

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

**NOVEMBER 3, 2008
7:30 P.M.**

PRESENT: Dan Allen, Doug Backlund, Marty Barington, Geri Beck,
Travis Carpenter, Scott Houwman, Allen Lepke, Jeffrey Smith

PRESIDING: Mayor Lou Sebert

AGENDA:

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

MINUTES:

Moved by Carpenter, seconded by Allen, to approve the minutes of the regular City Council meeting held on October 20, 2008. Motion carried.

CITIZEN'S INPUT:

Council Member Jeffrey Smith asked City Attorney Randy Stiles about the issue being brought back to the Open Meetings Commission.

DISCUSSION:

Council Members discussed the permit application for street dances and outdoor events. Moved by Barington, seconded by Backlund, to authorize consumption permits until 12:30 a.m. Carpenter opposed. Motion carried. Moved by Carpenter, seconded by Allen, to approve the consumption permit fee be increased from \$100.00 to \$500.00 with additional rental fees. Backlund opposed. Motion carried. Moved by Allen, seconded by Houwman, to approve the rental fees as listed. Motion carried. Moved by Beck, seconded by Smith, to approve the permit application for street dances and outdoor events, as amended. Carpenter opposed. Motion carried.

BOARD OF ADJUSTMENT:

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

Moved by Barington, seconded by Allen, that the 17th day of November, 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 Marievic Nusz for a conditional use permit to operate a daycare center in her home at 1313 North Duff Street, legally described as Lots 1-3, Block 16, Capital Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

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

COMMITTEE REPORTS:

Sidewalk Committee:

The Sidewalk Committee met on November 3, 2008 at 6:35 p.m. in the Council Chambers of City Hall. The committee denied a request from the US Postal Service for the City to pay for concrete bases for the multi-usage mailboxes. The committee approved a request from the UPS Store for curb side sidewalk at 204 West Havens and also approved a request for a temporary sidewalk waiver at Jack's Sinclair's proposed car wash.

Finance Committee:

The Finance Committee met on November 3, 2008 at 7:20 p.m. in the Council Chambers of City Hall. The committee reviewed third quarter sales tax collections.

Moved by Houwman, seconded by Beck, to approve the committee reports. Motion carried.

HEARING:

It was advised that this is the date and time set for hearing on the application of Avera Queen of Peace Foundation for a Special Event Malt Beverage License and Special Event Wine License for the Highland Mall on November 15, 2008 for Splash of Spirits. Moved by Lepke, seconded by Carpenter, to approve said application. Beck abstained. Motion carried.

RESOLUTIONS:

Moved by Allen, seconded by Houwman, to adopt Resolution #2688, Plat of Lots 1, 2, 3 and 4 of Black Eagle First Addition, as follows:

**RESOLUTION #2688
RESOLUTION OF CITY COUNCIL**

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 27th day of October, 2008; and

WHEREAS, it appears from an examination of the plat of LOTS 1, 2, 3 AND 4 OF BLACK EAGLE FIRST ADDITION IN THE SW ¼ OF SECTION 8, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA; as prepared by Paul J. Reiland, a duly licensed Land Surveyor in and for the State of South Dakota, that said plat is in accordance with the system of streets and alleys set forth in the Master Plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota, that the plat of LOTS 1, 2, 3 AND 4 OF BLACK EAGLE FIRST ADDITION IN THE SW ¼ OF SECTION 8, T

103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA; as prepared by Paul J. Reiland, be and the same is hereby approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by Smith, seconded by Beck, to adopt Resolution #2689, Plat of Robideau Tract 2, as follows:

RESOLUTION #2689
RESOLUTION OF CITY COUNCIL

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 27th day of October, 2008; and

WHEREAS, it appears from an examination of the plat of ROBIDEAU TRACT 2 IN THE SW ¼ OF SECTION 13, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA; as prepared by Kim L. McLaury, a duly licensed Land Surveyor in and for the State of South Dakota, that said plat is in accordance with the system of streets and alleys set forth in the Master Plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota, that the plat of ROBIDEAU TRACT 2 IN THE SW ¼ OF SECTION 13, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA; as prepared by Kim L. McLaury, be and the same is hereby approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by Lepke, seconded by Houwman, to adopt Resolution #2690, Plat of Rodeo Grounds Lot 1 and 2, as follows:

RESOLUTION #2690
RESOLUTION OF CITY COUNCIL

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 27th day of October, 2008; and

WHEREAS, it appears from an examination of the plat of RODEO GROUNDS LOT 1 AND 2 IN THE SE ¼ OF THE SE ¼ OF SECTION 4, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA; as prepared by Kim L. McLaury, a duly licensed Land Surveyor in and for the State of South Dakota, that said plat is in accordance with the system of streets and alleys set forth in the Master Plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota, that the plat of RODEO GROUNDS LOT 1 AND 2 IN THE SE ¼ OF THE SE ¼ OF SECTION 4, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA; as prepared by Kim L. McLaury, be and the same is hereby approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Smith abstained.

Motion carried and resolution declared duly adopted.

Moved by Lepke, seconded by Carpenter, to adopt Resolution #2691, Cancel Checks Outstanding, as follows:

RESOLUTION #2691

WHEREAS, the following checks are declared and reported as outstanding by the City of Mitchell and by statute must be approved for cancellation by the governing body:

	CHECK NO.:	DATE:	ISSUED TO:	AMOUNT:
Budgetary:	112396	07-17-07	Michael J Koster	\$8.41
	116277	03-18-08	Jessica Larson	\$12.00

BE IT RESOLVED, that the outstanding checks are hereby approved for cancellation by the City of Mitchell for the budget year ending December 31, 2008.

Motion carried and resolution declared duly adopted.

ORDINANCES:

Moved by Smith, seconded by Allen, to place Ordinance #2291, Supplemental Appropriation on second reading. Motion carried. Moved by Allen, seconded by Barington, to adopt Ordinance #2291, Supplemental Appropriation, as follows:

**ORDINANCE NO. 2291
SUPPLEMENTAL APPROPRIATION ORDINANCE
AMENDING ORDINANCE NO. 2254
CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA**

BE IT ORDAINED, BY THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, that the following sums be appropriated to authorize certain expenditures and to meet certain obligations for the year 2008 according to statute:

**SPECIAL REVENUE FUND
PARKS, RECREATION & FORESTRY
CADWELL SPORTS COMPLEX**

201-45160-43310

Softball Field Improvements

\$23,000.00

The funding will come from the General Fund cash balance and a donation of funds.

Motion carried and ordinance declared duly adopted.

Moved by Barington, seconded by Houwman, to place Ordinance #2292, Supplemental Appropriations, as amended, on first reading. Motion carried.

SET DATE:

Moved by Carpenter, seconded by Houwman, that the 17th day of November, 2008 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application to transfer Package (off-sale) Liquor License (PL-4686) from Christine Dee dba Mouse House to Erickson Oil Products Inc. dba Freedom Valu Center located at 512 South Sanborn. Motion carried.

CONSIDER APPROVAL:

Moved by Allen, seconded by Carpenter, to approve the recommendation of the Events Center Building Committee to hire Puetz Corporation as the Event Center architectural firm in the amount of \$5,000.00 for the design of a possible renovation or expansion of the Corn Palace. Motion carried.

Moved by Lepke, seconded by Backlund, to approve an automatic supplement to the General Fund in the amount of \$13,060.00 for bike trail signage from a donation in the amount of \$7,500.00 and from grant funds in the amount of \$5,560.00. Motion carried.

Moved by Smith, seconded by Barington, to authorize the Finance Officer to transfer \$217,500.00 from Sanitation Fund cash to the Sanitation Fund-Landfill Cell Construction Reserve in the amount of \$190,000.00 and to the Post-Closure Reserve Fund in the amount of \$27,500.00. Motion carried.

Moved by Smith, seconded by Backlund, to table consideration of the 2009 Memorial Weekend Event in Mitchell until the application is completed. Motion carried.

Moved by Carpenter, seconded by Barington, to approve the request of Xtreme Cheer Boosters Inc. to conduct a raffle with the drawing to be held on March 22, 2009. Motion carried.

Moved by Allen, seconded by Beck, to approve the request of the Char Greenway Memorial to conduct a raffle with the drawing to be held on November 22, 2008. Barington abstained. Motion carried.

Moved by Carpenter, seconded by Backlund, to approve the request of ESD Travel Bowling Team to conduct a raffle with the drawing to be held on November 24, 2008. Barington abstained. Motion carried.

PAY ESTIMATES:

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

- pay estimate #33 in the amount of \$1,471.75 for New Landfill Monitoring Project #2003-17 contracted with Leggette, Brashears & Graham,
- pay estimate #50 in the amount of \$312.12 for Old Landfill Leachate Project #2003-21 contracted with Leggette, Brashears & Graham,
- change order #1 in the amount of \$759.40 increasing the contract amount to \$53,271.40 and pay estimate #1-Final in the amount of \$53,271.40 for Hanson Avenue Project #2007-38 contracted with Commercial Asphalt,
- pay estimate #7 in the amount of \$6,411.83 for Sidewalk Project #2008-4 contracted with Colwell Concrete,
- pay estimate #6 in the amount of \$14,324.45 for Curb & Gutter Project #2008-14 contracted with Colwell Concrete,
- pay estimate #1 in the amount of \$3,000.00 for Landfill Closure Project #2008-34 contracted with Helms & Associates and
- change order #1 in the amount of \$2,600.00 increasing the contract amount to \$484,767.10 for Soccer Complex Project #2007-1 contracted with Robert Johnson Construction.

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

BILLS:

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

PAYROLL, OCTOBER 5, 2008 – OCTOBER 18, 2008: CITY COUNCIL-\$2,440.24, MAYOR-\$885.54, ATTORNEY-\$1,807.69, FINANCE-\$9,579.69, HUMAN RESOURCES-\$2,555.92, INFORMATION TECHNOLOGY-\$1,227.92, POLICE-\$52,431.23, TRAFFIC-\$2,857.92, FIRE-\$33,908.41, STREET-\$22,837.51, PUBLIC WORKS-\$14,276.01, CEMETERY-\$2,813.92, ANIMAL CONTROL-\$1,232.00, EMERGENCY MEDICAL SERVICES-\$8,309.19, LIBRARY-\$9,498.30, PLAYGROUNDS & ATHLETICS-\$3,743.31, SWIM POOL-\$292.63, CAMPGROUND-\$1,094.40, RECREATION CENTER-\$9,449.47, CADWELL SPORTS COMPLEX-\$3,646.97, PARK-\$6,410.51, SUPERVISION-\$4,920.72, FORESTRY-\$2,520.24, E911-\$15,292.78, RSVP-\$4,516.72, PALACE TRANSIT-\$15,618.81, NUTRITION-\$319.00, WATER-\$9,003.02, WATER DISTRIBUTION-\$7,669.76, SEWER-\$10,132.57, AIRPORT-\$1,610.56, WASTE COLLECTION-\$8,785.06, LANDFILL-\$6,647.37, CORN PALACE MAINTENANCE-\$8,555.81, CORN PALACE DECORATING-\$3,594.38, CORN PALACE SHOWS-\$3,196.80, CORN PALACE CONCESSIONS-\$1,619.63, GOLF COURSE-\$5,194.81.

SALARY ADJUSTMENTS (per hour rate):

E-911: Roslyn Stevenson-\$16.768

FIRE/EMS: Brad Kobza-\$12.279

POLICE: John Badker-\$17.433, Adam Smith-\$17.433

NEW HIRES (per hour rate):

RECREATION CENTER: Kelsey Tagg-\$6.75

WARRANTS: A&B Business, Supplies-\$118.74; AAA Collections, Payroll Deduction-\$75.00; Accounts Management, Payroll Deduction-\$235.58; Advance Auto Parts, Parts-\$125.17; Aflac, Payroll Deductions-\$3,149.29; Aflac/Flex One, Claims-\$1,265.54; Anderson Nurseries, Trees-\$60.00; Arctic Refrigeration, Repairs-\$104.64; Auto Body Specialties, Supplies-\$157.64; Avera Queen of Peace Hospital, Contract Services-\$8,160.53; Bailey Metal Fabricators, Supplies-\$8.31; Bender's Sewer & Drain, Smoke Testing-Sewer System-\$250.00; Big Dog Concrete, Contract Services-\$3,712.80; Blackburn Manufacturing, Supplies-\$62.87; Break Time Portables, Contract Services-\$145.00; Brian Wendelboe, Travel-\$9.00; Brown Traffic Products, Supplies-\$51.00; Business Products, Supplies-\$845.04; Cabela's, Supplies-\$99.99; Campbell Supply, Supplies-\$273.43; Carquest Auto Parts, Parts-\$9.62; Carrot-Top Industries, Supplies-\$37.03; Central Electric Cooperative, Security Lights-\$198.52; Chad Colwell Concrete, Contract Services-\$20,736.28; Cherrybee's, Plant-\$38.95; City of Emery, Senior Meals Payroll Reimbursement-\$1,777.25; City of Mitchell, Payroll Deduction-\$20.00; Claims Associates, Payment-\$5,000.00; Clarence Giedd, Supplies-\$287.50; Commercial Asphalt, Hot Mix-\$10,326.02; Commercial Asphalt, Contract Services-\$53,271.40; County Fair, Supplies-\$133.62; Credit Collection Services, Payroll Deduction-\$109.34; Cretex Concrete Products, Supplies-\$1,880.00; Cubby's, Supplies-\$53.48; Dakota Pump, Power Monitor-\$96.30; Dakota Restaurant Supply, Supplies-\$466.44; Dakota Supply Group, Supplies-\$232.02; Dakotacare Designs, Refund-\$724.38; Dan Grigg Images, Supplies-\$1,288.25; Dan Sabers, Contract Services-\$5,097.97; Davison County Clerk of Courts, Background Checks-\$45.00; Days Inn Brookings, Travel-\$285.00; Delta Dental Plan of South Dakota, Dental Insurance-\$10,522.80; Dependable Sanitation, Recycling-\$17,083.00; Department of Social Services, Payroll Deductions-\$1,019.08; Dick's Towing, Alignment-\$110.00; Donna Wiczorek, Contract Services-\$390.00; Dorothy Cahoy, Contract Services-\$585.00; Dorothy Stahl, Contract Services-\$487.50; Dr. Robert Snortum, Contract Services-\$1,500.00; Ecolab Pest Elimination, Contract Services-\$247.00; Ed M Feld Equipment, Equipment-\$705.00; Elaine Schaefer, Contract Services-\$97.50; Emery Senior Citizens, Reimbursement-\$173.87; Ennis Paint, Supplies-\$40.15; Farmers Alliance, Chemicals-\$5,659.95; Farner-Bocken Company, Supplies-\$984.33; Fedex, Transportation Charges-\$9.85; First Bankcard, Supplies-\$959.37; Fisher Scientific, Supplies-\$776.42; Florida Micro, Supplies-\$124.57; Franklin Covey Products, Supplies-\$7.16; G.F. Advertising Services, Business Cards-\$43.08; General Drivers & Helpers, Payroll Deductions-\$173.00; Golden West Technologies, Labor-\$517.50; Greg Patton, Refund Deposit-\$500.00; Hard Drive Central, Supplies-\$19.95; Helms and Associates, Contract Services-\$3,000.00; Henry Schein, Supplies-\$85.00; Hillyard, Supplies-\$48.04; Honda of Mitchell, Parts-\$5.37; Hydro Flow Products, Supplies-\$135.89; Integrity Transcription, Supplies-\$68.75; Interstate Office Products, Supplies-\$64.96; JCL Solutions-Janitors Closet, Supplies-\$2,064.47; John Wyant, Supplies-\$212.00; Jones Supplies, Supplies-\$930.53; K-Mart, Supplies-\$150.84; Karen Heiser, Contract Services-\$455.00; Kelly Inn, Travel-\$130.00;

KMIT/KOOL 98, Advertising Spots-\$135.00; Knology, Supplies-\$53.13; Kory McBrayer, Refund-\$30.00; Larry Stunes, Travel-\$9.00; Larry's I-90 Service, Tires-\$260.00; Leggette Brashers & Graham, Contract Services-\$1,783.87; Leila Schamber, Contract Services-\$422.50; Lloyd Huber, Piano Tuning-\$75.00; Lloyd Klein, Refund-\$30.00; Lois E. Huber, Contract Services-\$851.00; Lyle Signs, Supplies-\$532.94; Mitchell Area Human Resources Association, Fees-\$28.00; Maurine R. Cahoy, Contract Services-\$422.50; McFarland Supply Company, Supplies-\$107.05; Menard's, Supplies-\$535.90; Midcontinent Communications, Utilities-\$44.53; Midwest Tire & Muffler, Tires-\$480.00; Midwest Turf & Irrigation, Supplies-\$83.43; Minnesota Valley Testing, Lab Fees-\$602.00; Cellular Connection, Supplies-\$158.18; Mitchell Area Development, Allocation-\$20,600.00; Mitchell Community Scholar, Round Up-\$703.22; Mitchell Concrete Product, Supplies-\$609.35; Mitchell Iron & Supply, Repairs-\$309.51; Mitchell Plumbing & Heating, Curb Box Repairs-\$324.39; Mitchell United Way, Payroll Deductions-\$204.72; Mueller Lumber Company, Supplies-\$3.14; Muth Electric, Supplies-\$1,000.40; Neve's Uniforms, Supplies-\$1,880.15; National Law Enforcement Officers Memorial Fund, Flag-\$74.75; Noble Ink & Toner, Supplies-\$74.94; North Central Seed Company, Lawn Mix--\$95.00; Northwestern Energy & Communications, Utilities-\$24,678.54; Palace Cleaners, Supplies-\$182.25; Patzer Woodworking, Labor & Supplies-\$3,430.85; Paulson Sheet Metal, Repairs-\$384.52; Pepsi Cola, Supplies-\$228.24; Pony Creek Steakhouse, Contract Services-\$2,854.75; Pristine Water Solutions, Generator Lease/Chemicals-\$932.69; Public Safety Center, Vests-\$961.25; Puthoff Repair, Supplies-\$93.25; Qualified Presort, Mailing Service-\$1,194.29; Quizno's Subs Store, Meals-\$100.43; Qwest, Utilities-\$91.08; Rick Van Overschelde, Travel-\$9.00; S&S Willers, Supplies-\$585.61; Safety Benefits, Training Class-\$180.00; Sam's Club, Supplies-\$154.28; Santel Communications Coop, Equipment-\$384.90; Scott Supply Company, Parts-\$45.84; South Dakota Department of Health, Lab-\$253.00; South Dakota Nutrition Project, Dues-\$285.00; South Dakota Office of Weights & Measurement, Equipment-\$94.00; South Dakota Retirement System, Retirement Contributions-\$37,261.15; South Dakota-Supplemental Retirement, Payroll Deductions-\$1,286.00; Sharon Rehorst, Contract Services-\$130.00; Sheehan Mack Sales & Service, Parts-\$1,774.43; Sherwin-Williams Company, Supplies-\$305.37; Shopko, Supplies-\$59.96; Siemens Water Technologies, Parts-\$1,325.49; Sioux Equipment, Fuel System Repair-\$253.33; Sioux Falls Two-Way Radio, Repairs-\$145.00; Streicher's, Supplies-\$664.28; Sturdevant's Auto Parts, Parts-\$1,808.98; Sun Gold Trophies, Supplies-\$200.70; Sun Life Financial, Payroll Deductions-\$1,618.52; Terry Johnson, Travel-\$23.00; Thune True Value Hardware, Repairs-\$727.97; TK Electric, Repairs-\$1,011.32; Tollefson Plumbing & Boiler, Repairs-\$1,151.79; Tractor Supply Credit Plan, Supplies-\$173.42; Turfwerks, Supplies-\$237.41; United States Postal Service, Postage-\$81.00; United Building Centers, Supplies-\$506.79; United Energy, Supplies-\$3,316.50; University of Wisconsin, Registration-\$695.00; UPS Store, Shipping Charges-\$23.01; US Bank, Fee-\$500.00; Van Diest Supply, Chemicals-\$1,786.75; Variety Foods, Supplies-\$1,455.59; Virginia Limberg, Contract Services-\$520.00; Wade Strand, Contract Services-\$10,000.00; Wal-Mart, Supplies-\$398.27; Wheelco Brake & Supply, Parts-\$474.32; Wholesale Electronics, Supplies-\$14.85.

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

ADJOURN:

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

Marilyn Wilson
Finance Officer