg Riley addressed Item 29 (LF091317-08). He said false statements were made by the Deputy City Attorney regarding code enforcement at last week's Legal & Finance meeting. He said a ruling notice was required and entitled but not provided. He is requesting that his \$140.00 payment be refunded.

CONSENT ITEMS – Items 3 – 33

The following items were removed from the Consent Items:

7. PW091217-02 – Confirm the Reappointment of William Waugh and New Appointment of Jim Anderson to the Rapid City Area Air Quality Board.
21. LF091317-09 – Confirm the Reappointments of Jerry Schmidt and Erik Braun and the New Appointments of Chance Whelchel, Trevor Johnson and Jon Machacek to the Downtown Business Improvement District (BID) Board
29. LF091317-08 – Deny Greg Riley - Request for Refund of Abatement Fee in the Amount of \$140.00 for Property Located at 4789 Summer Set Drive

Motion was made by Laurenti, second by Drury and carried unanimously to approve Items 3-33 as they appear on the Consent Items with the exception of Items 7, 21 and 29.

Approve Minutes

3. Approve Minutes for the September 5, 2017 Regular Council meeting.

Vacations of Right-Of-Way Set for Hearing (October 16, 2017)

4. No. 17VR007 - A request by Shanon Vasknetz of Baseline Surveying for Rockne Rapp Trust for a Vacation of Right-of-Way for property generally described as being located southeast corner of the intersection of E. Franklin Street and Cherry Avenue.

Alcoholic Beverage License Applications Set for Hearing (October 2, 2017)

5. Justin Christman / 33-7 Worldwide LLC DBA The Man Salon – Rapid City West, 2335 West Main Street #220 for a Retail (on off sale) Malt Beverage License

Public Works Committee Consent Items

6. PW091217-01 – Confirm the Reappointment of Kyle Blada to the Historic Sign Review Committee.
8. PW091217-03 – Confirm the Reappointments of John Herr and Karen Bulman and New Appointments of Justin Vangraefschepe (Alternate #1) and Vince Vidal (Alternate #2) to the Planning Commission.

9. PW091217-04 – Approve Change Order #1F to J & J Asphalt Company for Pavement Rehabilitation E. Madison and Racine, Project No. 17-2362 / CIP No. 50844 for an increase of \$16,837.20.
10. PW091217-05 – Approve Change Order #3F to Reede Construction for Mt. Rushmore Rd Utility Reconstruction - Tower Road to Flormann Street, Project No. 11-1926 / CIP No. 50840 for a decrease of \$31,133.71.
11. PW091217-06 – Approve Change Order #1F to Underground Construction, LLC. For Windslow Drive Drainage and Nebraska Street Sanitary Sewer Improvements, Project No. 16-2337 / CIP No. 50975 for an increase of \$30,435.56.
12. PW091217-07 – Authorize Mayor and Finance Officer to Sign an Agreement between the City of Rapid City and HDR Engineering, Inc for Professional Services for Water Reclamation Facility (WRF) Arc Flash Analysis, Project No. 17-2404 / CIP No. 51180 in the amount of \$44,960.00.
13. PW091217-08 – Authorize Mayor and Finance Officer to Sign an Agreement between the City of Rapid City and Pennington County for City Project No. 17-2375 / CIP No. 50437.
14. PW091217-09 – Authorize Mayor and Finance Officer to Sign an Agreement Concerning Transfer of Sanitary Sewer System Between Terracotta Estates Homeowners Association and City of Rapid City.
15. PW091217-10 – Approve Acceptance of Infrastructure for Good Samaritan Skilled Nursing Facility – Public Water Main - DEV16-1299.
16. PW091217-11 – Approve Request from Rapid City Regional Hospital, Inc. for a Variance to Waive the Requirement to Install Sidewalk per City Ordinance 12.08.060 along Mount Rushmore Road and Catron Boulevard, for the property located at 1635 Caregiver Circle – Lot A, Block 2, Buffalo Ridge Subdivision, Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.
17. PW091217-12 – Approve Request from Hagg Brothers, LLC. for a Variance to Waive the Requirement to Install Sidewalk per City Ordinance 12.08.060 Along US Hwy 16 / Mount Rushmore Road for a proposed commercial building on the corner of US Hwy 16 and Moon Meadows Drive.
18. PW091217-14 – Authorize staff to advertise for bids for Golf Cart Fleet Lease, estimated cost \$50,000.00 per year.
19. PW091217-13 – Authorize staff to advertise for bids for Meadowbrook Golf Course Veritable Turbine Variable Speed Drive Pumping Station, Project PR17-6162, approximate cost \$150,000.00.
20. PW091217-16 – Acknowledge Report on 5th Street and Main Street Intersection Safety Improvements – informational item only.

Legal & Finance Committee Consent Items

22. LF091317-11 – Confirm the Reappointment of Merton B. Tice, Jr. and the New Appointment of Shad Storm to the Human Relations Commission
23. LF091317-10 – Authorize Staff to Apply and Accept if Awarded the 2017 JAG Grant in the Amount of \$92,618 to be Evenly Split Between RCPD and the Pennington County Sheriff's Office
24. Acknowledge the Following Volunteers for Worker's Compensation Purposes: Lois Besmer (RSVP+), Larry Oswald (RSVP+), Dorothy D. Thompson (RSVP+)
25. LF091317-07 – Approve Resolution No. 2017-083A a Resolution Fixing Time and Place for Hearing on Assessment Roll for Cleanup of Miscellaneous Property

RESOLUTION No. 2017-083A
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 18th day of September, 2017. The City Council shall meet at the City / School Administration Center in Rapid City, South Dakota, on the 16th day of October, 2017 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 18th day of September, 2017.

CITY OF RAPID CITY
s/ Steve Allender
 Mayor

ATTEST:
s/ Pauline Sumption
 Finance Officer

(SEAL)

26. LF091317-05 – Authorize Mayor and Finance Officer to Sign FY2016 Community Development Block Grant Contract with Rapid City Supportive Housing, Inc. (Nonprofit affiliate of Accessible Spaces, Inc.)
27. LF091317-06 – Authorize Mayor to Sign the Environmental Review and Findings of No Significant Impact and Notice of Intent to Request for Release of Funds and Certificate Form for the Property Located at 248 Curtis Street
28. LF091317-12 – Authorize Mayor and Finance Officer to Sign Resolution 2017-084 a Resolution to Declare Real Property Located at 103 East Anamosa Street as Surplus and Authorize Disposal According to Law.

Resolution No. 2017-084

A RESOLUTION TO DECLARE REAL PROPERTY LOCATED AT 103 EAST ANAMOSA STREET AS
 SURPLUS AND AUTHORIZE DISPOSAL ACCORDING TO LAW

WHEREAS, the City of Rapid City acquire the property described below in conjunction with a street and utilities project at Anamosa and Maple Streets; and

WHEREAS, the garage on the property will be razed to accommodate the project; and

WHEREAS, the house and remaining property are not needed for municipal purposes.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Rapid City that the following property is no longer necessary, useful, or suitable for the purpose for which it was acquired and is hereby declared surplus as provided by law:

Lots 17 and 18 in Block 8 of Nowlin and Wood’s Addition to the City of Rapid City,
 Pennington County, South Dakota,

Commonly known as 103 East Anamosa Street.

BE IT FURTHER RESOLVED by the Common Council of the City of Rapid City that the Public Works Director is authorized to dispose of the property in any way authorized by state law.

Dated this 18th day of September, 2017.

CITY OF RAPID CITY
s/ Steve Allender
Mayor

ATTEST:
s/ Pauline Sumption
Finance Officer

(SEAL)

Community Planning & Development Services Department Consent Items

- 30. LF091317-13 – Authorize Mayor and Finance Officer to Sign the State of South Dakota Agreement/Letter of Agreement with the Department of Environment and Natural Resources for the Air Quality Program
- 31. LF091317-02 – Authorize Mayor and Finance Officer to Sign Amendment #1 to the State of South Dakota Historic Preservation Allocation Award (SD 17-027) Between the State of South Dakota and the Rapid City Historic Preservation Commission
- 32. 17TP015 – Authorize Mayor and Finance Officer to Sign Amendment 2017-02 of the 2017 Unified Planning Work Program

Bid Award Consent Items

- 33. No. CC091817-02.1 - Approve award of total bid for Rapid City Landfill Cell 17 Final Cover, Project No. 16-2364 opened on September 12, 2017 to the lowest responsible bidder, Foothills Contracting, Inc. in the amount of \$805,143.15.

END OF CONSENT ITEMS

Mayor read in item (PW091217-02) Confirm the Reappointment of William Waugh and New Appointment of Jim Anderson to the Rapid City Area Air Quality Board. Mayor asked to remove Jim Anderson for appointment. Motion was made by Salamun, second by Modrick and carried to remove Jim Anderson.

Mayor read in item (LF091317-09) Confirm the Reappointments of Jerry Schmidt and Erik Braun and the New Appointments of Chance Whelchel, Trevor Johnson and Jon Machacek to the Downtown Business Improvement District (BID) Board. Salamun said he had to abstain from voting. Drew asked why more females are appointed. She would like to see more females apply. Modrick said she was the liaison for the board and they are going through new applicants now. Motion was made by Modrick, second by Laurenti and carried to approve, Salamun abstained from the vote.

Mayor read in item (LF091317-08) Deny Greg Riley - Request for Refund of Abatement Fee in the Amount of \$140.00 for Property Located at 4789 Summer Set Drive. In response to a question from Modrick, Landeen said pictures are taken and notices are sent out by code enforcement. The home owner has time to contact code enforcement before code enforcement handles the problem themselves. Landeen said that Riley appealed being charged. Landeen doesn't know how the appeal was made since he has not seen a letter. Landeen said there were two different issues to discuss. Those issues are the violation and the actions that were taken to correct the violation. The appeal was denied and taken to

the Public Works Director and he agreed to waive the \$42 administration fee. The original fee won't be waived because that's what the city was charged to clean up the property. Landeen explained that Riley wants the city to refund the fee to clean up the property. Modrick asked if he was charged any other fees. Sumption said he was invoiced for the \$42 administrative fee but that was waived and he was not charged the additional \$100 late fee that was waived as well. Motion was made by Laurenti, second by Armstrong and carried to uphold the denial to refund the \$142.00.

NON-CONSENT ITEMS – Items 34 – 42

Mike Galanda spoke on item 36 (LF083017-09) and stated the vision fund was started to fund the civic center not to fund the arts. He wanted to applaud the Mayor for his drive to grow Rapid City and build a new arena. Margo Julius, spoke on behalf of Youth and Family Services. She has been on the board for over 20 years. Her commitment started because of her passion for helping children and the poor. The City of Rapid City has had tremendous vision and foresight to create this fund more than 25 years ago. There is such great collaboration in this community with so many other non-profit organizations. She encourages the collaboration of the vision and the use of vision funds.

Dane Boosma spoke on item 39 (PW091217-15) and said the property was re-platted in 2004 and the water and sewer needed to be adjusted to meet the new plat. The water and sewer was inspected and past by city staff. He bought the lot this year. He purchased the lot with water & sewer to the lot. He contacted utility maintenance and they provided the cards which are the diagrams showing how the water and sewer services run to the lot. When he went to get the building permit the engineering department reviewed it and said I had a non-conforming water and sewer line. Today it doesn't meet the new design criteria manual. He asked that an exception be granted. They have infrastructure that was in place that was ok in 2004 and its ok today. It is not a substandard product. This service line per the city standard would never be dug up. He asked that the exception be allowed.

Tonchi Weaver spoke on item 41 (LF091317-14). She thanked Alderman Laurenti for putting the item on the agenda. She is the spokesperson for South Dakota Citizens for Liberty. They are a group that believes in responsible taxation. She said the problem with the budget is not with the revenue, it's with the expenses. She said a lot of statements were made that if we want growth, we have to pay for it. She believes the people need to have a voice in this. It's not about the money as much as not going to the well each time we need money for something we want to do. The city should live within their means. She hopes council will support the right of the people on whether they should be taxed or not.

Mark Kline, President of RSVP+ Advisory Council, spoke on item 42 (CC091817-04.1). He said 556 people volunteer for the program. He knows it's a question whether the city should be in the business of volunteer coordination or not. He said this program has been cited by some alderman as a duplication of services, but he disagrees. They want to be self-sufficient but they can't be self-sufficient without the city's support. Chuck Henrie said he ran for council to represent people with disabilities and for senior citizens. He said it would hurt seniors to get rid of the program. He would like the council to override the Mayor's veto. Jerry Munson is in support of RSVP. He said it's been operating since 1971 and he's moved by their dedication and commitment. He urges council to override the veto. Linda Rabe, Rapid City Chamber, said they place a high regard and value on the community resource that they are. They use RSVP monthly to help put together the chamber pack. They would still like them to come to chamber and do the chamber packs. They have a great relationship with RSVP. They would like to keep the volunteers and encourage the community to invest in them and continue to use them as well.

Ordinances

Ordinance 6189 (LF083017-07) Regarding Supplemental Appropriation #3 for 2017 having passed its first reading on September 5, 2017, motion was made by Lewis, second by Salamun that the title be read the second time. Upon vote being taken the following voted AYE: Scott, Drew, Nordstrom, Modrick, Salamun, Lewis, Armstrong, Laurenti, Drury and Roberts: NO: None: whereupon the Mayor declared the motion passed and Ordinance 6189 was declared passed upon its second reading.

LF091317-01 – First Reading, Ordinance 6200, An Ordinance Amending Chapter 8.28 of the Rapid City Municipal Code Relating to Grass, Weeds, and Noxious Matter. Motion was made by Nordstrom, second by Drew and carried that Ordinance No. 6200 be placed upon its first reading and the title was fully and distinctly read.

Ordinance 6195 (LF083017-09) An Ordinance to Change the Allocation of the Revenue Raised by the Retail Occupational Sales and Service Tax by Amending Section 3.16.060 and Section 3.16.090 of the Rapid City Municipal Code. Mayor clarified the intent of this ordinance since it seemed that some people were unclear what it was about. He said this item doesn't direct the vision funds away from anything and it doesn't reprioritize vision funding. It changes the allocation of each penny of the city sales tax. Rather than .92 of a penny going to the general fund, it will be an even penny. This does away with utility support and rolls that into the reallocation of capital improvements. Then capital improvements goes from .46 to .58 and it changes the vision fund from .46 to .42. So there is no difference in prioritization, it just has to do with how the two pennies are divided among the categories. Modrick thanked the mayor for clarifying. Modrick feels like they are chipping away at the vision fund in order to move more into CIP. She said a lot of projects need vision fund attention. She would like vision funds increased instead of decreased. Motion was made by Lewis, second by Drew to restore the vision fund to .46 and CIP to .54. He said he understands doing this would make them have to balance the budget again. He said the vision fund is about the quality of life. People don't live somewhere because of perfect streets. He said he's more concerned about the homeliness than the streets. He stated we aren't listening to the voice of the people. Nordstrom stated he is the chair of the CIP committee. He said CIP is streets, road construction / rehabilitation, fire vehicles, the parks department and helping out the county. He is supporting the original motion. He stated the vision fund will re-coop itself in three years. Scott said she is in support of the original presentation with the thought that CIP would be taking on additional funds that would be directed toward rehabilitation of some of our streets. In response to a question from Scott, Landeen redirected the question to Sumption. Sumption said she has met with Tech and Nyberg and they will come to the next Legal and Finance committee with a resolution to adopt a new capital improvement plan policy. Drew said she was happy to see all of the citizens at the meeting. It is their right to be part of the process. She doesn't want to chip away at the vision funds because the people said they want the vision funds to stay as they are. She will vote for Lewis's motion. Substitute motion was made by Roberts and second by Laurenti to approve the ordinance as originally written. Roberts said the city is behind on infrastructure and in order to avoid raising taxes, they have to take money from the vision funds. He thinks 2% is a good start, he'd like to see more, but 2% is a compromise. Laurenti asked Sumption what the projected balance will be based on what is on the agenda today for the vision funds based on the reallocation. Sumption said it's approximately \$1.1 million less than what is currently being allocated. There will still be \$11.8 million available. Laurenti said we need to make sure we don't create future liabilities by awarding these dollars to projects that can't be self-sufficient. People shouldn't rely on government for quality of life. Their first priority is public safety and infrastructure. The city is millions of dollars behind in streets and infrastructure. He will support the original ordinance as presented on the agenda. Having passed its first reading on September 5, 2017 substitute motion was made by Roberts, second by Laurenti that the title be read the second time. Upon vote being taken, the following voted AYE: Scott, Nordstrom, Salamun, Armstrong, Laurenti, Drury, and Roberts; NO: Drew, Modrick and Lewis; whereupon the Mayor declared the motion passed and Ordinance No. 6195 was declared passed upon its second reading.

Ordinance 6191 (No. 17RZ024) An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, a request by KTM Design Solutions for Dakota Hills Trailer Sales, LLC for a Rezoning from Park Forest to Low Density Residential for property generally described as being located at 6061 Covenant Drive. Motion was made by Salamun, second by Nordstrom and carried that Ordinance 6191 be placed on its first reading and the title was fully and distinctly read and second reading set for Monday, October 2, 2017.

Community Planning & Development Services Department Items

Mayor read in item (No. 17PL090) A request by KTM Design Solutions, Inc for Yasmeen Dream, LLC for a **Preliminary Subdivision Plan** for proposed Lots 2 thru 27 of Block 5, Lots 1R, 2-8 of Block 6 of Orchard Meadows, generally described as being located south of S.D. Highway 44 and east of Elk Vale Road. Motion was made by Nordstrom, second by Laurenti to approve with the following stipulations: 1. Upon submittal of a Development Engineering Plan application, the redline comments shall be addressed. In addition, the redline comments shall be returned with the Development Engineering Plan application; 2. Prior to approval of the Development Engineering Plan application, submitted engineering reports required for construction approval shall be accepted and agreements required for construction approval shall be executed if subdivision improvements are required. In addition, permits required for construction shall be approved and issued and construction plans shall be accepted in accordance with the Infrastructure Design Criteria Manual. All final engineering reports shall be signed and sealed by a Professional Engineer and contain a Certification Statement of Conformance with City Standards as required by the Infrastructure Design Criteria Manual; 3. Upon submittal of a Development Engineering Plan application, construction plans for Jim Street shall be submitted for review and approval showing the street located in a minimum 52 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer in compliance with the Infrastructure Design Criteria Manual and the Rapid City Municipal Code or an Exception shall be obtained. If an Exception is obtained a copy of the approved document shall be submitted with the Development Engineering Plan application; 4. Upon submittal of a Development Engineering Plan application, construction plans for Clementine Court and Hazelnut Lane shall be submitted for review and approval showing the streets located in a minimum 52 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer as proposed. In addition, the cul-de-sac bulb(s) shall be located in a minimum 104 foot diameter right-of-way and constructed with a minimum 84 foot diameter paved surface in compliance with the Infrastructure Design Criteria Manual and the Rapid City Municipal Code or an Exception shall be obtained. If an Exception is obtained a copy of the approved document shall be submitted with the Development Engineering Plan application; 5. Upon submittal of a Development Engineering Plan application, water plans and analysis prepared by a Registered Professional Engineer shall be submitted for review and approval in accordance with the Infrastructure Design Criteria Manual and as approved by the Rapid Valley Sanitary District. The design report shall demonstrate that the water service is adequate to meet estimated domestic flows and required fire flows to support the proposed development; 6. Upon submittal of a Development Engineering Plan application, a sewer design report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual and as approved by the Rapid Valley Sanitary District shall be submitted for review and approval. The design report shall demonstrate that the sanitary sewer capacity is adequate to meet estimated flows and provide sufficient system capacity in conformance with the Infrastructure Design Criteria Manual; 7. Upon submittal of a Development Engineering Plan application, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual and Infrastructure Design Criteria Manual shall be submitted for review and approval as required. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction; 8. Upon submittal of a Development Engineering Plan application, a drainage plan and report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual and the Rapid City Municipal Code shall be submitted for review and approval for the proposed subdivision improvements. The drainage report shall address storm water quantity control and storm water quality treatment. In addition, easements shall be provided as needed; 9. A Floodplain Development Permit shall be obtained for any development work, obstructions, or water course alteration on the property if there are Special Flood Hazard Areas located within any portion of the property boundary; 10. Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements; 11. Upon submittal of a Development Engineering Plan application, a cost estimate of the required subdivision improvements shall be submitted for review and approval; 12. Prior to submittal of a Final Plat application, the existing 75 foot wide drainage easement extending through the property shall be vacated. In addition, the plat document shall show the recording information for the vacated easement; 13. Prior to submittal of a Final

Plat application, that portion of the property currently zoned General Agriculture District shall be rezoned to Low Density Residential District in compliance with the Future Land Use Plan; 14. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid, 15. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required. In addition, any utilities and drainage proposed outside of the dedicated right-of-way shall be secured within easement(s).

Public Works Committee Items

Motion was made by Lewis, second by Modrick to (PW091217-15) Approve the Appeal of Denied Exception Request from Daene Boomsma to allow connection to an existing non-conforming water service stub that runs parallel in the ROW, in front of an adjacent lot for a new single family house. (City File 17EX153). Modrick said it doesn't appear to obstruct as shown by pictures presented by the applicant. She can support to approve the appeal. Nordstrom said he disagrees and still sees the water line going across the neighbor's property. He remembers issues that happened in other areas similar to this. He said it can create a lot of problems down the road. He won't support it. In response to a question from Laurenti, Tech said the cost, according to the applicant, based on what the city is requiring, would be approximately \$8,000 paid by the applicant. The code requires you take direct service. It can't run parallel to the right-of-way. Tech referenced Boosma saying if there is a problem, the future owner will have to put a new one in that is conforming. Tech said if this line fails near the neighbor's property, it will wash out a considerable portion being whatever it's running under, whether it's sidewalk, driveway, or landscaping, it will be problematic. Laurenti said the city has had issues like this where property has been platted and replatted. And during the replatting process many things get skirted. What ends up happening is future owners end up dealing with the problem. When we ignore staff there ends up being problems. In response to a question from Drew, Boomsma said he bought the lot 30-45 days ago, he said the existing water line was approved using the old code. He does these water line repairs all the time. Boomsma said this water line meets current infrastructure code, as far as how it was installed and the type of material. He said he's not pushing this cost to another home owner. He's not adding risk with this water line that isn't already there. Boomsma said it was approved in 2004. He learned a lesson to not only go to utility maintenance but also go to engineering in the future. He said this home is already pre-sold. He will tell homeowner about the issue. The neighboring property owner knows the water line runs parallel to his property and expressed no concerns. Motion tied 5 to 5 with the following voting AYE: Roberts, Drew, Modrick, Salamun and Lewis; NO: Armstrong, Laurenti, Drury, Scott and Nordstrom; Mayor broke the tie vote with an AYE vote. Motion passed.

Council Items & Liaison Reports

Motion was made by Salamun, second by Modrick to (LF091317-03) Acknowledge Human Relations Commission Semi-Annual Update. Scott asked if there was going to be an update. Landeen asked if anyone was there from the Human Relations commission. There was no response. He advised to read the attached report. Motion carried.

Mayor read in item (LF091317-14) Steve Laurenti – Resolution of Support for an Initiated Measure to put the CPI Property Tax Increase on the Ballot for Rapid City Voters. In response to a question from Laurenti, Landeen said the council can't call for a special election without the required signatures. He said there would have to be 5% of the registered voters signatures obtained in order to put on initiated measure. Landeen said council can't refer an administrative decision. It's hard to operate government if they refer every administrative decision. Laurenti believes petitioners will get enough signatures. Growth doesn't come from government. Growth comes from private enterprise and private investment. Modrick said the state of South Dakota was the first state to allow initiated measures and referendums. She thinks that great. However, she doesn't think this item needs a resolution of support. It's up to the people to get the signatures if they want the vote, but they need to remember that it will also cost the tax payers money to put this on the ballot. It will cost approximately \$60,000.00. In response to a question from Modrick, Landeen said for an initiated measure there is no timeline. He said for a referendum, you would

have 30 days after publication. For an initiated measure, signatures start becoming invalid after six months of the first signature. However, if taxes are collected before the vote is taken and the vote passed, the city would have to figure out how to issue a refund. Landeen said there will be some practical difficulties of a vote if a refund is due. The average refund will be around \$7.20 and right now the finance office has a policy to not issue checks for less than \$10.00 because it costs more to process the check. Landeen said the earliest that petitioners could present the signatures they get, if it's the correct amount, is the council meeting on October 2, 2017. If they correct number were collected, the earliest date a vote could take place is December 5, 2017. At that point the mill levy is final and we won't be able to change it. So that tax is going to be collected and the city will have to refund it. Nobody knows how much work it would take to determine the amount of the refund and who is entitled to a refund. But if you assume an average valuation the refund will be less than \$10.00. Modrick asked why we have a policy where we don't refund less than \$10.00. Landeen said it costs too much to process a check and mail it out. He said the person can come in and get cash if they want. In response to a question from Lewis, Landeen said if a resolution is signed, the people are assuming the council is saying they will honor their petitions and send it for a vote. Lewis doesn't think we should issue refund checks for \$3.00. He said people want the same services for less money. This is an inflationary hedge it's not the government grabbing money. It's the cost to keep up with inflation. Mayor said a yes or no vote will pose no issue on this whatsoever. Salamun said he did not vote for the CPI but he does support the citizen's right for an initiated measure. He said he wouldn't sign the initiated measure himself. He doesn't feel that spending \$60,000 to hold an election in order to save \$160,000 is the most responsible way to budget money. And now based on the timeline, the city might end up issuing refunds which will cost even more tax payer money. He said he supports initiated measures in general he just doesn't support this one specifically. Scott said she feels the same as Salamun. She voted against the CPI but won't vote for this specific resolution because it defeats the purpose. Scott stated the difference between a referendum versus an initiated measure is the timeframe in which citizens can collect signatures. She said an initiated measure is a rolling six months. Scott asked Landeen if citizens wanted to tell government agencies that they don't want to be taxed anymore, but we already know the biggest governmental agency that charges on your property tax is the school district, followed by the county, could they do an initiated measure that addressed all of the tax increase for all three or does it have to be three different initiated measures because they are three different governmental agencies. Landeen thinks it would have to be three initiated measures. Scott said she probably won't vote for the resolution. She said citizens don't need their approval to get signatures for an initiated measure. In response to a question from Nordstrom, Landeen said he's legally required to do an opinion on the measure. Landeen said there are guidelines in the opinion but it's mostly to his discretion. He said he's not going to speculate what will go into his opinion at this point. Landeen said the city will likely have to repurpose finance staff in order to calculate the refund. Nordstrom said the CPI is so low in his ward that it doesn't make economic sense to even put this to a vote. Drury said voters want a hold on their property taxes and want their streets better. She said this is why they elected her and she will vote for what the people want. Roberts thanked Laurenti for bringing this forward and he will support it. He said it's amazing that the government is saying how the citizens are going to make it inconvenient for them. He asked when the government became the rulers. He has heard the people say that their taxes go up but they don't see a lot in return. Laurenti said the reality is that city revenues, sales tax and property tax, since 2006, have grown 45%, that's 4.5% each year since 2006. He said Rapid City doesn't have a revenue problem, it has a spending problem. He said roads aren't being fixed because the city has not prioritized them. He stated nobody in the city knows how much growth costs. Drew said she talked to citizens who feel investment is important and they feel a small increase in property taxes is ok. In response to a question from Drew, Laurenti said he can't be in a leadership position on the committees because of his full-time employment. Laurenti said he does serve on committees. Salamun called point of order. Drew said she feels as though Laurenti is calling some council members irresponsible. Laurenti said he doesn't think leadership means a position with a title. He said leadership has more to do with the actions that they take. In response to a question from Roberts, Sumption said they would have to work with the county if a refund ends up being issued. Roberts asked if they could do a tax rebate. Sumption believes they would have to do a refund, but the details still need to be worked out. Motion was made by Laurenti, second by Roberts to approve. Motion failed 4-6 with Lewis, Laurenti,

Drury and Roberts voting yes; Nordstrom, Modrick, Salamun, Armstrong, Scott and Drew voting no. Mayor said as far as he can tell, we are the only city in South Dakota that has extricated this CPI issue out of the budget system to have a separate debate. This is an inflationary increase of property taxes. We are the only city in South Dakota that does this. He said this started in 2011 when a mayoral candidate used this particular point as a political tool against a sitting mayor. Once elected, the new mayor put it in this form of a resolution requiring that it be debated every year. He said up until 2011 the people paid this inflationary tax increase every time it was proposed because it was part of the regular budget process just like every other community in South Dakota does. In the same ten years that the revenue grew, the council adopted 128 miles of roads. That is approximately 90% more roads than the rest of the cities in South Dakota have in total. Roads are the single most expensive thing the government buys. There is no business model anywhere where growth is used to account for inflation. He said some members of the council make it sound easy to find a few million dollars to balance the budget but they haven't spent months trying to find those millions of dollars. There is a lot that goes into this budget and almost zero of it was used in these budget hearings or in this type of discussion this year. All of the research, calculating, reprioritizing, it took back seat to emotions.

Staff Items

Mayor read in item (CC091817-04.1) Presentation of Mayor's Written Objection Specifically to the RSVP line item in Ordinance No. 6194 FY2018 Appropriation Ordinance and Consideration of the Mayor's Line Item Veto. The mayor stated that a veto doesn't have to signal a quarrel between the branches of government or the individuals in the branches of government. We have a luxury and a blessing of being in a government that has separation of powers. The legislative branch which is this council and the executive branch which is the mayor's office have certain powers. He stated he has been looking at the RSVP program for two years. A 46-year old program that has not been self-sufficient is not going to start to be self-sufficient. He stated he came to the conclusion to end the program without airing the dirty laundry. He said this was a business decision. He stated the communication with the council could have been a lot better. The idea that volunteers will go away if RSVP is cancelled is a lie. It is a lie based on fear. Mayor respectfully asked council to support the veto. Modrick said she has seen RSVP in working form for many years. This is an organized group that has high touch not high tech behind it. She said you can't put dollars on volunteerism because it's priceless. This program is alive and well and it's the wrong time to cancel this program. There was a majority vote to keep it alive at the last meeting. She said it's not time to end RSVP but to help reposition the organization. She doesn't think the mayor can validate a veto when council supports keeping the program. Roberts said he supports RSVP and the return on investment is amazing. He wants to give them the ability to raise the money. If they give RSVP one more year, he has no doubt the funding next year will come forward. If it doesn't come forward at least they have a year to try and find it. It's not fair to not give them time to work another way. He wants to give them one more year of gap funding. Roberts doesn't feel like this was a business decision otherwise the mayor would have vetoed Allied Arts and The Journey Museum and taken them out of the budget as well. Nordstrom said this is a tough one for him. He appreciates the comments about RSVP. His major concern is the lack of communication from RSVP staff to the advisory board. The communication hasn't been very good. Salamun said he appreciates the mayor's words, but he will support the RSVP program. Drew said it's salvageable but she is frustrated. She asked why council has to threaten to get rid of the program before they step up. She would like to see the program go for one more year but wants them to get it together. Motion was made by Lewis, second by Roberts to override mayor's veto. Motion carried 7 to 3 with Roberts, Drew, Nordstrom, Modrick, Salamun, Lewis, and Armstrong voting yes; Drury, Scott and Laurenti voting no.

PUBLIC HEARING ITEMS – Items 43 – 50

Michelle Thomson, item 43 (LF083017-10) is there to answer any questions if needed.

Mike Sabers, attorney for the Buckingham's and Karate for Kids, Item 50 (17UR017) addressed the Council. He said the owner of the adult oriented business wants to put his business within 600 feet of an educated facility, which is the Karate for Kids. He said this business should not be within 1000 feet of

Karate for Kids. He said the facility has a curriculum and tests and is considered an education facility. He said Karate for Kids should not just be limited to a school definition. He said Mr. Eliason sells things that people don't want to explain to their kids. He doesn't believe this business should be allowed at this location and wants council to turn down the conditional use permit. Roger Tellinghuisen, attorney for David Eliason, addressed the Council. He said this decision shouldn't be emotional. He said it's about the first amendment which is free speech. Rapid City regulates where adult oriented businesses can go. What Council needs to debate is whether Karate for Kids is an education facility. He said the assistant city attorney has given council a memo regarding the definition of an education facility. Planning commission concluded it wasn't an education facility as intended by the Rapid City ordinance. Some businesses listed as education facilities in the ordinance are daycares and 15 types of schools. Tellinghuisen said the conditional use permit was unanimously approved by the planning commission and it should be upheld. He said the main entrance for the AOB is on Deadwood Avenue. The main entrance for Karate for Kids is on Lien Street. He said the city has regulations for the AOB and those are good and strict and will be followed. He also said anyone entering will be carded and have to be 18. David Eliason, owner, addressed the Council. He said he started looking for locations in 2009. They have met all requirements from the city and would like the city to uphold the ruling of the planning commission in granting his conditional use permit. They have a retail only adult business which means no viewing or entertainment on premise. They removed the word naughty from sign and changed it to super. They are trying to be good stewards in the community. Robin Buckingham, co-owner and martial arts instructor of Karate for Kids, addressed the Council. She said her facility is an education facility and she is an educator in life skills. She does not want the AOB near children. The following people addressed the council and this is what they said. Hollie Kaufman said pornography is a public health crisis and this business won't fix the problem. Bishop Troy Carr is against the AOB being close to children, he is an advocate for the children. Noel Burke stated he didn't want the business in Rapid City at all. Scott Craig is the pastor at Big Horn Canyon Church and Chairman of the Board for the Family Heritage Alliance. He doesn't want their property value to be effected and is more concerned with the moral value of the council and wants them to have courage and vote no to the CUP. Tonchi Weaver agrees the business is legal but the council should set a moral standard. She thinks the ordinance should restrict the location from being around any children. She wants council to listen to the voice of the people. Amy Wagner is the state coordinator of the Black Hills National Day of Prayer. She said Karate for Kids is an education facility and the city needs to protect the kids. She said the only reason the council would allow this business is out of fear or greed. Jill Mills is against the CUP. She won't bring kids to a place that attracts sexual predators. Tim Goodwin said this is a common sense issue and the Karate for Kids is a school and AOB's have to be 1000 feet from schools and kids. Mark Biggs was on the AOB advisory board in 2002-2003 he said back then there was 116 registered sex offenders, now there are 404 registered sex offenders. When he was on the committee they wanted AOB's 2500 feet away from children, now it is 1000 feet. He said the ordinance was mainly written to protect children. He believes the ordinance includes karate and dance centers as schools. He thinks the council should turn down the CUP. Bill Clayton said the people have spoken loud and clear and they want this CUP denied. Phil Shively is the director of community relations for the family heritage alliance. He is not in favor of the AOB and looks to Council to protect the kids and send the right message. Greg Blanc, chaplain at Calvary Chapel Community Church, is on the west river human trafficking counsel. He said children shouldn't be forced to know what's there. He said it provides no good service to the city and the counsel needs to be good role models to the kids. Ed Randazzo, director of operations for the family heritage alliance action, urged council to protect the kids, do the right thing and not take the path of least resistance. Janelle Chase said it's the counsel's job to keep the citizens safe. She wants them to put public safety first and deny CUP. Reverend Greg Kroger, pastor at First United Methodist Church, said God's #1 rule is to do no harm, rule #2 is to do good. He urged counsel to do no harm and do good.

CONSENT PUBLIC HEARING ITEMS – Item 43 – 49

Motion was made by Salamun, second by Lewis and carried unanimously to approve Items 43-49 as they appear on the Consent Public Hearing Items.

- 43. LF083017-10 – Authorize Mayor and Finance Officer to Sign Lease Agreement Between the City of Rapid City and Black Hills Visitor Information Corporation. (This item was continued from the September 5, 2017 City Council meeting.)

Alcohol Licenses

- 44. Maverik, Inc. DBA Maverik, Inc. #552, 1624 Haines Avenue for a Retail (on-off sale) Wine license (Continued from the August 7, 2017 Council meeting)
- 45. Dakota Slice LLC DBA Blaze Pizza, 515 Mt View Rd for a Retail (on-off sale) Malt Beverage License
- 46. Dakota Slice LLC DBA Blaze Pizza, 515 Mt View Rd for a Retail (on-off sale Wine License
- 47. Frankie’s LLC DBA Thirsty’s, 819 Main St for a Retail (on-off sale) Malt Beverage License
- 48. NAJA Shrine Temple DBA Rapid City Shrine Ctr., for a SPECIAL EVENT On-Sale Dealer License for an Event Scheduled for October 14, 2017 at 4091 Sturgis Road

Assessment Rolls

- 49. LF091317-04 – Approve Resolution No. 2017-071B a Resolution Levying Assessment for Cleanup of Miscellaneous Property

RESOLUTION NO. 2017-071B
 RESOLUTION LEVYING ASSESSMENT FOR
 CLEANUP OF MISCELLANEOUS PROPERTY

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

- 1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by the property cleanup is the amount stated in the proposed assessment roll.
- 2. The Assessment Roll for Cleanup of Miscellaneous Property is hereby approved and assessments thereby specified are levied against each and every lot, piece, or parcel of land thereby described.
- 3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City Finance Office in accordance with SDCL ch. 9-43, as amended, and shall be payable in one annual installment bearing interest at the rate not to exceed six and one-half percent (6.5%).

Dated this 18th day of September, 2017.

CITY OF RAPID CITY
s/ Steve Allender
 Mayor

ATTEST:
s/ Pauline Sumption
 Finance Officer

(SEAL)

END OF CONSENT PUBLIC HEARING CALENDAR

NON-CONSENT PUBLIC HEARING ITEMS – Item 50

Mayor read in item (No. 17UR017) Appeal of Planning Commission’s decision on a request by Renner Associates, LLC for David Eliason for a Conditional use Permit to allow a sexually oriented business in the General Commercial District for property generally described as being located at 1141 Deadwood Avenue, Suite 7. Salamun wanted to look at this more objectively rather than personally. He said there is a lot of supporting documentation from the applicant, the planning office, the attorney’s office and from Karate for Kids. He said he would support the cry for kids. The ordinance says an AOB should not operate within 1000 feet of a list of schools, defined as a public or private educational facility including but not limited to, and it goes on to list many establishments. He thinks the karate for kids is a teaching facility and falls in the category of schools. He believes the ordinance was started in the first place to protect kids. He said the city attorney is going the best they can by the law and not reading into the intention. He said if Karate for Kids wasn’t at its current location, he would grant the CUP. But since Karate for Kids is within 1000 feet he won’t vote for it. Laurenti agrees with the citizens. He said there will be a lawsuit and he wants to be on the side that says this is not good for society. He urged to get the right people in office who stand for morally right decisions. Drury said she is looking at the intent of the ordinance and she believes the intent is to keep adult businesses away from children and doing that is important to her. Armstrong said she is sympathetic to the situation. She doesn’t agree with the business but says the applicant has a right to his business. She doesn’t think it’s the job of government to impose their morals on the citizens. In response to a question from Armstrong, Landeen said Karate for Kids doesn’t identify as a school but as Mr. Sabers said generally when you file the corporate papers you don’t name a legal purpose. Landeen said the city can’t ban adult businesses completely. There are not a lot of locations for this type of business in Rapid City. If the city goes to court and loses, they could be responsible for economic damages as well as the applicant’s attorney fees. Nordstrom said Mr. Sabers put together a valid argument that he can support. He doesn’t feel this is the right location. Motion was made by Scott, second by Drew to uphold the appeal of the planning commission’s decision. Scott said she is voting on the ordinance and it comes down to definitions. Karate for Kids implies this is an institution that has a clientele of kids. The applicant needs to be 1000 feet away from kids. Roberts said he is voting in favor of the CUP. He said his job isn’t to make people happy it’s to uphold the city ordinances and laws. He believes the city will be taken to court and the city will lose and he doesn’t want to throw away the tax payers money. He is doing what he thinks is right by definition. He can’t side with morals, he has to do what is legally right. In response to a question from Drew, the applicant said after years of searching and coordinating with the city planning office and city attorney, Deadwood Avenue was suggested to him as a good location. He said the other location would be Rushmore Crossing. But he went away from Rushmore Crossing because he didn’t want to upset more people by doing business at the premier retail plaza. She asked if he knew there was a karate business for kids nearby and he said no. She also asked if he was willing to go to court over the location and he said yes. The applicant said they would concede to not selling pornographic magazines. He stated if the city was willing to provide him with a different location in advance he would look at it. Motion to deny the conditional use permit passed 6 to 4 with Laurenti, Drury, Scott, Nordstrom, Modrick and Salamun voting yes and Lewis, Armstrong, Roberts and Drew voting no.

BILLS

The following bills have been audited.

BILL LIST - SEPTEMBER 18, 2017

P/ROLL PERIOD END 09/02/17, PD 09/08/17	973,084.49
CDEV P/ROLL PERIOD END 09/02/17, PD 09/08/17	4,863.96
PIONEER BANK & TRUST, 09/02/17 P/ROLL TAXES, PD 09/08/17	249,773.98
CDEV PIONEER BANK & TRUST, 09/02/17 P/ROLL TAXES, PD 09/08/17	1,300.48
WELLMARK INC, HEALTH CLAIMS THROUGH 08/25/17, PD 08/31/17	212,674.72
WELLMARK INC, HEALTH CLAIMS THROUGH 09/01/17, PD 09/07/17	233,569.99
WAGE WORKS, SECTION 125 CLAIMS THROUGH 09/05/17, PD 09/06/17	3,329.76

WAGE WORKS, SECTION 125 CLAIMS THROUGH 09/11/17, PD 09/12/17	1,941.93
SOUTH DAKOTA RETIREMENT SYSTEM, AUG17 RETIREMENT, PD 09/05/17	474,046.45
BERKLEY ASSIGNED RISK SERVICES, AUG17 CLAIMS, PD 09/06/17	8,027.11
WEST RIVER ELECTRIC ASSOCIATION, ELECTRICITY, PD 09/13/17	20,003.55
BLACK HILLS ENERGY, ELECTRICITY, PD 09/13/17	92,191.70
COMPUTER BILL LIST,	3,858,669.75
CDEV COMPUTER BILL LIST	34,000.18
SUBTOTAL	6,167,478.05
RSVP, P/ROLL PERIOD END 09/02/17, PD 09/08/17	3,347.23
RSVP, PIONEER BANK & TRUST, 09/02/17 P/ROLL TAXES, PD 09/08/17	985.67
TOTAL	6,171,810.95

Sumption presented the bill list total of \$6,171,810.95. Motion was made by Laurenti, second by Salamun and carried to authorize (No. CC091817-01) 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 Armstrong, second by Laurenti and carried to adjourn the meeting at 10:38 p.m.

Dated this 18th day of September, 2017.

ATTEST:

CITY OF RAPID CITY

Finance Officer

Mayor

(SEAL)