

**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
MITCHELL, SOUTH DAKOTA**

**AUGUST 4, 2008
7:30 P.M.**

PRESENT: Dan Allen, Marty Barington, Geri Beck,
Travis Carpenter, Scott Houwman, Allen Lepke

ABSENT: Mayor Lou Sebert, Council Member Doug Backlund

PRESIDING: Council President Jeffrey Smith

AGENDA:

Moved by Lepke, seconded by Carpenter, to approve the agenda as prepared with an addendum.
Motion carried.

MINUTES:

Moved by Barington, seconded by Carpenter, to approve the minutes of the regular City Council meeting held on July 21, 2008. Motion carried.

BOARD OF ADJUSTMENT:

Moved by Beck, seconded by Allen, for the City Council to adjourn and sit as the Board of Adjustment.
Motion carried.

It was advised that this is the date and time set for hearing on the application of Jason Hohn for a variance to construct an addition to his garage at 1500 East Ash Avenue, legally described as Lot 7, Block 4, Sunnybrook Addition, City of Mitchell, Davison County, South Dakota. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission approved said application. Moved by Carpenter, seconded by Allen, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Steve and Judy Gaston for a conditional use permit to construct a garage at 40 South Harmon, legally described as Lots 2 and 3, Block 18, Indianhead 3rd Addition, City of Mitchell, Davison County, South Dakota. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission approved said application. Moved by Lepke, seconded by Allen, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Steve and Judy Gaston for a variance to construct a garage at 40 South Harmon, legally described as Lots 2 and 3, Block 18, Indianhead 3rd Addition, City of Mitchell, Davison County, South Dakota. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission approved said application. Moved by Barington, seconded by Houwman, to approve said

application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Gay Lynn Weber for a conditional use permit to operate a daycare center in her home at 512 West 3rd Avenue, legally described as Lot 9, Block 98, Lawler's 1st Addition, City of Mitchell, Davison County, South Dakota. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission approved said application with the conditions the permit is non-transferable and will expire if not operated for a period of six months. Moved by Lepke, seconded by Barington, to approve said application subject to the Planning Commission recommendations. Motion carried.

It was advised that this is the date and time set for hearing on the application of Emily Kneen for a conditional use permit to operate a daycare center in her home at 520 South Kimball, legally described as Lot 115, Overlook Addition, City of Mitchell, Davison County, South Dakota. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission approved said application with the conditions the permit is non-transferable, will expire if not operated for a period of six months, a fence is installed within 60 days, and Fire Marshall recommendations be completed. Moved by Lepke, seconded by Carpenter, to approve said application subject to the Planning Commission recommendations and contingent upon the Fire Marshall recommendations be completed prior to operation. Motion carried.

Moved by Allen, seconded by Barington, that the 18th day of August, 2008 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application of Tom and Reeny Scott for a variance to construct an addition at 119 West Railroad, legally described as Lot A, KL Wallman's Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

Moved by Lepke, seconded by Allen, that the 18th day of August, 2008 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application of Justin Thiesse for a variance to construct a duplex at 117 and 119 Mattie Street, legally described as Lot 9, Block 1, Wood's Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

Moved by Lepke, seconded by Barington, that the 18th day of August, 2008 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application of Scott and Carla Houwman for a variance to construct a garage at 1001 Indian Village Road, legally described as Tract 1B, Indian Village 1st Addition and to direct the Finance Officer to give notice according to statute. Houwman abstained. Motion carried.

Moved by Carpenter, seconded by Allen, that the 18th day of August, 2008 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application of Bobbie Sperlich for a conditional use permit to operate a daycare center in her home at 610 East 1st Avenue, legally described as Lot 10, Block 38, Cooley & Guernsey Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

Moved by Beck, seconded by Barington, that the 18th day of August, 2008 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application of Shelly Miller for a conditional use permit to operate a daycare center in her home at 1521 Kemper Avenue, legally described as Lot 3, Block 2, Lakeview 2nd Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

Moved by Lepke, seconded by Beck, for the Board of Adjustment to adjourn and the City Council to reconvene in regular session. Motion carried.

HEARING:

It was advised that this is the date and time set for hearing on the application of V.V. Inc. dba Steak 'N' More to transfer Retail Liquor License (RL-5546) from 1801 North Main, Suites #3, #4, & #5 to 1801 North Main, Suites #3, #4, & #5 and 130' x 160' parking lot. Moved by Houwman, seconded by Beck, to approve said application. Carpenter opposed. Motion carried.

AWARD BID:

Representatives from VanderPol Construction Company were present to discuss the rebidding of the Landfill Closure Project.

Bids were opened and read on the Landfill Closure Project #2008-34 on the 4th day of August, 2008 in the Council Chambers of City Hall.

Moved by Beck, seconded by Carpenter, to award as follows:

LANDFILL CLOSURE PROJECT #2008-34

Schoenfelder Construction, 3131 West Havens, Mitchell, SD 57301

Total Bid - \$347,279.54

Motion carried.

RESOLUTIONS:

Moved by Beck, seconded by Lepke, to adopt Resolution #2665, Opposing Initiated Measure #10, as follows:

Resolution #2665

Be it resolved by the City of Mitchell

Whereas, Initiated Measure #10 would prohibit any city from paying dues to any association that lobbies:

Whereas, it is far more efficient and cost effective to join together with our fellow cities through the SD Municipal League for coordinated communication with the Legislature than to have each city stand along;

Whereas, the costs to the taxpayers of having each city to monitor, report, and travel to Pierre to participate in the Legislative Session would be much greater than any dues to the SD Municipal League;

Whereas, coordinated communication with Legislators leads to more efficiency in the Legislative process and has saved millions of dollars in taxpayer funds;

Whereas, restricting the ability of South Dakotans to support candidates and communicate with their elected public officials is a violation of their right to freedom of speech;

Whereas, the measure will be challenged in court and will most likely be found to be unconstitutional, costing millions of dollars in taxpayer money;

Whereas, Initiated Measure #10 does not limit State government-paid lobbyists, out-of-state lobbyists, or corporate lobbyists, but only stifles coordinated voices for local control;

Whereas, the City of Mitchell finds that municipal officials throughout South Dakota are dedicated, honest and ethical people with the best interests of their cities in mind and that cities take great pride in providing open, honest government to our citizens;

Whereas, the thousands and thousands of South Dakotans who do business with the State, Cities, Counties, and other governmental entities should not be penalized for providing such services;

Whereas, civic groups who work to better their community, and often require local funding to provide their services should not be prohibited from communicating their needs to local public servants;

Whereas, the forces supporting Initiated Measure #10 will not reveal the source of their funding, leaving the reasonable assumption that out of state special interests are once again attempting to hijack the South Dakota ballot and abuse our initiative process;

Therefore let it be resolved that the City of Mitchell strongly opposed Initiated Measure #10 and urges the citizens of South Dakota to vote "NO" on the measure.

Motion carried and resolution declared duly adopted.

ORDINANCES:

Moved by Allen, seconded by Beck, to table placing Ordinance #2285, On-Sale Licenses for Full Service Restaurants on first reading until the first meeting in November. Motion carried.

Moved by Lepke, seconded by Carpenter, to place Ordinance #2287, Supplemental Appropriations on first reading. Motion carried.

SET DATE:

Moved by Allen, seconded by Barington, that the 18th day of August, 2008 at 1:30 p.m. in the Council Chambers of City Hall be the date and time set to receive and consider bids for Soccer Complex-Phase I Seeding Project #2007-1. Motion carried.

CONSIDER APPROVAL:

The request of Whiskey Creek to serve and sell in the parking lot has been withdrawn by the applicant.

Moved by Lepke, seconded by Barington, to approve amending Ordinance #2277 from AIP-20 to AIP-21. Motion carried.

Moved by Allen, seconded by Carpenter, to approve the city surplus auction to be held on September 9, 2008 at 5:30 p.m. at the Impound Lot located at 5951 Airport Road. Motion carried.

Moved by Beck, seconded by Lepke, to approve declaring surplus a 1998 Ford Ambulance VIN #1FD5534F1WHB34511. Motion carried.

Moved by Carpenter, seconded by Lepke, to approve the application of William Quinn for a Taxicab Drivers License for Palace Transit. Motion carried.

Moved by Lepke, seconded by Barington, to approve the request of First Reformed Church for overflow parking at Havens and Foster on August 24th. Motion carried.

Moved by Carpenter, seconded by Houwman, to approve the request of Abbott House to conduct a raffle with the drawing to be held on August 21, 2008. Lepke abstained. Motion carried.

Moved by Barington, seconded by Allen, to approve the request of Mitchell Aquatic Club to conduct a raffle with the drawings to be held beginning in January 2009. Motion carried.

PAY ESTIMATES:

Moved by Lepke, seconded by Carpenter, to approve the following pay estimates:

- pay estimate #31 in the amount of \$252.96 for New Landfill Monitoring Project #2003-17 contracted with Leggette, Brashears & Graham,
- pay estimate #3 in the amount of \$110,301.13 for Soccer Field Complex Project #2007-1 contracted with Loo Con Inc.,
- pay estimate #4 in the amount of \$171,615.72 and change order #2 in the amount of \$22,443.04 increasing the contract amount to \$519,345.50 for Railroad Avenue Project #2007-3 contracted with Commercial Asphalt ,
- pay estimate #1 in the amount of \$22,332.00 for Hanson Avenue Project #2007-38 contracted with Schoenfelder Construction,
- pay estimate #2 in the amount of \$5,183.00 for Sidewalk Project #2008-4 contracted with Colwell Concrete,

- pay estimate #2-Final in the amount of \$16,276.80 for Sanborn Curb & Gutter Project #2008-14A contracted with Robert Johnson Construction,
- pay estimate #4 in the amount of \$64,867.53 for Paving & Overlay Project #2008-15 contracted with Commercial Asphalt and
- change order #4 in the amount of \$157.50 decreasing the contract amount to \$394,275.95 for North Highway #37 Lighting Project #2008-31 contracted with Muth Electric.

Members present voting aye: Allen, Barington, Beck, Carpenter, Houwman, Lepke. Members present voting nay: None. Motion carried.

BILLS:

Moved by Carpenter, seconded by Allen, to approve the following payroll expenditures, adjustments to payroll and accounts payable warrants:

PAYROLL, JULY 13, 2008 – JULY 26, 2008: CITY COUNCIL-\$2,440.24, MAYOR-\$885.54, ATTORNEY-\$1,807.69, FINANCE-\$9,579.68, HUMAN RESOURCES-\$2,555.92, INFORMATION TECHNOLOGY-\$1,227.93, POLICE-\$50,601.21, TRAFFIC-\$3,496.92, FIRE-\$32,723.01, STREET-\$26,862.90, PUBLIC WORKS-\$14,276.00, CEMETERY-\$4,038.92, MOSQUITO CONTROL-\$1,028.50, ANIMAL CONTROL-\$1,232.00, EMERGENCY MEDICAL SERVICES-\$8,028.27, LIBRARY-\$9,521.56, PLAYGROUNDS & ATHLETICS-\$8,184.59, SWIM POOL-\$14,379.43, CAMPGROUND-\$2,094.40, RECREATION CENTER-\$9,778.84, ICE ARENA-\$81.25, CADWELL SPORTS COMPLEX-\$8,878.92, PARK-\$13,103.90, SUPERVISION-\$4,804.89, FORESTRY-\$2,520.24, E911-\$14,352.64, RSVP-\$4,492.24, PALACE TRANSIT-\$14,151.08, NUTRITION-\$350.00, WATER-\$8,203.66, WATER DISTRIBUTION-\$7,641.71, SEWER-\$10,532.56, AIRPORT-\$1,912.54, WASTE COLLECTION-\$9,252.87, LANDFILL-\$6,448.23, CORN PALACE MAINTENANCE-\$8,351.00, CORN PALACE DECORATING-\$11,553.00, CORN PALACE SHOWS-\$3,813.42, CORN PALACE CONCESSIONS-\$4,013.76, GOLF COURSE-\$8,788.89.

SALARY ADJUSTMENTS (per hour rate):

CEMETERY: Tyson Gau-\$7.00

GOLF COURSE: Tom Crockett-\$7.00, Chase Hetland-\$7.00, Tanner Hetland-\$7.00

PARK: Jeremy Nielsen-\$14.211

RECREATION CENTER: Pat Dockendorf-\$7.50, Chelsea Harmdierks-\$7.25, Taylor Overweg-\$7.00, Brittany Plamp-\$7.00

STREET: Michael Murray-\$9.00

NEW HIRES (per hour rate):

CADWELL SPORTS COMPLEX: Brandon Weber-\$7.00

RECREATION CENTER: Kendra Cersosimo-\$6.75, Ed Geidel-\$7.00

SANITATION: Clayton Moore-\$13.557

SWIMMING POOL: Nimisha Bhat-\$6.75

WARRANTS: A&B Business, Maintenance Contract-\$171.17; A&G Diesel, Repairs-\$1,272.91; AAA Collections, Payroll Deduction-\$75.00; Advance Auto Parts, Parts-\$67.44; Aflac, Payroll Deductions-\$3,122.44; Aflac/Flex One, Claims-\$1,182.10; Al's Engraving, Name Badge-\$9.39; All Star Removal, Lawn Care-\$140.00; Animal Care Equipment & Services, Supplies-\$212.31; Arctic Refrigeration, Repairs-\$322.41; Avera Queen of Peace Hospital, Contract Services-\$6,712.88; Bailey Metal Fabricators, Repairs-\$1,012.87; Brown Traffic Products, Supplies-\$432.64; Business Products, Supplies-\$426.62; Campbell Supply, Supplies-\$157.15; Card Imaging, Supplies-\$886.00; Card Services, Supplies-\$11.39; Carrot-Top Industries, Supplies-\$136.00; Chad Colwell Concrete, Contract Services-\$5,183.00; City of Emery, Senior Meals Payroll Reimbursement-\$1,624.65; City of Mitchell, Payroll Deduction-\$120.00; Claims Associates, Claims Payment-\$1,382.96; Co2 Systems, Supplies-\$2,035.00; Coca Cola Bottling Company, Supplies-\$724.85; Commercial Asphalt, Tack Oil-\$14,287.37; Commercial Asphalt, Contract Services-\$236,483.25; Daily Republic, Advertising-\$3,078.36; Dakota Fluid Power, Supplies-\$712.10; Dakota Supply Group, Supplies-\$401.73; Dan Grigg Images, Supplies-\$80.00; Dan Sabers, Contract Services-\$7,423.45; Dave's Recovery, Tow-\$100.00; Davison County Clerk of Courts, Background Checks-\$15.00; Davison County Register of Deeds, Copies-\$32.00; Deb Overseth, Reimbursement-\$37.21; Delta Dental Plan of South Dakota, Dental Insurance-\$10,448.28; Dependable Sanitation, Recycling-\$17,083.00; Department of Social Services, Payroll Deductions-\$1,019.08; Design Solutions & Integration, Repairs-\$1,282.50; Diana Goldammer, Refund-\$34.00; Dick's Towing, Tow-\$150.00; Dippin' Dots, Supplies-\$950.00; Donna Mahrt, Refund-\$40.00; Donna Wieczorek, Contract Services-\$650.00; Dorothy Cahoy, Contract Services-\$520.00; Dorothy Stahl, Contract Services-\$422.50; Dr. Robert Snortum, Contract Services-\$1,500.00; Dugout Lounge, Contract Services-\$712.50; Ecolab Pest Elimination, Contract Services-\$157.50; Elaine Schaefer, Contract Services-\$65.00; Ellwein Brothers, Supplies-\$68.00; Emery Senior Citizens, Reimbursement-\$137.54; Ennis Paint, Paint-\$554.95; Farmers Alliance, Repairs-\$278.29; Farnams Genuine Parts, Parts-\$54.98; Farner-Bocken Company, Supplies-\$8,282.13; Fastenal Company, Supplies-\$104.99; First Bankcard, Supplies-\$350.00; Five Star Shop Service, Supplies-\$125.00; Frito-Lay, Supplies-\$150.78; Gator Brothers Boring, Hydrant Meter Refund-\$500.00; General Drivers & Helpers Union, Payroll Deductions-\$173.00; Geri Beck, Travel-\$77.00; Golden West Technologies, Contract Services-\$442.50; Hach Company, Supplies-\$626.78; Harve's Sport Shop, Supplies-\$22.50; HD Supply Waterworks, Supplies-\$388.12; Headsets.Com, Headset-\$113.90; Heartland Manufacturing, Supplies-\$1,408.74; Honda of Mitchell, Parts-\$26.90; Hydrologic Water Management, Supplies-\$204.02; Hydrotex, Supplies-\$462.01; Interstate Office Products, Supplies-\$177.29; JD Evans, Supplies-\$501.26; Jack's Campers, Supplies-\$21.90; James Valley Nursery, Trees-\$264.20; JCL Solutions-Janitors Closet, Supplies-\$281.99; Jebro, Asphalt-\$60,487.05; Jill Briggs, Refund-\$52.50; John Wyant, Supplies-\$108.00; Jones Supplies, Supplies-\$1,274.60; K-Mart, Supplies-\$11.97; Karen Davis, Refund-\$40.00; Kelly Knippling, Travel-\$116.00; Kimball-Midwest, Supplies-\$93.12; KMIT/KOOL 98, Advertising-\$378.00; Knology, Supplies-\$56.90; Korn/Kqrn Radio, Advertising-\$715.50; Lakeview Sales, Supplies-\$706.87; Laura Miller, Refund-\$25.00; Leggette Brashers & Graham, Contract Services-\$252.96; Leila Schamber, Contract Services-\$552.50; Lois E. Huber, Contract Services-\$814.00; Loo Con, Contract Services-\$110,301.13; Lucille H. Dufek, Contract Services-\$97.50; Maurine R. Cahoy, Contract Services-\$455.00; McFarland Supply Company,

Supplies-\$308.72; McLeod's Printing, Supplies-\$967.00; Menard's, Supplies-\$120.03; Meyers Oil Company, Supplies-\$937.68; Midcontinent Communications, Utilities-\$97.12; Midwest Turf & Irrigation, Supplies-\$42.87; Eunice Carlson, Refund-\$13.92; Mitchell Area Development Corporation, Allocation Payment-\$20,600.00; Mitchell Ford, Parts-\$81.74; Mitchell Iron & Supply, Repairs-\$9.89; Mitchell School District, Allocation Payment-\$11,000.00; Mitchell United Way, Payroll Deductions-\$206.72; Montana Child Support Enforcement Department, Payroll Deduction-\$18.46; Mueller Lumber Company, Supplies-\$83.16; Muth Electric, Labor and Supplies-\$6,542.49; NAEIR, Supplies-\$672.06; NB Golf, Lease Car Contract-\$1,000.00; Neenah Foundry, Supplies-\$4,178.97; Neve's Uniforms, Supplies-\$242.12; Northwestern Energy & Communications, Utilities-\$34,893.91; Palace Cleaners, Supplies-\$188.00; Palace Motors, Parts-\$41.23; Papa Murphy's Pizza, Meals-\$429.25; Parts World, Parts-\$30.00; Paulson Sheet Metal, Repairs-\$115.08; Pepsi Cola-Mitchell, Supplies-\$649.90; Petty Cash, Postage-\$9.60; Petty Cash, Reimbursement-\$126.37; Physio-Control, Supplies-\$250.00; Porter Distributing, Supplies-\$130.00; Pristine Water Solutions, Lease and Chemicals-\$1,003.60; Project Lifesaver, Equipment-\$673.51; Push Pedal & Pull, Parts-\$315.50; Qualified Presort, Mailing Service-\$1,882.91; Qwest, Utilities-\$2,501.74; Radisson Hotel Rapid City, Travel-\$232.50; Robert Johnson Construction, Contract Services-\$16,276.80; Ron's Saw Shop, Supplies-\$15.31; Ryan Erickson, Travel-\$52.25; Ryan Titze, Travel-\$36.00; Santel Communications, Labor-\$195.00; Schoenfelder Construction, Contract Services-\$22,332.00; Scott Houwman, Travel-\$113.96; South Dakota Association of Rural Water, Annual Dues-\$935.00; South Dakota Department of Health, Lab Fee-\$498.00; South Dakota Municipal League, Workshop Fee-\$20.00; South Dakota Retailers Association, Registration-\$50.00; South Dakota Retirement System, Retirement Contributions-\$37,239.69; South Dakota-Supplemental Retirement, Payroll Deductions-\$1,041.00; Serco Laboratories, Contract Services-\$4,494.00; Sheehan Mack Sales & Services, Parts-\$1,399.03; Sherwin-Williams, Supplies-\$284.47; Shiori Powers, Refund-\$40.00; Shopko, Supplies-\$10.47; Sign Pro, Decals Installed-\$446.20; Software House International, Software-\$857.43; Sport Supply Group, Fencing-\$6,638.75; State Radio Communications, Contract Services-\$2,400.00; Sturdevant's Auto Parts, Parts-\$1,477.57; Sun Gold Trophies, Supplies-\$466.05; Sun Life Financial, Payroll Deductions-\$1,619.60; Sunboss, Refund-\$325.00; Tessier's, Repairs-\$152.99; Three-D Specialties, Supplies-\$1,484.98; Thune True Value Hardware, Supplies-\$83.56; Tigerdirect, Supplies-\$201.39; Titze Electric & Remodeling, Repairs-\$81.86; TK Electric, Repairs-\$41.33; Tomark Sports, Supplies-\$862.50; Tractor Supply, Supplies-\$330.47; United States Postal Service, Stamps-\$126.00; Unites States Postmaster, Postage-\$81.00; United Energy, Supplies-\$13,432.57; United Energy-Emery, Supplies-\$539.00; UPS Store, Shipping Charges-\$34.34; USA Blue Book, Hydrant Meters-\$2,406.80; Van Diest Supply Company, Chemicals-\$302.45; Variety Foods, Supplies-\$1,163.98; Velvet Uniforms, Supplies-\$1,013.76; Vicki Thompson, Refund-\$40.00; Village Bowl, Fees-\$83.03; Virginia Limberg, Personal Training-\$1,175.00; Wade Strand, Contract Services-\$10,000.00; Wal-Mart, Supplies-\$794.12; Washington Pavilion of Art, Tickets-\$22.00; West Payment Center, Supplies-\$366.00; Wheelco Brake & Supply, Parts-\$64.49; Wholesale Electronics, Supplies-\$21.24.

Members present voting aye: Allen, Barington, Beck, Carpenter, Houwman, Lepke. Members present voting nay: None. Motion carried.

EXECUTIVE SESSION:

Moved by Houwman, seconded by Barington, to go into executive session as permitted by SDCL 1-25-2-1. Motion carried. Moved by Carpenter, seconded by Beck, to come out of executive session. Motion carried.

ADJOURN:

There being no further business to come before the meeting, it was moved by Allen and seconded by Beck to adjourn the meeting. Motion carried.

Marilyn Wilson
Finance Officer