

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

**MARCH 2, 2009
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 Carpenter, seconded by Lepke, to approve the agenda as prepared with an addendum. Motion carried.

MINUTES:

Moved by Barington, seconded by Beck, to approve the minutes of the regular City Council meeting held on February 16, 2009. Motion carried.

PROCLAMATION:

Mayor Sebert presented proclamations to students from Mitchell schools for Mayor for a Day and Legislator for a Day.

CITIZEN'S INPUT:

Council Member Lepke reported that the Events Center Building Committee met today and has a proposal for a design to be presented to Council Members.

Council Member Smith commended the Mitchell Kernel gymnastics and wrestling athletes for the fine representation of the school and city at the state meets.

BOARD OF ADJUSTMENT:

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

Moved by Allen, seconded by Carpenter, that the 16th day of March, 2009 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application of JoAnna Calhoon for a conditional use permit to operate a daycare center in her home at 216 West 11th Avenue, legally described as Lot 8, Block 29, Capital Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

Moved by Lepke, seconded by Allen, that the 16th day of March, 2009 at 7:30 p.m. in the Council Chambers of City Hall be the date and time set for hearing on the application of CJM Consulting for a

conditional use permit to construct a communication tower over 100 feet at the 1501 block of West 17th Avenue, legally described as Lot 5, Block 6, Westwood First Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

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

COMMITTEE REPORTS:

Finance Committee:

The Finance Committee met on March 2, 2009 at 7:15 p.m. in the Council Chambers of City Hall. The committee reviewed the 2008 Annual Financial Report.

Moved by Carpenter, seconded by Barington, to approve the committee reports. Motion carried.

AWARD BIDS:

Bids were opened and read on the Street Division Rubber Tire Roller Project #2009-24 on the 2nd day of March, 2009 in the Council Chambers of City Hall.

STREET DIVISION RUBBER TIRE ROLLER PROJECT #2009-24

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

Butler Machinery Company, 3201 N. Louise Avenue, Sioux Falls, SD 57107

Base Bid	-	\$58,987.00
Trade-in	-	(\$4,000.00)
Total Bid	-	\$54,987.00

Motion carried.

Bids were opened and read on the Park Department Bobcat Skid Loader Project #2009-26 on the 2nd day of March, 2009 in the Council Chambers of City Hall.

PARK DEPARTMENT BOBCAT SKID LOADER PROJECT #2009-26

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

Cook Implement, 34681 248th Street, Chamberlain, SD 57325

Base Bid	-	\$14,450.00
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JAC Implement, 900 W. Spruce, Mitchell, SD 57301

Alternate Bid #1	-	\$3,500.00
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Lepke abstained.

Motion carried.

RESOLUTIONS:

Moved by Allen, seconded by Backlund, to adopt Resolution #2721, Authorizing Employment of Dennis Maloney for Legal Services, as follows:

RESOLUTION # 2721

Resolution authorizing employment of Dennis Maloney for Legal Services:

The City having had conducted an election to determine union representation of City employees; and

An election having taken place; and

Dennis Maloney being an attorney engaged in the practice of Labor Law; now therefore

BE IT RESOLVED

THAT Dennis Maloney be employed to represent the City of Mitchell at \$125.00 per hour with an initial cap of \$3000.00 with reference to union negotiations between the union representing City employees and the City of Mitchell and that he is designated as the contact person for discussions and negotiations with the union concerning the City's employees. That attorney will supply City with monthly billings commencing thirty days after initial representation.

Motion carried and resolution declared duly adopted.

Moved by Beck, seconded by Barington, to adopt Resolution #2722, Establishing Water/Sewer Tapping Permit Fees, as follows:

RESOLUTION #2722

WHEREAS, the City Council has authority to enact fees and/or raise existing fees; now therefore, be it

RESOLVED THAT THE FEES HEREINAFTER SET FORTH SHALL BE ESTABLISHED:

WATER SERVICE TAPPING PERMIT FEES

1" Water Service Taps

4" X 1"	\$100.00
6" X 1"	\$100.00
8" X 1"	\$110.00
10" x 1"	\$155.00
12" X 1"	\$170.00
14" X 1"	\$200.00
16" X 1"	\$230.00
18" X 1"	\$310.00
20" X 1"	\$320.00

1.5" Water Service Taps

4" X 1.5"	\$180.00
6" X 1.5"	\$190.00
8" X 1.5"	\$210.00
10" X 1.5"	\$225.00
12" X 1.5"	\$250.00
14" X 1.5"	\$265.00
16" X 1.5"	\$285.00
18" X 1.5"	\$340.00
20" X 1.5"	\$365.00

2" Water Service Taps

4" X 2"	\$220.00
6" X 2"	\$225.00
8" X 2"	\$235.00
10 "X 2"	\$250.00
12" X 2"	\$265.00
14" X 2"	\$320.00
16" X 2"	\$335.00
18" X 2"	\$395.00
20" X 2"	\$410.00

Contractor Furnishes and Installs taps over 2" (No Charge).

Sewer Tap Permit is \$20.00

Motion carried and resolution declared duly adopted.

Moved by Barington, seconded by Allen, to adopt Resolution #2723, Establishing Utility Service Fees, as follows:

RESOLUTION #2723

Whereas, the City Council has authority to enact fees and/or raise existing fees; now therefore, be it

RESOLVED THAT THE FEES HEREINAFTER SET FORTH SHALL BE ESTABLISHED:

Utility Service Fee

All customers requesting utility service from the City of Mitchell are required to pay a hookup fee as set forth in the following fee schedule:

Basic fee for existing water meters	\$50.00
New connection fees:	
5/8" x 3/4" remote	\$100.00
3/4" x 3/4" remote	\$140.00

1" x 1" remote	\$175.00
1 ½" remote	\$370.00
2" remote	\$440.00
3" turbo	\$970.00
3" compound	\$2,010.00
4" turbo	\$1,785.00
4" compound	\$3,180.00

Motion carried and resolution declared duly adopted.

Moved by Beck, seconded by Carpenter, to adopt Resolution #2724, Giving Approval to Construct Foster Street Lift Station and Giving Approval to the Issuance, Sale and Conditions of a Revenue Bond/Loan to Finance the Foster Street Lift Station, as follows:

RESOLUTION NO. 2724

RESOLUTION GIVING APPROVAL TO CERTAIN WASTEWATER TREATMENT IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF REVENUE BONDS, IN ONE OR MORE SERIES, TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BONDS AND PLEDGING CERTAIN REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BONDS; AND CREATING SPECIAL ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BONDS.

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the "Act") as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

WHEREAS, a municipality is authorized to issue revenue bonds to fund improvements, extensions and additions to its wastewater system, including non-point source projects, by SDCL 9-40-6 and is authorized to pledge the net income or revenues from the system to secure such bonds; and,

WHEREAS, the City of Mitchell (the "City") currently operates a wastewater system to collect, treat and dispose of municipal, industrial and domestic wastewater of its inhabitants and has determined that improvements to the wastewater facilities and the non-point source projects are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its wastewater system; and,

WHEREAS, the City has determined to issue its revenue bonds to finance the improvements to its system for the purpose of providing collection , treatment and disposal of its wastewater from domestic, municipal, and industrial purposes (the "System") and has applied to the South Dakota Conservancy District (the "District") for a Clean Water State Revolving Fund Loan to finance the improvements;

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. Declaration of Necessity and Determination of Facilities Financed. The City desires and hereby determines it is necessary to construct improvements to its wastewater facilities within its System and undertake non-point source projects, as described in Exhibit A hereto (the "Project"). The City hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the City and its inhabitants, and will make the City unable to comply with state and federal law. Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with state and federal laws, including SDCL Chapter 34A-2, and the federal Clean Water Act, and the nature of the improvements financed, the City hereby determines that the Projects will substantially benefit the entire System and all of its users within the meaning of SDCL 9-40-15 and SDCL 9-40-17. Therefore the City hereby determines that for the purposes of the Act, including, in particular, SDCL 9-40-17, the net income or revenues of the entire System shall be pledged to and for the payment of the bonds issued hereunder.

2. Approval of Loan. The City hereby determines to finance up to \$1,643,782 of the costs of the Project through the issuance of utility revenue bonds, in two series designated Series A and NPS Series (collectively the "Revenue Bonds").

3. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement") between the City as Borrower and the South Dakota Conservancy District (the "District"), is hereby in all respects authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.

4. Approval of Revenue Bonds. The issuance of Revenue Bonds Series A and Series NPS, on a parity basis and in aggregate principal amount not to exceed \$1,643,782 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bonds") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bonds and deliver the Revenue Bonds to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bonds and their execution and delivery thereof shall evidence that approval. The Revenue Bonds shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in SDCL 9-40-19.

5. Paying Agent/Registrar. The Revenue Bonds shall be payable at the office of The First National Bank in Sioux Falls, Sioux Falls, South Dakota, hereby designated as paying agent and registrar. The Mayor and Finance Officer are authorized to execute such documents as they deem necessary to retain The First National Bank in Sioux Falls.

6. Bond Counsel. Meierhenry Sargent LLP (“Bond Counsel”) is hereby retained as Bond Counsel with respect to the Revenue Bonds. The Mayor and Finance Officer are authorized to execute such documents as they deem necessary to retain Bond Counsel.

7. System Fund Accounts. For the purpose of application and proper allocation of the income of the System and to secure the payment of principal of and interest on the Revenue Bonds, the following mandatory segregation accounts shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bonds:

(a) Revenue Account. There shall be deposited in the Revenue Account as received the entire gross revenues derived from the operation of the System collected pursuant to the ordinances or regulations of the City Council of City of Mitchell , South Dakota (the "Rate Ordinance") including future improvements, enlargements, extensions and repairs thereto (the "Gross Revenues"). Moneys from the System Revenue Account shall be transferred periodically into separate accounts as provided below.

(b) Operation and Maintenance Account. There shall be established the General Operation and Maintenance Account. Out of the remaining revenues of the System Revenue Account after application described in (c) and (d) below, there shall be set aside each month into the General Operation and Maintenance Account, a sum sufficient to provide for the payment of the next month's current expenses of administration and operation of the remainder of the System and such current expenses for the maintenance thereof as may be necessary to preserve the remainder of such System in good repair and working order. The term current expenses shall be construed to include all reasonable and necessary costs of operating, repairing, maintaining and insuring the System, including without limitation salaries, supplies and rent t, but shall exclude General Depreciation Account and System Debt Service Account.

(c) System Debt Service Account. Out of the revenues in the System Revenue Account, there shall be set aside no later than the 25th day of each month into the account designated System Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal and interest on, the Revenue Bonds and any reserve determined by the City Council to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and other amounts payable on the following January 15, April 15, July 15, or October 15 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.

(d) Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the System Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the City Council to be a proper and adequate amount for repair and depreciation of the System.

(e) Surplus Account. There shall be established the General Surplus Account. Revenues remaining in the System Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be credited to the General Surplus Account. If at any time there shall exist any default in making any periodic transfer to the System Debt Service Account,

the City Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the General Surplus Account. If any such default shall exist as to more than one account at any time, then such transfer shall be made in the order such accounts are listed above.

When not required to restore a current deficiency in the System Debt Service Account, moneys in the General Surplus Account from time to time may be used for any of the following purposes and not otherwise:

- i. To redeem and prepay the Revenue Bonds when and as such Revenue Bonds become prepayable according to its terms;
- ii. To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the System Debt Service Account and the Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then:
- iii. To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or
- iv. To be used for any other authorized municipal purpose designated by the City Council.

No moneys shall at any time be transferred from the General Surplus Account or any other account to any other account of the City, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as allowed by this Section.

8. Pledge of Revenues. The Revenue Bonds, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the System Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bonds and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bonds, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bonds issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bonds, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 8 or any other covenant or agreement in the Loan Agreement.

9. Additional Bonds. As permitted by SDCL 9-40-8 and SDCL 9-40-9, additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

10. General Covenants.

(a) The City hereby covenants and agrees with the District and other owners of the Revenue Bonds that it will punctually perform all duties with reference to the Project, the System and the Revenue Bonds required by the constitution and laws of the State of South Dakota and by this Resolution.

(b) The City agrees and covenants that it will promptly construct the improvements included in the Project.

(c) The City covenants and agrees that pursuant to SDCL 9-40-28 and SDCL 9-40-29, the lawful holders of the Revenue Bonds shall have a statutory mortgage lien upon the System and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest, and Administrative Surcharge on the Revenue Bonds, and the City agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the collection and treatment of wastewater for municipal, industrial, and domestic purposes within the City.

(d) The City covenants and agrees with the District and other owners of the Revenue Bonds that it will maintain the Project and the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bonds remain outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bonds in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bonds shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to SDCL 9-40-19.

(e) The Finance Officer shall cause all moneys pertaining to the Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Accounts may at any time, in the

discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Account may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

(f) In the event of mismanagement of the System, a default in the payment of the principal or interest of the Revenue Bonds, or in any other condition thereof materially affecting the lawful holder of the Revenue Bonds, or if the revenues of the Project or System are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bonds, or herein, the City hereby consents to the appointment of a receiver pursuant to SDCL 9-40-33, and agrees that the receiver will have the powers set forth therein, and in SDCL 9-40-34 and SDCL 9-40-35 to operate and administer the System, and charge and collect rates as described therein.

11. Issuance without Election. The City hereby determines that because the Revenue Bonds are issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to SDCL 9-40-15 no election is required to issue the Revenue Bonds.

12. Tax Matters.

(a) The Utility. The Utility financed in whole or in part with proceeds of the Bonds are and will be owned and operated by the City and used by the City to provide system services to members of the general public. No user of the Utility is granted any concession, license or special arrangement with respect to the Utility. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Utility or security for the payment of the Revenue Bonds which might cause the Revenue Bonds to be considered "private activity bonds" or "private loan bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code").

(b) General Tax Exempt Covenant. The City covenants and agrees with the registered owners from time to time of the Revenue Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Revenue Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the basic interest on the Revenue Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

(c) Certification. The Mayor and the Finance Officer, being the officers of the City charged with the responsibility for issuing the Revenue Bonds pursuant to this Resolution, are hereby authorized and directed to execute and deliver to the District thereof a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds, it is reasonably expected that the proceeds of the Revenue Bonds will be used in a manner

that would not cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

(d) Arbitrage Rebate and Record Keeping. The City acknowledges that the arbitrage rebate provisions of Section 148(f) of the Code apply to the Revenue Bonds Series A, the City hereby covenants and agrees to make the determinations, retain records 6 years after the final payment of the Revenue Bonds and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).

(e) Information Reporting. The City shall file with the Secretary of the Treasury, not later than required, a statement concerning the Bonds containing the information required by Section 149(e) of the Code.

(f) Post Issuance Compliance. The City adopts the Meierhenry Sargent Post Issuance Compliance Manual, a copy of which is on file with the Finance Officer, as its written procedural manual for post issuance compliance..

13. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bonds, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bonds, or any other Loan Document.

14. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

15. Definitions. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

16. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Motion carried and resolution declared duly adopted.

ORDINANCES:

Moved by Carpenter, seconded by Allen, to place Ordinance #2298, Supplemental Reappropriations on second reading. Moved by Beck, seconded by Smith, to amend and place Ordinance #2298, Supplemental Reappropriations on second reading. Motion carried. Moved by Smith, seconded by Carpenter, to adopt Ordinance #2298, Supplemental Reappropriations, as follows:

**ORDINANCE NO. 2298
SUPPLEMENTAL APPROPRIATION ORDINANCE
AMENDING ORDINANCE NO. 2288
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 2009 according to statute:

These appropriations represent reappropriations of expenditures previously appropriated and approved, but not expended in the year of the original appropriation. The funding will come from each respective funds cash balance unless otherwise noted.

GENERAL FUND
MUNICIPAL BUILDINGS

101-41920-42910	JVCC Building Repairs	\$ 3,866.00
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DATA PROCESSING

101-41930-42693	Document Imaging System	\$ 25,000.00
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POLICE

101-42110-43210	Locker Room Renovation	\$ 8,927.00
101-42110-43300	Shooting Range	\$ 28,000.00

FIRE

101-42200-42550	Repair SCBA Equipment	\$ 3,845.00
101-42200-42641	Protective Clothing	\$ 1,615.00
101-42200-43500	Self-Contained Breathing Apparatus	\$ 1,907.00

STREET

101-43100-43407	Hoist	\$ 5,900.00
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STREET & SIDEWALK CONSTRUCTION

101-43120-42521	Sidewalk Construction	\$ 12,000.00
101-43120-42526	Bridge Inspection/Engineering	\$ 8,831.00
101-43120-42530	Lighting Projects	\$ 82,295.00
101-43120-42550	Hanson Street Reconstruction	\$ 3,000.00
101-43120-42630	Gravel Base	\$ 41,884.00
101-43120-43300	Street Overlay Maintenance	\$ 15,000.00
101-43120-43303	TID #11 Street Construction	\$100,000.00

The funding will be repaid by TID revenues.

101-43120-43304	Bike Path Signage	\$ 10,523.00
101-43120-43305	Bike Path Construction	\$172,053.00
101-43120-43305	Parking Lot/Alley Paving	\$ 10,000.00

CEMETERY

101-43700-43300 Paving \$ 17,925.00

EMS

101-44600-43415 Rescue Tools \$ 3,000.00

101-44600-43420 Life Pack Monitors \$ 1,700.00

CULTURE & RECREATION

101-45000-42906 Historic Preservation \$ 970.00

101-45000-42912 Lake Mitchell Access Lots \$ 44,969.00

101-45000-42913 Community Garden \$ 1,668.00

101-45000-42917 Community Christmas Lights \$ 1,813.00

SPECIAL REVENUE FUNDS

PARKS, RECREATION & FORESTRY

CADWELL SPORTS COMPLEX

201-45160-43310 Softball Field Improvements \$ 18,699.00

201-45160-43320 Baseball Field Improvements \$ 2,325.00

PARKS & BOULEVARDS

201-45210-43310 Handicap Fishing Dock \$ 12,500.00

201-45210-43330 Sportsman's Club Boat Ramp \$ 1,350.00

201-45210-43407 Frisbee Golf Course \$ 895.00

201-45210-43408 Skate Park Equipment \$ 16,615.00

CAPITAL PROJECT FUNDS

WESTWOOD DEVELOPMENT-TID #7

520-46500-43300 Construction \$642,854.00

The funding will be repaid from TID revenues.

RAILROAD AVENUE

522-46500-43300 Construction \$ 30,000.00

The funding will come from grant funds.

SOCCER COMPLEX

524-46500-43300 Construction \$226,270.00

EVENT CENTER

525-46500-43200 Construction \$ 5,112.00

MADC BUSINESS PARK-TID #10

527-46500-43300 Construction \$ 19,404.00

WATER FUND

WATER TREATMENT

602-43330-42235 Firesteel Creek Reclamation \$ 54,370.00
602-43330-43415 VFD's-Pump Controllers \$118,635.00

WATER DISTRIBUTION

602-43340-42900 Riparian Management Program \$100,200.00
602-43340-43415 Water Meter Program Upgrade \$ 63,774.00

SEWER FUND

WASTE WATER COLLECTION

604-43250-43302 Foster Lift Station \$ 46,908.00

SANITATION FUND

LANDFILL

612-43240-42200 Professional Services \$ 26,000.00
612-43240-43310 Cap Active Area-Old Landfill \$481,785.00

CORN PALACE

SHOWS

613-45620-42905 Festival Entertainment \$ 70,000.00

CONCESSIONS

613-45630-42500 Repair & Maintenance \$ 4,000.00
613-45630-42900 Edutainment \$ 12,750.00
613-45630-43300 Renovations \$ 11,650.00
613-45630-43400 Minor Equipment \$ 31,000.00

GOLF COURSE

614-45250-43303 Paths/Parking \$ 10,000.00
614-45250-43304 Parking/Paving \$ 8,452.00

Motion carried and ordinance declared duly adopted.

Moved by Carpenter, seconded by Lepke, to place Ordinance #2299, Supplemental Appropriations on second reading. Motion carried. Moved by Lepke, seconded by Allen, to adopt Ordinance #2299, Supplemental Appropriations, as follows:

**ORDINANCE NO. 2299
SUPPLEMENTAL APPROPRIATION ORDINANCE
AMENDING ORDINANCE NO. 2288
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 2009 according to statute:

**GENERAL FUND
POLICE**

101-42110-43350	Boiler Replacement	\$15,000.00
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The funding will come from General Fund cash.

STREET & SIDEWALK

101-43120-43305	Bike Path Construction	\$100,000.00
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The funding will come from a reappropriation of 2009 street overlay budget funds.

**ENTERPRISE FUND
AIRPORT**

606-43500-43200	Office Building Roof	\$3,000.00
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The funding will come from an operating transfer from the General Fund.

**AGENCY FUND
SIDEWALK**

710-45000-42900	Sidewalk Construction	\$25,000.00
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The funding will come from an operating transfer from the Special Assessment Revolving Fund-216.

Motion carried and ordinance declared duly adopted.

Moved by Allen, seconded by Backlund, to place Ordinance #2300, Supplemental Appropriations on first reading. Motion carried.

SET DATE:

Moved by Carpenter, seconded by Allen, that the 6th day of March, 2009 at 1:30 p.m. in the Council Chambers of City Hall be the date and time set to receive and consider bids for Curb & Gutter Project #2009-14. Motion carried.

Moved by Lepke, seconded by Smith, that the 16th day of March, 2009 at 1:30 p.m. in the Council Chambers of City Hall be the date and time set to receive and consider bids for Petroleum Products Project #2009-13 and Paving & Overlay Project #2009-15. Motion carried.

CONSIDER APPROVAL:

Moved by Smith, seconded by Beck, to approve the 2008 Annual Financial Report. Motion carried.

Moved by Carpenter, seconded by Houwman, to approve an automatic supplement to the Special Revenue Fund-Parks, Recreation & Forestry in the amount of \$37,500.00 from grant funds for the handicap fishing dock. Motion carried.

Moved by Backlund, seconded by Barington, to approve the request of Imagine Guild Inc. to host a street dance and obtain a consumption permit for May 23, 2009. Motion carried.

Moved by Lepke, seconded by Allen, to approve the request of the American Legion to conduct a raffle with the drawing to be held on May 2, 2009. Motion carried.

Moved by Allen, seconded by Carpenter, to approve the purchase of Traffic Department 4x4 Pickup Project #2009-16B off of State of South Dakota bid in the amount of \$20,228.00. Backlund opposed. Motion carried.

ABATEMENT OF TAXES:

Moved by Beck, seconded by Carpenter, to approve the abatement of taxes in the amount of \$1,228.44 to Dakotas Annual Conference of the United Methodist Church for Lot 7, Maui Farms Second Addition due to purchase by tax-exempt entity. Motion carried.

PAY ESTIMATES:

Moved by Smith, seconded by Beck, to approve the following pay estimates:

- pay estimate #1 in the amount of \$44,091.00 and change order #1R in the amount of \$19,187.96 increasing the contract amount to \$82,672.96 for Water Plant VFD's Project #2008-33 contracted with D.W. Proehl Construction,
- pay estimate #1 in the amount of \$3,752.50 for 5th & Main Statuary Demolition Project #2009-7 contracted with LL Jirsa, Architect,
- pay estimate #1 in the amount of \$1,719.18 for Old Landfill Monitoring Project #2009-28 contracted with Leggette, Brashears & Graham,

- pay estimate #1 in the amount of \$1,335.66 for New Landfill Monitoring Project #2009-29 contracted with Leggette, Brashears & Graham and
- pay estimate #1 in the amount of \$270.00 for Airport Crash Station Reroof Project #2009-31 contracted with LL Jirsa, Architect.

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

BILLS:

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

PAYROLL, FEBRUARY 8, 2009 – FEBRUARY 21, 2009: CITY COUNCIL-\$2,440.24, MAYOR-\$885.54, ATTORNEY-\$1,807.69, FINANCE-\$11,322.53, HUMAN RESOURCES-\$3,946.95, INFORMATION TECHNOLOGY-\$1,270.88, POLICE-\$53,888.77, TRAFFIC-\$3,817.77, FIRE-\$33,624.41, STREET-\$22,541.34, PUBLIC WORKS-\$14,824.40, CEMETERY-\$3,164.48, ANIMAL CONTROL-\$1,275.12, EMERGENCY MEDICAL SERVICES-\$7,289.99, LIBRARY-\$9,872.76, PLAYGROUNDS & ATHLETICS-\$4,709.33, RECREATION CENTER-\$11,957.65, ICE ARENA-\$3,046.19, PARK-\$7,639.28, SUPERVISION-\$5,195.68, FORESTRY-\$2,608.47, E911-\$15,061.53, RSVP-\$4,744.64, PALACE TRANSIT-\$17,276.18, NUTRITION-\$336.50, WATER-\$8,484.49, WATER DISTRIBUTION-\$7,772.41, SEWER-\$10,616.48, AIRPORT-\$1,666.96, WASTE COLLECTION-\$7,979.21, LANDFILL-\$6,498.52, CORN PALACE MAINTENANCE-\$8,943.95, CORN PALACE SHOWS-\$2,456.00, CORN PALACE CONCESSIONS-\$3,864.40, GOLF COURSE-\$5,140.02.

SALARY ADJUSTMENTS (per hour rate):

E-911: Erin Thiphasouk-\$15.340

FINANCE: Michele DeVries-\$14.363

PALACE TRANSIT: John Robertson-\$12.523

PUBLIC SAFETY: George Breidenbach-\$10.00, Darwin Buus-\$10.00, Alice Claggett-\$10.00, Gladys George-\$10.00, Melvin Lubbers-\$10.00, Dean Minder-\$10.00, Edna Schrank-\$10.00, Ron Sommer-\$10.00, Pam Wolff-\$10.00

NEW HIRES (per hour rate):

CEMETERY: Lawrence Addy-\$8.00, Harlan Phinney-\$8.00

PLAYGROUNDS & ATHLETICS: Briana Austin-\$7.00, Jim Flores-\$7.00, Ashley Kley-\$7.00, James Loiseau-\$7.00, Jordan Stout-\$7.00, Randy Veurink-\$7.50

WARRANTS: A&B Business, Supplies-\$173.13; A-Ox Welding Supply Company, Supplies-\$105.70; Accounts Management, Payroll Deductions-\$230.83; Advance Auto Parts, Parts-\$70.89;

Aflac, Payroll Deductions-\$3,223.57; Aflac/Flex One, Claims-\$3,243.22; AIA Corporation, Supplies-\$152.65; Al's Engraving, Name Badges-\$5.95; Alltel, Utilities-\$1,668.02; American Public Works Association, Registration-\$452.00; Aramark, Supplies-\$133.07; Architectural Roofing & Sheet Metal, Repairs-\$518.67; Argus Leader, Advertising-\$1,178.68; Artisans Screen Printing, Supplies-\$3,095.19; Atlas Pen & Pencil, Supplies-\$396.45; Auto Body Specialties, Supplies-\$31.86; B&B Upholstery, Repairs-\$88.00; Bailey Metal Fabricators, Supplies-\$10.71; Bailey Sales, Supplies-\$20.79; Best Western Ramkota Hotel, Travel-\$370.00; Best Western Ramkota Inn, Travel-\$95.39; Bill Wittstruck, Travel-\$61.00; Blackburn Manufacturing, Supplies-\$384.56; Blue Cross Blue Shield, Insurance Refund-\$1,118.00; Brad Kobza, Travel-\$66.00; Brenda Paradis, Travel-\$61.00; Brucelli Advertising, Supplies-\$140.00; Bryan Rock Products, Supplies-\$1,741.05; Bryan Schrank, Travel-\$38.00; Bryce Holter, Scorekeeper-\$60.00; Bureau of Education & Research, Registration-\$199.00; Business Products, Supplies-\$3,652.36; Butler Machinery, Parts-\$340.59; Campbell Supply, Supplies-\$412.09; Catholic Family Services, Contract Services-\$180.00; CDW Government, Software-\$2,660.00; City of Emery, Senior Meals Payroll Reimbursement-\$1,530.95; City of Mitchell, Payroll Deduction-\$104.00; Coca Cola Bottling Company, Supplies-\$1,643.70; Corn Palace Concessions, Supplies-\$81.00; County Fair, Supplies-\$10.05; DW Proehl Construction, Contract Services-\$44,091.00; Dakota Fluid Power, Supplies-\$259.26; Dakota Pump, Parts-\$58.92; Dakota Supply Group, Supplies-\$56.47; Dakota Wesleyan University, Ticket Sales-\$1,097.09; Dan Sabers, Contract Services-\$4,676.18; Danko Emergency Equipment, Equipment-\$13,968.00; Deb Hanson-Sudbeck, Travel-\$9.00; Dell Marketing LP, Equipment-\$5,948.15; Department of Social Services, Payroll Deductions-\$1,019.08; District 11B, Ticket Sales-\$2,898.66; District 9B, Ticket Sales-\$2,898.65; Donna Wiczorek, Contract Services-\$357.50; Dorothy Cahoy, Contract Services-\$487.50; Dorothy Stahl, Contract Services-\$260.00; Dakota Transit Association, Membership Dues-\$240.00; Dugout Lounge, Contract Services-\$2,975.00; Dultmeier Sales, Supplies-\$101.15; Elaine Schaefer, Contract Services-\$65.00; Electronic Engineering, Equipment-\$5,260.00; Emery Senior Citizens, Utilities Reimbursement-\$91.57; Farmers Alliance, Supplies-\$690.00; Farnams Genuine Parts, Parts-\$20.33; Farner-Bocken Company, Supplies-\$4,347.62; Fastenal Company, Supplies-\$29.16; First Bankcard, Supplies-\$449.00; First Growth Capital, Equipment-\$409.25; Fisher Scientific, Supplies-\$336.22; Florida Micro, Supplies-\$23.10; Fred the Fixer, Keys-\$29.00; Frito-Lay, Supplies-\$198.18; Gall's, Supplies-\$550.87; General Drivers & Helpers, Union Dues-\$179.00; Graham Tire, Part-\$5.50; Harlow's Bus Sales, Advertising-\$103.67; Harve's Pro Prints, Supplies-\$326.40; HD Supply Waterworks, Supplies-\$3,646.16; Health Communications, Manuals-\$2,443.52; Heartland Paper Company, Supplies-\$191.07; Honda of Mitchell, Supplies-\$39.29; Houchen Bindery, Books-\$125.50; Howard Technology Solution, Equipment-\$453.50; In The Swim, Pool Chemicals-\$400.92; Insight Public Sector, Supplies-\$210.80; Integrity Transcription, Contract Services-\$206.25; International Association of Fairs & Expositions, Registration-\$90.00; Interstate Glass & Door, Parts-\$78.00; Interstate Office Products, Supplies-\$254.58; International Public Management Association for Human Resources, Testing Supplies-\$762.22; Jack's Campers, Equipment-\$1,195.00; James Valley Community Center, Meals-\$31.25; JCL Solutions-Janitors Closet, Supplies-\$400.64; JJ Bankdraft, Supplies-\$16.10; Jones Supplies, Supplies-\$839.73; K-Mart, Supplies-\$464.62; Karen Heiser, Contract Services-\$390.00; Kerigan Studios, Photo Session & Print-\$90.00; Kimball, Parts-\$198.05; Knology, Supplies-\$51.16; Krohmer Plumbing, Curb Box Repairs-\$178.57; Kurt Geres, Travel-\$66.00; Lakeview Sales, Supplies-\$75.90; Larry Jirsa, Contract Services-\$4,022.50; Larry Stunes, Travel-\$123.73; Lear & Associates, Flooring-\$2,696.12; Leggette Brashers & Graham, Contract Services-\$3,054.84; Leila Schamber, Contract Services-\$357.50; Lois E. Huber, Contract Services-\$703.00; Lower James RC&D, Sponsorship Assessment-\$100.00; Maurine R. Cahoy, Contract Services-\$357.50; McFarland Supply Company, Supplies-\$126.84; McLeod's Printing, Supplies-\$738.80; Medicine Shoppe, Supplies-\$108.28; Menard's, Supplies-

\$1,335.23; Meridian Grain, Road Salt-\$1,363.42; Municipal Emergency Services-Midam, Supplies-\$164.00; Meyers Oil Company, Supplies-\$10,778.43; Midwest Gang Investigators Association, Registration-\$35.00; Minnesota Ice Arena Managers Association, Membership Fee-\$140.00; Midcontinent Communications, Utilities-\$858.21; Midwest Turf & Irrigation, Supplies-\$211.17; Mitchell Area Chamber of Commerce, February Funding-\$2,587.50; Mitchell Area Convention Visitors Bureau, February Funding-\$18,112.50; Mitchell Area Development Corporation, February Funding-\$5,175.00; Mitchell School District, City Share-\$1,880.18; Mitchell United Way, Payroll Deductions-\$194.79; Mueller Lumber Company, Supplies-\$75.97; Muth Electric, Repairs-\$3,645.71; National School Towel Sale, Supplies-\$160.26; New Deal Tire, Tire Disposal-\$1,608.85; Northwestern Energy & Communications, Utilities-\$16,592.67; Palace Cleaners, Supplies-\$124.25; Paulson Sheet Metal, Repairs-\$627.00; Pepsi Cola, Supplies-\$801.78; Phone Guy, Phone Upgrade-\$60.00; Physio-Control, Parts-\$479.09; Plastow & Associates, Computer Repairs-\$787.60; Pony Creek Steakhouse, Contract Services-\$4,773.75; Porter Distributing, Supplies-\$162.50; Powerphone, Recertification Fees-\$258.00; Qualified Presort, Mailing Service-\$1,248.61; Qwest, Utilities-\$2,486.64; Richard Pollreisz, Travel-\$61.00; Ron's Bicycle Shop, Keys-\$8.00; Ron's Saw Shop, Supplies-\$443.92; RSVP, Ticket Sellers-\$175.00; S&M Printing Company, Supplies-\$447.00; South Dakota Association of Rural Water, Membership Fee-\$30.00; South Dakota Department of Health, Lab Fees-\$1,588.00; South Dakota Department of Revenue, License & Registration-\$6.00; South Dakota Municipal Street Maintenance, Registration-\$25.00; South Dakota Retirement System, Retirement Contributions-\$38,037.58; South Dakota State Treasurer, Sales Tax Payment-\$12,516.62; South Dakota-Supplemental Retirement, Payroll Deductions-\$1,288.00; South Dakota Sewer and Waste Management Association, Registration-\$70.00; Sharon Rehorst, Contract Services-\$65.00; Sherwin-Williams Company, Supplies-\$124.54; Shi International, Software-\$962.30; Sign Pro, Embroidery Logos-\$72.20; Sioux Equipment, Parts-\$109.10; Sioux Falls Catholic Family, Contract Services-\$60.00; Sleepy Eye Industrial Knife, Regrind Knife-\$70.00; Smeal Fire Apparatus Company, Gauges-\$369.79; State of South Dakota, Utilities-\$291.63; Steve Roth, Travel-\$38.00; Streicher's, Supplies-\$233.99; Sturdevant's Auto Parts, Parts-\$94.56; Subway, Meals-\$382.50; Sun Gold Trophies, Supplies-\$421.35; Sun Life Financial, Payroll Deductions-\$1,055.75; Superior Tech Products, Supplies-\$1,172.67; Tapco, Supplies-\$298.00; Tessier's, Repairs-\$2,194.63; Thune True Value Hardware, Supplies-\$254.51; Titze Electric & Remodeling, Repairs-\$308.82; TK Electric, Repairs-\$306.16; Toby Russell, Reimbursement-\$75.89; Tory Kaufman, Reimbursement-\$150.00; Transportation Safety Apparel, Apparel Supplies-\$4,619.46; Troy Eilts, Scorekeeper-\$80.00; Twirl Jet Spas, Supplies-\$478.93; United States Postal Service, Stamps-\$252.00; Variety Foods, Supplies-\$908.54; Velvet Uniforms, Supplies-\$357.00; Virginia Limberg, Personal Training Fees-\$1,366.00; Wal-Mart, Supplies-\$490.13; Water Environment Federation, Renewal Fee-\$95.00; White Lake School, Ticket Sales-\$1,200.95; Wholesale Electronics, Supplies-\$217.21; Wholesale Supply Company, Supplies-\$365.00 ; Wildflower Company, Supplies-\$172.35; Zach Dalrymple, Travel-\$66.00.

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

EXECUTIVE SESSION:

Moved by Carpenter, seconded by Allen, to go into executive session as permitted by SDCL 1-25-2 (4). Motion carried. Moved by Barington, seconded by Lepke, to come out of executive session. Motion carried.

ADJOURN:

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

Marilyn Wilson
Finance Officer