

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

**JULY 20, 2009
7:30 P.M.**

PRESENT: Dan Allen, Marty Barington, Geri Beck, Travis Carpenter, Scott Houwman, Mel Olson, Jeffrey Smith

ABSENT: Doug Backlund

PRESIDING: Mayor Lou Sebert

AGENDA:

Moved by Beck, seconded by Allen, to approve the agenda as prepared. Motion carried.

MINUTES:

Moved by Carpenter, seconded by Barington, to approve the minutes of the regular City Council meeting held on July 6, 2009. Motion carried.

CITIZEN'S INPUT:

Mayor Sebert noted that Human Resources Director Teri Bertness has received certification as a Senior Professional in Human Resources at the national level through the Society for Human Resource Management. Council member Jeff Smith noted that he attended the rodeo, parade and chili cook-off this past weekend. He commended the committee for doing a nice job.

OATH OF OFFICE:

Mayor Sebert issued the Oath of Office to department head Randy Ahrendt, Parks and Recreation Director.

CONSIDER APPROVAL:

Moved by Houwman, seconded by Carpenter, to approve the recommendations of Mayor Sebert for committee appointments. Motion carried.

BOARD OF ADJUSTMENT:

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

Moved by Beck, seconded by Allen, that the 3rd day of August, 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 Ryan Buckley for a

variance to construct an addition and garage at 908 Court Merrill, Lot D, Block 3, University Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

Moved by Olson, seconded by Allen, that the 3rd day of August, 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 Russell Hines for a variance to construct an addition to a garage at 925 East 6th Avenue, Lot 4, Block 7, FM Greene Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

Moved by Allen, seconded by Olson, that the 3rd day of August, 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 Canndi Balsius for a conditional use permit to operate a dog grooming business located at 809 East Hanson Avenue, Lot 4 and W1/2 Lot 3, Block 5, Applegate Addition and to direct the Finance Officer to give notice according to statute. Motion carried.

It was advised that this is the date and time set for hearing on the application of Jamie Grosdidier for a variance to construct a house/garage located at 3100 Canal Circle, legally described as Lot 8, Island 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 Houwman, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Rolyn Wieczorek for a conditional use permit to operate a construction business located at 1100 West Havens Avenue, legally described as Lot 8A Exc. the E165' in Lot 8D Exc. the E65' in SW1/4, 21-103-60, 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 tabled said application. Moved by Allen, seconded by Beck, to table said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Winfred N. & Douglas Jelden for a conditional use permit to operate an automotive repair garage located at 1104 West Havens Avenue, legally described as IT6, EX Lot ROW 8, SW1/4-21-103-60, 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 recommended denial of said application. Moved by Beck, seconded by Carpenter, to approve said application with the condition that the issue be reviewed in three months. Council members present voting aye: Barington, Beck, Carpenter, Houwman. Council members present voting nay: Allen, Olson, Smith. Motion denied for lack of two-thirds majority in favor of application. David Yeadon of Pro Line and Todd Filter of Import Motors were present for further discussion. After hearing input from Mr. Yeadon, Mr. Filter and various members of the audience, it was moved by Olson, seconded by Houwman to reconsider the previous vote and hear the application again in one month. Council members present voting aye: Allen, Barington, Beck, Carpenter, Houwman, Olson. Council members present voting nay: Smith. Motion carried. Additional discussion was held and it was moved by Beck, seconded by Carpenter to refer this issue back to the Planning Commission for further review at their next meeting on July 27, 2009. Motion carried.

It was advised that this is the date and time set for hearing on the application of Val Fredrich for a conditional use permit to operate a daycare center in her home located at 809 East 12th Avenue, legally described as Lot 6, Block 1, Northridge 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 conditions. Moved by Carpenter, seconded by Smith, to approve said application with the Planning Commission's conditions that the fence be completed prior to starting daycare, the permit is non-transferrable, and the permit will expire if the daycare is not operating in a six month period. Motion carried.

It was advised that this is the date and time set for hearing on the application of Maureen Koch for a conditional use permit to operate a daycare center in her home located at 1420 Ridge Road, legally described as Lot 1, Block 2, SE1/4, Crestview Hills 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 conditions. Moved by Barington, seconded by Houwman, to approve said application with the Planning Commission's conditions that the permit is non-transferrable, and the permit will expire if the daycare is not operating in a six month period. Motion carried.

It was advised that this is the date and time set for hearing on the application of Lisa Shippy for a conditional use permit to operate a daycare center in her home located at 808 East 12th Avenue, legally described as W55' of Lot 16 & E35' of Lot 17, Block 2, Northridge 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 conditions. Moved by Olson, seconded by Beck, to approve said application with the Planning Commission's conditions that the fence be completed prior to starting daycare, the permit is non-transferrable and the permit will expire if the daycare is not operating in a six month period. Motion carried.

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

COMMITTEE REPORTS:

Traffic Commission:

The Traffic Commission met on July 20, 2009 at 6:35 p.m. A request from the Prehistoric Indian Village to close the road from 23rd & Indian Village Road to north of the public boat ramp from 12:00 noon to 12:00 midnight on Saturday, August 8, 2009 was approved. A request from the Corn Palace Festival Committee to close Main Street from 1st to 7th and the half block on each side of Main Street from 2nd to 6th was approved, and a request to close 6th on the south side of the Corn Palace from Lawler to Main was approved. A request from the Corn Palace Festival Committee to close the west half of the city hall parking lot during the festival was also approved.

Public Health and Safety:

The Public Health and Safety Committee met on July 20, 2009 at 6:50 p.m. A request from the Prehistoric Indian Village for a fireworks permit for the Brule' concert on August 8, 2009 was approved with the condition it pass Fire Marshal inspection. A request from Enola Mai Band for a noise permit on August 2, 2009 at 708 East 12th Avenue was denied because no one was present for the discussion.

Public Works:

The Public Works Committee met on July 20, 2009 at 7:00 p.m. Tim McGannon addressed the Committee regarding placing diagonal parking on the west side of the Davison County Court House. Several mature trees would have to be removed to complete this project. Various members of the audience spoke against the proposal. It was recommended to refer any action back to the county. Tim McGannon updated the committee members on the following projects: old landfill closure, new landfill cell, amphitheater project tree removal, amphitheater rip rap and shore stabilization, gun range at new landfill, Dry Run Creek repair east of Minnesota and west of Burr, Firesteel Creek emergency sewer crossing repairs, Mitchell Airport runway project, Foster forcemain project, Hanson sidewalk, and McCabe/University sidewalk project.

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

DEPARTMENT REPORTS:

Moved by Beck, seconded by Smith, to approve the following department reports: May reports - Police Department, Finance Department Cash Balances, and Airport Board; June reports - Palace Transit, Building Permits, Water Department, Airport, and Airport Board. Motion carried.

REVIEW:

A discussion was held regarding the smoking policy for the Cadwell Park Complex. Randy Ahrendt from the Parks & Recreation Department recommended adding a no tobacco usage clause to the current no alcohol policy while any youth events are being held at the Cadwell Park Complex.

HEARING:

It was advised that this is the date and time set for hearing on the application of the Mitchell Prehistoric Indian Village for a Special Event Malt Beverage License for August 8, 2009 at the amphitheater for a concert. Moved by Beck, 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 the Exchange Club for a Special Event Malt Beverage License for August 19, 2009 at the rodeo grounds for the Miller Lite Bull Bash. Moved by Beck, seconded by Olson, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Palace City Lions Club for a Special Event Malt Beverage License for August 29, 2009 at Hitchcock Park for Tour de Corn. Moved by Smith, seconded by Carpenter, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application to transfer Retail (On-Sale) Liquor License (RL-5546) from V.V. Inc. to Hay Company Partnership dba Steak 'N' More located at 1801 North Main Street, Suites 4 and 5. Moved by Olson, seconded by Barington, to approve said application. Motion carried.

ORDINANCES:

Moved by Smith, seconded by Beck, to place Ordinance #2307, Supplemental Appropriations, on second reading. Motion carried. Moved by Allen, seconded by Carpenter to adopt Ordinance #2307, Supplemental Appropriations, as follows:

**ORDINANCE NO. 2307
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
TRAFFIC**

101-42130-43320	Upgrade Signal Lights	\$7,800.00
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The funding will come from the General Fund cash balance.

STREET & SIDEWALK

101-43120-43301	TID #11 Street Construction	\$65,000.00
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The funding will come from General Fund cash to be repaid with TID revenues.

**DEBT SERVICE FUND
MADC BUSINESS PARK – TID #10**

306-41000-23100	Bond Principal	\$500,000.00
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The funding will come from the sale of district real property.

**ENTERPRISE FUND
CORN PALACE
CONCESSIONS**

613-45630-42901	ATM Cash Change	\$10,000.00
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The funding will come from the Corn Palace Fund cash balance.

GOLF COURSE

614-45250-43401	Golf Carts Lease/Purchase	\$110,000.00
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The funding will come from the Golf Course Fund cash balance and from the sale of surplus golf carts.

Motion carried.

Moved by Olson, seconded by Beck, to place Ordinance #2308, Amending Section 1-6-3 – Employment Disputes, on second reading. Motion carried. Moved by Carpenter, seconded by Beck, to adopt Ordinance #2308, Amending Section 1-6-3 – Employment Disputes, as follows:

Ordinance #2308

AN ORDINANCE AMENDING CITY CODE SECTION 1-6-3

PREAMBLE: That in order to provide another method for the resolution of employment disputes and to avoid the necessity of the City Council acting as an appellate body in employment issues, it is necessary to amend the provisions of the municipal code concerning appeals to the City Council, now therefore

be it Ordained that the provisions of 1-6-3 be amended as hereinafter set forth, to-wit:

1-6-3: GENERAL APPEAL PROCEDURES:

Unless other appeal provisions apply, any person aggrieved by any decision or other act of an authorized employee or officer of the city, excluding any employment disputes and excluding allegations of violation of law resulting in prosecution, shall have the right to appeal such act or decision to the city council. Such appeal shall be initiated by submitting a written notice of appeal to the finance officer within ten (10) business days of the action which is appealed. The finance officer shall place the matter for hearing and consideration by the city council (with personnel matters to be in executive session in conformance with law) at the next subsequent regularly scheduled meeting occurring at least five (5) business days after the notice of appeal is received. The finance officer shall notify the appellant and applicable city personnel of the time and place when and where the city council shall consider the appeal. Notice by first class mail to the appellant at the address shown on the notice of appeal shall be deemed good and sufficient notice. The city council may, in its discretion, continue an appeal hearing to another time, provided that the continuance shall not be for an unreasonable length of time.

Motion carried.

Moved by Carpenter, seconded by Olson, to place Ordinance #2309, Amending Sections 6-1A-1, 6-1A-2, 6-1A-3 and 6-1A-5 – Dog Ordinance on second reading. Motion carried. Moved by Beck, seconded by Olson, to adopt Ordinance #2309, Amending Sections 6-1A-1, 6-1A-2, 6-1A-3 and 6-1A-5 – Dog Ordinance, as follows:

ORDINANCE #2309

AN ORDINANCE AMENDING CITY CODE SECTIONS 6-1A-1, 6-1A-2, 6-1A-3 and 6-1A-5

PREAMBLE: The City may, pursuant to 1-6-3 of the Municipal Code, provide for another appeal procedure, concerning designations of dangerous dogs and/or vicious animals, other than to the city council and believes that another procedure is appropriate and that minor changes in 6-1A-1, 6-1A-2, 6-1A-3 and 6-1A-5 of the Municipal Code are appropriate; and

That micro-chipping of certain designated dogs is appropriate for the public safety of the citizens of the community;

Now therefore be it Ordained that the following amendments be enacted

6-1A-1 DEFINITIONS by adding thereto the following, to-wit:

The term "dangerous dog or animal" shall have the same meaning as a vicious dog or animal and the term "vicious dog or animal" shall have the same meaning as a dangerous dog or animal.

Vicious animal means any animal other than an animal used by a law enforcement agency, that:

(a) Has a propensity to bite, scratch or otherwise inflict injury on a human being or an animal owned by another person without provocation. One incident of causing injury may be sufficient to establish a propensity; or

(b) Has a propensity to approach human beings without provocation in a menacing or terrorizing manner so as to confine the movement of or instill fear in a reasonable person

"Period of Owner's Right to Appeal" means the time period beginning on the date when an owner, keeper, harbinger, or handler of a dog or animal is given written notice that a dog or animal has been classified as "dangerous" or "vicious." Such time period shall conclude on the later of:

1. The day immediately following the expiration of the period for which the owner, keeper, harbinger, or handler has the ability to appeal such classification as defined in subsection 6-1A-2(B)(2) herein or
2. The day upon which a final determination is made in accordance with subsection 6-1A-2(B)(3) herein.

6-1A-2: DETERMINATION OF DANGEROUS DOGS OR ANIMALS:

A. Determination Procedures: The pet control officer or the designee of the chief of police, hereinafter referred to as designee, shall have the authority to make a determination that a dog is dangerous, as defined in section 6-1A1 of this article, or that an animal is potentially dangerous pursuant to 6-1A-1 or 6-1A-3, upon the complaint of any person, or upon his own information. The pet control officer or designee shall make such determination after a reasonable investigation of the physical and behavioral characteristics, including breed characteristics, of the dog or animal in question. In the event that the dog or animal in question is alleged to have caused severe injury to any person, the pet control officer or designee may impound the dog or animal, at the owner's expense, pending the investigation and determination of the complaint. If, after reasonable investigation, the pet control officer or designee determines that the dog or animal is dangerous, he may order the owner to either remove the dangerous dog or animal from the jurisdictional limits of the city, or in the alternative, deliver the dangerous dog or animal to the city impoundment facility for humane euthanization. The owner of the dog or animal determined to be dangerous by the pet control officer or designee may request the pet control officer or designee to review his determination, and in such case the pet control officer or designee shall reconsider his determination and consider any additional information or evidence the owner may offer in respect to the issue of whether the dog or animal in question is a dangerous dog or animal according to the standards of this article. Upon such reconsideration, the pet control officer or designee may, but shall not be required to, confer with a licensed veterinarian concerning whether the dog or animal in question is a dangerous dog or animal. The determination of the pet control officer or designee after such reconsideration that the dog or animal in question is a dangerous dog or animal shall be his final determination of the matter, and the owner shall be required to comply immediately with the order of

the pet control officer or designee to either remove the dangerous dog or animal from the jurisdictional limits of the city, or in the alternative deliver the dangerous dog or animal to the city impoundment facility for humane euthanization. In the event that the pet control officer or designee determines that the dog or animal in question is not a dangerous dog or animal, then the dog or animal, if impounded, shall be returned to the owner. Nothing in this section shall excuse the owner from complying with any terms or conditions relating to dogs or animals with known propensities to bite.

B. Appeal To the Chief of Police: The owner of a dog or animal declared to be a dangerous dog or animal may appeal the determination, of the pet control officer or designee to the Chief of Police; provided, however, that the owner may not defer compliance with the order of the pet control officer or designee to remove the dangerous dog or animal from the jurisdictional limits of the city, or deliver the same to the city impoundment facility for humane euthanization, provided that the euthanization shall not be carried out if the owner shall have paid in advance the daily charge of the boarding at the impound facility for such number of days as will be required for the matter to be heard by the chief of police. (Ord. 1745, 8-2-1993)

No dog or animal shall be deemed a "dangerous dog or animal" or "vicious dog or animal" as stated herein unless and until the owner, keeper, harbinger, or handler shall have been provided the opportunity to contest, challenge, or otherwise appeal the determination that a dog or animal is a "dangerous dog or animal" or "vicious dog or animal" in accordance with the following:

(1) Notice shall be deemed "given" when such a notice has been either served upon any owner, keeper, harbinger, or handler, when a written notice properly stamped and addressed to the registered owner of a dog or animal is deposited into the mail, or when written notice is left in a reasonable location upon the property on which the dog or animal was located. Such written notice may be given by a City official, police officer, or other person of governmental authority in the form of informal notification that a dog or animal has been classified as "dangerous" or "vicious," or a citation for failure to comply with relevant City ordinances.

(2) Upon having notice that a City official, police officer, or other person of governmental authority has made a determination that a dog or animal is a vicious dog or animal, the owner, keeper, harbinger, or handler of such a dog or animal shall have ten (10) days to deliver written intent to appeal such classification to the Chief of Police or designee. Such notice must contain all of the following:

- A. A clear statement identifying the document as intent to appeal a classification of a dog or animal as dangerous or vicious;
- B. Identifying by name and address, the owner, keeper, harbinger, or handler who is making the appeal;
- C. Reasonably identifying the dog or animal in question;
- D. Identifying the notice of citation in which a classification as dangerous or vicious was made;
- E. Any relevant information, documents, statements, or other evidence which the person challenging the classification desires to have considered prior to making a final determination that a dog or animal is a "dangerous dog or animal " or "vicious dog or animal;" AND

If no written intent to appeal the classification is delivered within ten (10) days, such a right to appeal the classification of a dog or animal as dangerous or vicious shall be deemed waived, and such classification shall become conclusive and final, and a City official or police officer may therefore proceed accordingly in compliance with this ordinance.

(3) Upon receiving written notice of intent to appeal a classification of dangerous or vicious dog or animal, the Chief of Police or designee shall promptly, upon conduction and investigation and/or a hearing (if requested and, in the discretion deemed beneficial to the interested of justice) shall issue a written determination of the appropriateness of the classification. This decision shall be final, and shall be served in person or by mail upon the person identified in subsection 6-1A-2(B)(2)(B) hereinabove.

(4) A finding by Chief of Police or his/her designee that a dog or animal is not "dangerous" or "vicious" does not preclude a subsequent classification based on events occurring after the determination made in subsection (3) hereinabove.

(5) Nothing in this section shall preclude the City from enforcing any other ordinances pertaining to dogs, animals or nuisances.

6-1A-3 A be amended as follows:

A. Registration: The police department shall maintain a registry of each dog bite or other animal bite reported, which occurs within the city. The owner of any such dog or animal must register such dog or animal with the police department and micro-chip identify such dog at owner's expense. The application for such registration shall contain the name and address of the owner, the breed, age, sex, color and any other identifying marks of the dog or animal, the location where the dog or animal is to be kept if not at the address of the owner and any other information which the chief of police may require. The application for registration pursuant to this subsection shall be accompanied by a registration fee as established from time to time by resolution of the city council. Each potentially dangerous dog or animal registered pursuant hereto shall be assigned an official registration number by the department. Such registration number shall be inscribed on a metal tab which shall be attached to the collar of the such dog or other animal at all times. The tag and a certificate of registration shall be of such form and design and shall contain such information as the chief of police shall prescribe and shall be issued to the owner upon payment of the registration fee and the presentment of sufficient evidence that the owner has complied with all of the orders of the chief of police or his designated animal control officer in respect to said potentially dangerous animal or dog.

6-1A-3 C be amended as follows:

C. Confiscation And Impoundment: In the event that the owner of a potentially dangerous dog or animal violates any provisions of 6-1 et seq or 6-1A et seq of the City Code or any order of the chief of police, or pet control officer or designee, such owner's dog or animal may be confiscated and impounded, and shall be disposed of in a manner as provided for the humane disposal of dangerous dogs or animals as provided in this article. Any dog or animal which bites a human being and causes injury thereby on more than one occasion, even though the injury may not be severe, shall be deemed a dangerous dog or animal and shall either be removed from the jurisdiction of the city by its owner, or the dog or animal shall be disposed of by humane euthanization, in accordance with the provisions of this article relating to dangerous dogs or animals.

6-1A-5: Excused behavior be amended as follows by deleting all of the previous section and substituting the following, to-wit:

Exceptions-No dog shall be considered dangerous, vicious or potentially dangerous or vicious if :

1. A human being who, at the time the injury was sustained, was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or was teasing,

- tormenting, abusing or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused or assaulted the dog or was committing or attempting to commit a crime; or
2. A domestic animal, which, at the time the injury was sustained, was teasing, tormenting, abusing or assaulting the dog; or
 3. A domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog; or
 4. No dog shall be considered dangerous or potentially dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault; or
 5. No military, correctional or police-owned dogs shall be considered dangerous if the attack or injury to a person or domestic animal occurs while the dog is performing duties as expected; or
 6. No dog shall be considered dangerous or potentially dangerous if the dog was reacting to pain or injury, or was protecting itself or its offspring.

Motion carried.

SET DATE:

Moved by Beck, seconded by Allen, that the 3rd day of August, 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 the Exchange Club for a Special Event Malt Beverage License at Cadwell Park for the State Amateur Baseball Tournament on August 5-16, 2009. Motion carried.

Moved by Smith, seconded by Carpenter, that the 3rd day of August, 2009 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 Retail (On-Sale) Liquor License (RL-5764) from Bathke Enterprises LLC to Bathke Enterprises LLC dba One-Eyed Jack's Casino located at 1401 North Main Street, Suite 108A. Motion carried.

Moved by Carpenter, seconded by Allen, that the 3rd day of August, 2009 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 Retail (On-Off Sale) Malt Beverage License (RB-2169) from David Backlund, Jr. to Bathke Enterprises LLC dba Two-Eyed Jack's Casino located at 1401 North Main Street, Suite 108B. Motion carried.

Moved by Barington, seconded by Houwman, that the 3rd day of August, 2009 at 1:30 p.m. in the Mayor's Office of City Hall be the date and time set to receive and consider bids for Phase II Pepsi Soccer Complex – Base Course Project #2009-33. Motion carried.

Moved by Beck, seconded by Barington, that the 11th day of August, 2009 at 1:30 p.m. in the Mayor's Office of City Hall be the date and time set to receive and consider bids for Phase II Pepsi Soccer Complex – Building Project #2009-33. Motion carried.

CONSIDER APPROVAL:

Moved by Smith, seconded by Barington, to approve an automatic supplement to the Capital Project Fund – Railroad Avenue in the amount of \$16,000.00 from grant funds. Motion carried.

Moved by Beck, seconded by Olson, to approve Change Order #4-Final from Commercial Asphalt for the Railroad Avenue Project #2007-3 which decreases the contract amount by \$4,133.10 to an adjusted contract price of \$536,992.03. Motion carried.

Moved by Allen, seconded by Barington, to approve Change Order #2-Final Revised from Robert Johnson Construction for the Soccer Complex Phase I Drainage and Grading which decreases the contract amount by \$1,945.40 to an adjusted contract price of \$482,821.70. Motion carried.

Moved by Beck, seconded by Allen, to approve the City Surplus Auction to be held on September 15, 2009 at 5:30 p.m. at the Impound Lot located at 5951 Airport Road. Motion carried.

Moved by Carpenter, seconded by Smith, to approve the application of George Streetman for a Taxicab Drivers License. Motion carried.

Moved by Olson, seconded by Allen, to approve a request of Mitchell Congregational United Church of Christ Youth to conduct a raffle with the drawing to be held August 23, 2009. Motion carried.

Moved by Olson, seconded by Carpenter, to approve a request of Avera Queen of Peace Foundation to conduct a raffle with the drawing to be held October 30, 2009. Motion carried.

PAY ESTIMATES:

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

- pay estimate #7-Final in the amount of \$10,872.50 for Soccer Field Complex Project #2007-1 contracted with Robert Johnson Construction,
- pay estimate #7-Final in the amount of \$43,714.30 for Railroad Avenue St. Utilities Project #2007-3 contracted with Commercial Asphalt,
- pay estimate #17 in the amount of \$31,220.45 for Foster Street Lift Station Project #2008-2 contracted with SPN & Associates,
- pay estimate #15 in the amount of \$395.55 for Water Plant VFD's Project #2008-33 contracted with SPN & Associates,
- pay estimate #5 in the amount of \$20,804.86 for Landfill Closure Project #2008-34 contracted with Schoenfelder Construction,
- pay estimate #4 in the amount of \$12,181.55 for Landfill Closure Project #2008-34 contracted with Helms & Associates,

- pay estimate #3 in the amount of \$2,427.50 for Police Gun Range Project #2008-35 contracted with Helms & Associates,
- pay estimate #1 in the amount of \$1,449.30 for Hazardous Sidewalk Project #2009-4C contracted with Robert Johnson Construction,
- pay estimate #2 in the amount of \$12,739.12 for Hanson Sidewalk Project #2009-4-B contracted with Colwell Concrete Inc.,
- pay estimate #2 in the amount of \$2,654.95 for Hazardous Sidewalk Project #2009-4C contracted with Colwell Concrete Inc.,
- pay estimate #1 in the amount of \$1,184.00 for Hazardous Sidewalk Project #2009-4C contracted with Ron Tietz,
- pay estimate #1 in the amount of \$1,043.22 for Hazardous Sidewalk Project #2009-4C contracted with Rexwinkle Concrete Inc.,
- pay estimate #6 in the amount of \$7,384.25 for Landfill Expansion Project #2009-12 contracted with Helms & Associates,
- pay estimate #2 in the amount of \$44,888.04 for Sanborn Curb & Gutter Project #2009-14A contracted with Robert Johnson Construction,
- pay estimate #3 in the amount of \$1,329.83 for Curb & Gutter Project #2009-14B contracted with Rexwinkle Concrete Inc.,
- pay estimate #5 in the amount of \$6,800.00 for Bike Path Phase III Project #2009-27A contracted with SPN & Associates,
- pay estimate #4 in the amount of \$490.00 for Pepsi Soccer Field Phase II Project #2009-33 contracted with Civil Design Inc.,
- pay estimate #1 in the amount of \$1,080.00 for Lawler Street Utilities Project #2010-2 contracted with SPN & Associates,
- pay estimate #1 in the amount of \$25,788.60 for AIP '23 Runway 12/30 Reconstruct contracted with Muth Electric,
- pay estimate #1 in the amount of \$147,612.63 for AIP '23 Runway 12/30 Reconstruct contracted with Commercial Asphalt, and
- pay estimate #3 in the amount of \$13,196.77 and pay estimate #4 in the amount of \$17,654.31 for AIP '24 Runway 12/30 Reconstruct contracted with Helms & Associates.

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

BILLS:

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

PAYROLL, JUNE 28, 2009 – JULY 11 , 2009: CITY COUNCIL-\$2,462.06, MAYOR-\$885.54, ATTORNEY-\$1,807.69, FINANCE-\$9,778.78, HUMAN RESOURCES-\$2,698.23, INFORMATION TECHNOLOGY-\$1,329.12, POLICE-\$53,730.36, TRAFFIC-\$3,701.32, FIRE-\$33,172.45, STREET-\$24,362.58, PUBLIC WORKS-\$14,977.65, CEMETERY-\$4,386.86, MOSQUITO CONTROL-\$856.75, ANIMAL CONTROL-\$1,275.12, EMERGENCY MEDICAL SERVICES-\$9,165.69, LIBRARY-\$9,630.77, PLAYGROUND & ATHLETICS-\$13,965.11, SWIMMING POOL-\$18,564.58, CAMPGROUND-\$2,902.25, RECREATION CENTER-\$7,820.62, CADWELL-\$8,288.15, PARK-\$14,528.79, SUPERVISION-\$5,195.67, FORESTRY-\$2,630.56, E911-\$16,842.46, RSVP-\$3,233.40, PALACE TRANSIT-\$15,039.28, NUTRITION-\$1,636.09, WATER-\$10,184.67, WATER DISTRIBUTION-\$8,086.55, SEWER-\$8,106.29, AIRPORT-\$1,666.97, WASTE COLLECTION-\$9,244.92, LANDFILL-\$7,799.05, CORN PALACE MAINTENANCE-\$8,744.97, CORN PALACE DECORATING-\$11,030.88, CORN PALACE SHOWS-\$3,842.59, CORN PALACE CONCESSIONS-\$6,123.37, GOLF COURSE-\$8,248.82.

SALARY ADJUSTMENTS (per hour rate):

COMMUNICATIONS: Mary Aronson-\$16.603

PARK: Dustin Brummett-\$14.708, Sandy Parks-\$10.00

NEW HIRES (per hour rate):

CAMPGROUND: James Willis-\$7.50

PALACE TRANSIT: Tamara Workman-\$11.954

WARRANTS: A & B Business, Supplies-\$579.14; A-Ox Welding Supply, Supplies-\$750.43; ABC-Clio, Books-\$123.93; Adam Frerichs, Travel-\$62.00; Aflac, Aflac Withholding-\$3,213.08; Aflac/Flex One, Flex One Payments-\$1,534.68; Agronomy Plus, Chemicals-\$322.85; AIA Corporation, Shirts-\$305.92; Al's Engraving, Name Badges-\$17.85; All Star Removal, Lawn Care-\$75.00; Alltel, Utilities-\$1,770.99; American Red Cross, Supplies-\$305.00; Amy Hurt, Travel-\$55.87; Arctic Refrigeration, Repairs-\$377.98; ATR Lighting Enterprises, Supplies-\$541.70; Aurora County Extension, Program Fees-\$280.00; Avera Queen of Peace Hospital, Contract Services-\$2,490.66; Bailey Metal Fabricators, Repairs-\$215.02; Baker & Taylor, Books-\$175.42; Baker Bros Electric, Labor-\$54.49; Bartscher Concrete & Masonry, Contract Services-\$618.12; BBC Audiobooks America, Books-\$503.68; Bender's Sewer & Drain, Pumpout Holding Tank-\$98.00; Big Green, Chemicals-\$1,125.00; Birch Communications, Utilities-\$14.08; Break Time Portables, Contract Services-\$110.00; Brock White Company, Supplies-\$8,274.75; Bruce Mastel, Tennis Camp-\$200.00; Bubble Gum Press, Book-\$12.20; Business Products, Supplies-\$1,439.99; Campbell

Supply, Supplies-\$1,383.48; Card Services, Supplies-\$82.85; Carolina Software, Support Maintenance-\$200.00; Carquest Auto Parts, Supplies-\$140.00; Center Point Large Print, Books-\$77.28; Central Electric Cooperative, Utilities-\$9,651.04; Chad Colwell Concrete, Contract Services-\$15,394.07; Chad Vanede, Refund-\$10.00; Chicken Coupe, Meals-\$61.39; Christina Siemsen, Refund-\$12.00; Chuck's Paint & Blinds, Supplies-\$50.61; City of Mitchell, Payroll Deduction-\$25.00; Civil Design, Contract Services-\$490.00; Co2 Systems, Annual Inspection-\$1,500.00; Coca Cola Bottling, Supplies-\$2,319.30; Commercial Asphalt, Hot Mix-\$17,878.56; Commercial Asphalt, Contract Services-\$191,326.93; Corn Palace Corn-Cessions, Supplies-\$352.00; County Fair, Supplies-\$239.52; Cretex Concrete Products, Supplies-\$184.00; Dacotah Paper Company, Supplies-\$1,013.97; Daily Republic, Microfilm-\$207.85; Dakota Supply Group, Supplies-\$597.85; Dan Zebarth, Refund-\$20.62; Danko Emergency Equipment, Supplies-\$256.53; Darrington Water Conditioning, Rental-\$40.00; David Beintema, Travel-\$66.00; Davison Rural Water System, Water Usage-\$76.75; Dawn Stevens, Refund-\$6.00; Dennis Ruff, Reimbursement-\$15.00; Department of Social Services, Child Support-\$1,215.24; Diane Weitzman, Refund-\$20.00; Dick's Body Shop, Alignment-\$50.00; Diesel Machinery, Parts-\$254.49; Dippin' Dots, Supplies-\$1,011.20; Dugout Lounge, Contract Services-\$1,622.40; Dustin's Repair, Tires-\$631.70; Ebsco Subscription Service, Subscription-\$10.20; Ed's Pet World, Supplies-\$36.97; Element Payment Services, Supplies-\$670.50; Ellefson Implement, Parts-\$1,218.80; Elliott Equipment Company, Parts-\$524.60; Eric Opperman, Refund-\$30.00; Farmers Alliance, Supplies-\$356.93; Farnams Genuine Parts, Parts-\$83.76; Farner-Bocken Company, Supplies-\$14,605.71; Fastenal Company, Supplies-\$1,018.10; Fedex, Transportation Charges-\$10.25; First Bankcard, Supplies-\$4,651.24; First Dakota National Bank, TIF Bond Payment-\$43,349.34; Florida Micro, Printer & Monitor-\$380.40; Foreman Sales & Service, Parts-\$269.54; Gale, Books-\$351.24; Gardner Media, Books-\$131.93; George Streetman, Reimbursement-\$15.00; GF Advertising Services, Embroidery-\$4.45; Golden West Technologies, Basic Alarm Monitoring-\$450.00; Graham Tire Company, Tires-\$362.86; Grainger, Supplies-\$322.04; Great Plains Zoo, Group Admissions-\$44.60; Harve's Sport Shop, Supplies-\$464.00; Hawkins, Chemicals-\$7,803.77; HD Supply Waterworks, Supplies-\$7,131.79; Heartland Paper Company, Supplies-\$101.45; Helms and Associates, Contract Services-\$52,844.38; Henry Schein, Supplies-\$763.67; History Education, Books-\$309.95; Honda of Mitchell, Supplies-\$260.78; HSBC Business Solutions, Supplies-\$198.02; Hydrologic Water Management, Supplies-\$788.32; Ingram Library Services, Books-\$2,682.89; Integrity Transcription, Transcription Services-\$242.50; Interstate Glass & Door, Repairs-\$140.31; James Valley Nursery, Repairs-\$873.80; JCL Solutions-Janitors Closet, Supplies-\$591.44; JD Concrete Products, Contract Services-\$217.50; Jesse James Pontoon Rides, Ride Tickets-\$76.00; John Hegg, Travel-\$115.00; John Wyant, Supplies-\$286.00; Johns Hopkins White Papers, Books-\$179.95; Jones Supplies, Supplies-\$2,128.76; Josh's Mowing Service, Mowing-\$120.00; Joyce Star, Uniform Repairs-\$46.00; Justice Fire & Safety, Repairs-\$537.50; Karen Allen, Lifeguard Training Classes-\$195.00; Kay Park-Rec Corporation, Supplies-\$470.00; Kelco Supply Company, Supplies-\$36.82; KJRV, Advertising-\$500.00; KMIT/KOOL 98, Advertising-\$379.80; Kone, Maintenance Coverage-\$548.34; KORN/KQRN Radio, Advertising-\$595.10; Krohmer Plumbing, Curb Box Repairs-\$1,285.69; Lakeview Sales, Supplies-\$755.80; Lakeview Veterinary Clinic, Rent & Dog Pound-\$1,367.05; Larry's I-90 Service, Tires-\$388.14; Learning Opportunities, Books-\$63.54; Lifequest, Repair & Supplies-\$3,094.86; Lyle Signs, Supplies-\$465.16; Maloney & Maloney, Contract Services-\$2,156.25; MC&R Pools, Pool Chemicals-\$341.66; Mcfarland Supply Company, Supplies-\$303.31; Mcleod's Printing, Supplies-\$5,449.15; Mebius Nursery & Landscaping, Repairs-\$267.00; Medicine Shoppe, Supplies-\$59.93; Menard's, Supplies-\$914.94; Meridian Grain, Supplies-\$1,318.40; Meyers Oil Company, Supplies-\$15,974.06; Michaels Fence & Supply, Repairs-\$364.81; Mid-America Sports Advantage, Supplies-\$170.20; Midcontinent Communications, Utilities-

\$152.35; Midwest Fire & Safety, Annual Maintenance-\$108.00; Midwest Tire & Muffler, Tires-\$950.06; Midwest Turf & Irrigation, Supplies-\$264.57; Minitex, Subscriptions-\$3,325.00; Minnesota Valley Testing, Lab Fee-\$1,402.00; Diana Roth, Refund-\$29.42; Mitchell Area Chamber of Commerce, July Funding-\$2,587.50; Mitchell Area Convention Visitors Bureau, July Funding-\$18,112.50; Mitchell Area Development Corporation, July Funding-\$5,175.00; Mitchell Concrete Product, Supplies-\$678.32; Mitchell Ford, Parts-\$391.05; Mitchell Iron & Supply, Connector Links-\$407.55; Mitchell Lawn Care, Mowing-\$150.00; Mitchell Park & Recreation Center, Swimming Passes-\$2,730.00; Mitchell School District, Work-study-MTI Utility & Contract Services-\$234,699.94; Mitchell Telecom, Utilities-\$192.90; Mitchell United Way, United Way Deductions-\$157.75; Mr. Golf Car, Ezgo Truckster-\$3,342.10; Mueller Lumber Company, Supplies-\$1,229.98; Muth Electric, Repairs-\$26,140.49; Neenah Foundry, Supplies-\$1,610.77; Northwestern Energy, Labor-\$48.90; Northwestern Energy & Communications, Utilities-\$26,553.23; Oliver Products, Supplies-\$1,284.00; Omaha World-Herald, Supplies-\$248.56; One Call Systems, Locate Request Tickets-\$289.30; Palace Cleaners, Supplies-\$276.00; Papa Murphy's Pizza, Pizza's-\$357.00; Paul Morris, Reimbursement-\$45.00; Paulson Sheet Metal, Repairs-\$1,168.91; Pepsi Cola Company, Rent-\$998.84; Pete & Deb Bruce, Refund-\$32.25; Petty Cash, Postage-\$14.85; Photography Unlimited, Photo-\$50.00; Porter Distributing, Supplies-\$162.50; Pro-Build, Garage Door-\$612.80; Puetz Corporation, Architectural Fees-\$14,968.00; Pumpkin Books, Books-\$261.55; Pup & Pony Press, Supplies-\$135.35; Qualified Presort, Mailing Service-\$2,027.01; Quill Corporation, Supplies-\$604.75; Qwest, Utilities-\$2,164.55; Randy Wittstruck, Travel-\$173.30; Reader's Den, Books-\$115.69; Recorded Books, Books-\$639.40; Regarding Cards, Supplies-\$400.00; Rexwinkel Concrete, Contract Services-\$2,373.05; River Cities Public Transit, Software Maintenance-\$3,094.00; Rob's Short Stop, Supplies-\$17.14; Robert Johnson Construction, Contract Services-\$57,209.84; Roby Taylor, Refund-\$16.20; Ron Tietz, Contract Services-\$1,184.00; Ron's Bicycle Shop, Repairs-\$65.00; Ron's Saw Shop, Parts-\$171.84; S & M Printing Company, Supplies-\$41.00; Sage Publications, Directory-\$163.46; Salem Press, Renewal-\$100.00; Sam's Club, Supplies-\$233.87; Santel Communications, Utilities-\$202.80; Schmucker Paul & Nohr, Contract Services-\$39,496.00; Schoenfelder Construction, Contract Services-\$20,804.86; Scott Supply Company, Supplies-\$1,001.21; South Dakota Department of Environment & Natural Resources, Fees-\$2,089.89; South Dakota Public Assurance Alliance, Insurance-\$288.00; South Dakota Retirement System, South Dakota Retirement System Payment-\$38,361.89; South Dakota State Treasurer, Sales Tax Payment-\$18,392.05; South Dakota-Supplemental Retirement, Supplemental Retirement-\$1,441.00; Sherwin-Williams Company, Supplies-\$121.60; Shopko, Supplies-\$119.53; Sioux Falls Two-Way Radio, Equipment-\$1,301.64; Sirchie Finger Print Labor, Supplies-\$138.39; SL-Serco, Water Quality Report-\$4,494.00; Sport Supply Group, Supplies-\$1,037.49; Sportsmith, Supplies-\$192.01; Stan Houston Equipment, Supplies-\$1,590.00; Stanley Ruff, Reimbursement-\$15.00; State of South Dakota, Utilities-\$226.49; Steve & Teresa Werkmeister, Refund-\$8.50; Sturdevant's Auto Parts, Supplies-\$2,346.46; Sun Gold Trophies, Supplies-\$1,889.15; Sun Life Financial, Life Insurance Deductions-\$999.21; Tammie Munsen, Lifeguard Training CPR Classes-\$195.00; Thomas Bouregy & Company, Books-\$139.50; Thune True Value Hardware, Supplies-\$400.45; Tim's Marine Service, Parts-\$80.73; TK Electric, Part-\$9.00; Top-USA Corporation, Sample Clock-\$5.00; Tractor Supply, Supplies-\$64.97; Tri-County Telecom, Utilities-\$31.79; Turfwerks, Equipment-\$10,489.00; Turning Point Productions, Supplies-\$78.46; Tyler Veurink, Reimbursement-\$25.00; Uniform & Accessories Ware, Supplies-\$225.10; UPS Store, Shipping-\$344.62; United States Postal Service, Stamps-\$255.60; Van Diest Supply Company, Supplies-\$519.20; Variety Foods, Supplies-\$1,003.77; Verizon Wireless, Utilities-\$69.95; Walmart, Supplies-\$386.94; Washington Pavilion of Art, Fees-\$46.00; West River Beverage, Supplies-\$718.00; Westcoast Sales & Marketing, Supplies-

\$381.24; Wheelco Brake & Supply, Parts-\$89.88; Wholesale Electronics, Supplies-\$290.59; WNAX, Advertising-\$100.00; Wright Brothers Aviation, Airport Administration-\$500.00.

Members present voting aye: Allen, Barington, Beck, Carpenter, Houwman, Olson, 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 (3). Motion carried. Moved by Barington, seconded by Allen, 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 Olson to adjourn the meeting. Motion carried.

Marilyn Wilson
Finance Officer

Published once at the approximate cost of _____.