

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

**July 19, 2021**

**6:00 P.M.**

**PRESENT:** Dan Allen, John Doescher, Kevin McCardle, Steve Rice,  
Dan Sabers, Jeffrey Smith, Susan Tjarks

**ABSENT:** Marty Barington

**PRESIDING:** Mayor Bob Everson

**AGENDA:**

Moved by Tjarks, seconded by Allen, to approve the following items on the consent agenda:

- a. City Council Minutes
  1. City Council July 6, 2021.
- b. Committee Meeting Minutes
  1. Planning Commission June 28, 2021.
- c. Department Reports
  1. Sales Tax Collections (June),
  2. Finance (June),
  3. Building Permits (June),
  4. Public Works Quarterly Project Update,
  5. Airport (June),
  6. Police (June),
  7. Water (June),
  8. Lawn Mowing (June), and
  9. Code Enforcement (March-June).
- d. MADC Quarterly Report.
- e. Special Event Application for 2021 Corn Palace Festival.
- f. Street Closure for Grace Baptist Church on West Douglas Avenue on August 13, 2021.
- g. Set date of August 2, 2021 for hearings
  1. On the application of VFW Post #2750 for a Special Event Malt Beverage & SD Farm Wine License on October 2, 2021 for a Chili Cook-off,
  2. On the application of the Corn Palace Shrine Club for a Special Event Liquor License on August 5, 2021 for a Celebration of Life, and
  3. On the application of the Corn Palace Shrine Club for a Special Event Liquor License on August 6, 2021 for the Lakeview Golf Banquet.
- h. Pay Estimates July 19, 2021
  - Pay Estimate #42 in the amount of \$422.50 for East Central Drainage Phase II #2019-39

contracted to SPN & Associates,  
 Pay Estimate #43 in the amount of \$138.75 for East Central Drainage Phase II #2019-39  
 contracted to SPN & Associates,  
 Pay Estimate #44 in the amount of \$1,506.80 for East Central Drainage Phase II #2019-39  
 contracted to SPN & Associates,  
 Pay Estimate #11 in the amount of \$11,053.25 for Dailey Drive Lift Station #2020-12  
 contracted to SPN & Associates,  
 Pay Estimate #1 in the amount of \$6,994.85 for West Side Water Tower #2021-3 contracted to  
 SPN & Associates,  
 Pay Estimate #6 in the amount of \$3,740.00 for Landfill Cell #4 #2021-8 contracted to  
 Helms & Associates,  
 Pay Estimate #2 in the amount of \$15,174.06 for Rock Chips #2021-10 contracted to  
 Spencer Quarries Inc.,  
 Pay Estimate #3 in the amount of \$6,889.79 for Rock Chips #2021-10 contracted to  
 Spencer Quarries Inc.,  
 Pay Estimate #1 in the amount of \$9,884.13 for Firesteel Creek Dam Design #2021-18  
 contracted to Ducks Unlimited Inc.,  
 Pay Estimate #1 in the amount of \$23,540.00 for Sanborn Traffic Fixtures-LED Upgrade  
 #2021-21B contracted to Muth Electric Inc.,  
 Pay Estimate #3 in the amount of \$1,853.50 for New Landfill Monitoring #2021-29 contracted  
 to Geotek Engineering,  
 Pay Estimate #1 in the amount of \$962.50 for Mowing-Schedule A #2021-43 contracted to  
 Quality Cut Lawn & Tree Service,  
 Pay Estimate #1 in the amount of \$1,470.20 for Highway 37 Utility Design #2021-45  
 contracted to SPN & Associates,  
 Pay Estimate #2 in the amount of \$523.85 for Highway 37 Utility Design #2021-45  
 contracted to SPN & Associates, and  
 Pay Estimate #12 in the amount of \$7,439.25 for AIP '28 Airport ALP/Master Plan  
 contracted to Helms & Associates.

- i. Approve Bills, Payroll, Salary Adjustments and New Employee Hires and Authorize Payment of Recurring and other expenses in advance as approved by the Finance Officer.

**PAYROLL JUNE 27, 2021 – JULY 10, 2021:** City Council \$3,303.68, Mayor \$1,374.69, City Administrator \$5,296.46, Attorney \$4,401.38, Finance \$12,572.08, Human Resources \$3,542.94, Municipal Building \$3,112.13, Information Technology \$2,721.28, Police \$74,890.87, Traffic \$5,829.94, Fire \$34,278.13, Street \$28,131.63, Public Works \$17,641.57, Cemetery \$7,033.66, Animal Control \$1,559.28, Library \$15,503.67, Recreation & Aquatics \$28,649.52, Recreation Center \$15,673.93, Sports Complexes \$22,391.64, Ballpark Concessions \$1,000.53, Parks \$14,517.73, Supervision \$5,696.46, E911 \$20,843.56, MVP \$777.57, Palace Transit \$21,712.54, JVCC \$1,031.71, Nutrition \$3,136.46, Water Distribution \$12,412.20, Sewer \$13,594.81, Airport \$2,556.63, Recycling Program \$6,469.63, Waste Collection \$6,262.33, Landfill \$9,125.25, Corn Palace \$24,472.88, Golf Course \$7,065.01, Campground \$2,007.60, Emergency Medical Services \$31,360.42.

**NEW HIRES:**

CADWELL CONCESSIONS: Brooke Brewster-\$9.95

CORN PALACE: Drew Bollinger-\$11.45, Halle Mickelson-\$10.45

FIRE: Colt Mayfield-\$19.783

PUBLIC WORKS: Mark Jenniges-\$30.399

RECREATION & AQUATICS: Tevyn Waddell-\$10.95

**SALARY ADJUSTMENTS:**

E-911: Megan White-\$19.735

INFORMATION TECHNOLOGY: Andrew Schneider-\$34.016

POLICE: Curtis French-\$25.262, Jaclyn Larson-\$24.950, Paul Wilson-\$30.436

PUBLIC WORKS: John Hegg-\$32.357, Joseph Schroeder-\$49.813

SPORTS COMPLEXES: Shane Taylor-\$21.255

**TERMINATIONS:**

CEMETERY: Scott Ziebart

**WARRANTS:** A-Ox Welding Supply, Supplies-\$20.52; AFLAC, Aflac Withholding-\$9,973.00; AFLAC Group, Critical Care-\$658.40; AFSCME Council 65, Union Dues-\$476.97; Alex Young, Reimbursement-\$45.00; Amazon Capital Services, Supplies-\$135.57; Andrea Hamilton, Reimbursement-\$45.00; Andrew Schneider, Reimbursement-\$45.00; Aqua-Pure, Supplies-\$4,542.50; Aramark Uniform Services, Supplies-\$196.32; AT&T Mobility, Utilities-\$1,284.92; ATV Holdings, Utilities-\$2,512.74; Avera Occupational Medicine, Contract Services-\$2,196.00; Avera Queen of Peace Hospital, Supplies-\$186.83; B-Y Water District, June Usage-\$157,299.91; Baker & Taylor, Books-\$21.93; Ballistic Defense, Travel-\$375.00; Big Daddy D's, Contract Services-\$1,908.50; Brad Gates, Reimbursement-\$45.00; Buhl's Drycleaning, Supplies-\$28.50; Builders First Source, Supplies-\$264.00; Butler Machinery, Supplies-\$45,242.76; C & B Operations, Supplies-\$599.44; Carolina Software, Maintenance-\$500.00; Carquest Auto Parts, Supplies-\$17.94; CDW Government, Supplies-\$72.58; Central Electric, Utilities-\$11,011.06; Century Link, Utilities-\$58.83; Cherrybee's, Employee Recognition-\$61.00; Chuck's Paint & Blinds, Supplies-\$23.95; City of Mitchell, Golf Course Deductions-\$1,899.90; City of Mitchell, Recreation Deductions-\$2,008.18; City Of Mitchell, Bid Tax-\$144.00; CK Bicycles & Locks, Supplies-\$140.00; Claims Associates, Liability-\$1,434.07; Clubhouse Hotel & Suites, Travel-\$154.00; Coborns, Contract Services-\$582.75; Coca Cola Bottling, Supplies-\$712.70; Comfort

Inn & Suites, Travel-\$50.00; Community Services, 1st 1/2 Reimbursement-\$42,227.00; Connections, Training-\$1,385.91; Core & Main, Supplies-\$8,369.26; Core-Mark Midcontinent, Supplies-\$5,985.79; Corn Belt Team Camp, Sports Authority Promotion-\$1,450.00 ; Corn Palace, Supplies-\$197.00; Culligan Water, Supplies-\$1,162.00; Dak Tech, Supplies-\$4,545.00; Dakota Delivery Service, Maintenance-\$35.00; Dakota Fluid Power, Supplies-\$26.28; Dakota Heartland Development, Contribution-\$7,500.00; Dakota Pump, Maintenance-\$936.79; Dakota Supply Group, Utilities-\$35.41; Darrington Water Conditioning, Rental-\$83.10; Davison Conservation District, Maintenance-\$1,338.75; Davison County Register of Deeds, Supplies-\$25.00; Davison Rural Water System, Utilities-\$1,379.40; Delta Dental Plan of South Dakota, Dental Insurance-\$13,509.68; Dennis Geidel, Reimbursement-\$45.00; Department of Agriculture, Water Fees-\$5,450.00; Department of Social Services, Child Support-\$633.76; Dice Benefits Consulting, June Fees-\$999.00; Dillon Coughlin, Equipment-\$200.00; Dimock Dairy, Supplies-\$559.80; Doug Greenway, Reimbursement-\$45.00; Ducks Unlimited, 2021-18 P.E. #1-\$9,884.13; Dug Out, Contract Services-\$686.00; Election Systems & Software, Election-\$843.50; Environmental Equipment & Service, Supplies-\$557.58; Farmers Alliance, Supplies-\$2,883.35; Fastenal, Supplies-\$22.27; Fedex, Professional Service-\$14.91; Galls, Supplies-\$283.67; Gary Walton, Reimbursement-\$45.00; Golf Course Superintendent Association of America, Membership Dues-\$400.00; Geotek Engineering, 2021-29 P.E. #3-\$1,853.50; Golden West Technologies, Utilities-\$314.97; Graham Tire, Repairs-\$146.85; H & R Salvage, Supplies-\$57.23; Hach, Supplies-\$176.78; Heartland Ag Systems, Supplies-\$150.69; Helms and Associates, 2021-8 P.E. #6-\$11,179.25; Henry Schein, Supplies-\$1,521.23; Honda of Mitchell, Supplies-\$126.43; Independent Viking Glass, Maintenance-\$493.14; Innovative Office Solution, Supplies-\$43.16; Interstate Office Products, Supplies-\$181.79; Interstate Power Systems, Supplies-\$376.66 ; Jacki Larson, Reimbursement-\$45.00; James Valley Nursery, Supplies-\$2,320.15; Jamie Henkel, Reimbursement-\$45.00; Janet Conzemius, Refund-\$100.00; Jaylon Tollefson, Reimbursement-\$45.00; JCL Solutions, Supplies-\$18.00; Jeff Hanson, Reimbursement-\$45.00; Jerry Kayser, Refund-\$40.00; Joe Galpin, Reimbursement-\$45.00; Joe Haiar, Reimbursement-\$45.00; Joe Schroeder, Reimbursement-\$45.00; John Hegg, Reimbursement-\$45.00; Jon Vermeulen, Reimbursement-\$45.00; Jones Supplies, Supplies-\$2,157.53; Josh's Tools, Supplies-\$146.25; Kathy Hanks, Reimbursement-\$45.00; Kathy Kaye Foods, Supplies-\$3,648.00; Kevin Devries, Reimbursement-\$45.00; Kevin Dykes, Reimbursement-\$45.00; Kevin Kenkel, Reimbursement-\$45.00; Kevin Roth, Reimbursement-\$45.00; Krohmer Plumbing, Supplies-\$559.61; Ladonna Larson, Refund-\$250.00; Lakeview Veterinary Clinic, Supplies-\$1,061.02; Larry's I-90 Service, Maintenance-\$894.90; Lawson Products, Supplies-\$633.92; Liz Kitchens, Reimbursement-\$45.00; Lori Layman, Refund-\$50.00; M & T Fire and Safety, Supplies-\$148.25; McLeod's Printing, Supplies-\$1,429.16; Menard's, Supplies-\$1,134.80; Mettler Implement, Supplies-\$181.29; Meyers Oil, Supplies-\$1,075.37; Michael Leach, Reimbursement-\$45.00; Michelle Bathke, Reimbursement-\$45.00; Microsoft, Supplies-\$910.00; Midcontinent Communication, Publishing-\$853.00; Midwest Fire & Safety, Maintenance-\$317.50; Midwest Turf & Irrigation, Supplies-\$31.39; Miner County Auditor, Alcohol Compliance-\$77.56; Mitchell Area Development, 2021 3rd Quarter Budget Allocation-\$41,750.00; Mitchell Concrete Product, Supplies-\$119.50; Mitchell Convention & Visitors Bureau, 2021 Funding July-\$20,800.00; Mitchell Iron & Supply, Supplies-\$342.59; Mitchell Main Street and Beyond, 3rd Quarter Allocation-\$6,562.50; Mitchell Rotary Club, Dues-\$280.00; Mitchell United Way, United Way Deductions-\$195.00; Mueller Lumber,

Supplies-\$193.33; Muth Electric, 2021-21B P.E. #1-\$23,619.55; N-Able Solutions, Supplies-\$3,863.62; Napa Auto Parts, Supplies-\$104.79; Nate Hegg, Reimbursement-\$45.00; Nathan Powell, Reimbursement-\$45.00; New Deal Tire, Supplies-\$8,312.00; Nick Bakhtiari, Reimbursement-\$45.00; Norby Golf Course Design, Improvements-\$8,200.00; Northwestern Energy & Communications, Utilities-\$21,044.18; Online Computer Library Center, Subscription-\$890.85; Omaha World-Herald, Newspaper-\$17.41; One Source the Background, Background Checks-\$781.00; Overtime Steak House and Sports Bar, Contract Service-\$2,527.00; Pepsi Cola, Supplies-\$483.30; Pfeifer Implement, Supplies-\$371.40; Prehistoric Indian Village, 2021 Allocation 3rd Quarter-\$2,812.50; Premier Pest Control, June Pest Control-\$200.00; Public Health Laboratory, Lab-\$195.00; Qualified Presort, Mailing Service-\$389.55; Quality Cut Lawn & Tree Service, 2021-43 P.E. #1-\$962.50; Reeves, Supplies-\$50.93; Rexwinkel Concrete, Repair-\$816.33; Riverside Technologies, Supplies-\$8,636.00; Roger Prewett II, Reimbursement-\$45.00; Runnings Supply, Supplies-\$280.31; S&M Printing, Supplies-\$105.00; Saga Communications of South Dakota, Publishing-\$200.00; Sanitation Products, Supplies-\$3,748.80; Santel Communications, Utilities-\$106.16; Schmucker Paul & Nohr, 2019-39 P.E. #42-\$22,385.20; Scott Supply, Supplies-\$53.75; South Dakota Department of Environment & Natural Resources, Solid Waste-\$2, 911.51; South Dakota Newspaper Services, Advertising-\$2,553.48; South Dakota Retirement System, Retirement Contributions-\$52,017.69; South Dakota Supplemental Roth 457, Roth 457 Contributions-\$1,358.50; South Dakota Water & Wastewater, Registration-\$540.00; South Dakota Supplemental Retirement, Supplemental Retirement-\$2,954.80; Sherwin-Williams, Supplies-\$46.68; Spencer Quarries, 2021-10 P.E. #2-\$22,586.81; Standard Insurance, Life Insurance-\$2,295.46; Staples, Supplies-\$15.68; Stephanie Ellwein, Reimbursement-\$45.00; Steve Anderson, Reimbursement-\$45.00; Steve Schladweiler, Supplies-\$700.00; Streicher's Minneapolis, Supplies-\$199.95; Sturdevants Mitchell, Supplies-\$1,785.24; Subway, Meals-\$97.86; Sun Gold Sports, Supplies-\$16.00; Susan Kiepke, Refund-\$600.00; Terry Johnson, Reimbursement-\$45.00; Tessier's, Maintenance-\$220.79; Test America Laboratories, Lab-\$1,657.00; Thomas L Price, Professional Service-\$700.00; Thomson Reuters-West, June Charges-\$1,063.76; Thune True Value Hardware, Supplies-\$81.65; Tim's Towing & Recovery, Police Tow-\$340.00; TK Electric, Repair-\$957.41; Todd Cavanaugh, Reimbursement-\$45.00; Tractor Supply Credit Plan, Supplies-\$20.97; Transource, Supplies-\$1,276.96; Tri M Tunes, Maintenance-\$237.50; Tyler Vetch, Reimbursement-\$45.00; USA Blue Book, Supplies-\$376.39; Van Diest Supply, Supplies-\$1,375.00; Verizon Wireless, Utilities-\$706.92; Vern Eide Chevrolet Buick, Police Tow-\$170.00; Wade London, Reimbursement-\$45.00; Walmart, Supplies-\$101.96; Wholesale Electronics, Supplies-\$36.60; William Kelly, Refund-\$100.00; Wireless Links, Supplies-\$333.60; Wolf Bronze, Capital Improvements-\$4,500.00; Zimco Supply, Supplies-\$1,644.00; Library Fines, Expense Posting-\$2383.76; Wage Works, Flexible Spending-\$6,924.50; Wellmark, Medical Expense-\$137,951.41; Golf, Deposit Books-\$64.28; US Bank, Bond Payments-\$128,351.49; Wellmark of South Dakota, Prescription, Medical Expense-\$9,882.66.

Members present voting aye: Allen, Doescher, McCardle, Rice, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

### **CITIZENS INPUT:**

Geri Beck, Executive Director of the Mitchell Area Development Corporation and Chamber of Commerce, presented the 2<sup>nd</sup> Quarterly Report for 2021.

### **BOARD OF ADJUSTMENT:**

Moved by Tjarks, seconded by Rice, for the City Council to recess and sit as the Board of Adjustment. Motion carried.

It was advised that this is the date and time set for hearing on the application of Marci Stults for a conditional use permit to operate a family residential childcare center located at 523 South Montana Street, legally described as Lot 6, Block 4, Van Eps 2<sup>nd</sup> Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R2 Single Family Residential District. Notice of hearing has been given and affidavit of publication is on file. Planning Commission recommended approval with the conditions the permit is non-transferable and if the business ceases to operate for six months, a new application would be required. Moved by Smith, seconded by McCardle, to approve said application with Planning Commission recommendations. Motion carried.

Moved by Allen, seconded by Rice, to set date for August 2, 2021 on the application of Boyd Reimnitz for a front yard variance of 7 feet vs 25 feet as required for construction of an attached garage located at 719 South Edmunds Street, legally described as Lots 5 & 6, Block 9, Van Eps 2<sup>nd</sup> Addition, City of Mitchell, Davison County, South Dakota. Motion carried.

Moved by Rice, seconded by McCardle, to set date for August 2, 2021 on the application of Emma Selland for a conditional use permit to operate a family residential childcare center located at 311 McCabe Street, legally described as W 72 feet of Lots 1 & 2, Block 17, University Addition, City of Mitchell, Davison County, South Dakota. Motion carried.

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

### **CONSIDER APPROVAL:**

Motion by Tjarks, seconded by Rice, to approve a noise and fireworks permit for an event on August 13, 2021 located at 40 North Harmon Drive. Motion carried.

Moved by McCardle, seconded by Tjarks, to approve the Special Event Permit Application for Crazy Days at 2<sup>nd</sup> & Lawler on July 24, 2021. Motion carried.

Moved by Tjarks, seconded by Allen, to approve Crazy Days Main Street parking space closures requested by businesses. Motion carried.

Moved by Sabers, seconded by Allen, to approve Agreement #A2021-36, Purple Wave Auction to sell City surplus items. Motion carried.

Moved by McCardle, seconded by Rice, to approve Agreement #A2021-37, Lead Remediation at 223 North Main with ServiceMaster Recovery Management in an amount of \$27,340.39. Motion carried.

**RESOLUTIONS:**

Moved by Rice, seconded by McCardle, to approve Resolution #R2021-49, a Resolution Giving Approval to Certain Drinking Water Facilities Improvements; Giving Approval to the Issuance and Sale of a Revenue Bond to Finance, Directly or Indirectly, the Improvements to the Facilities; Approving the Form of the Loan Agreement and the Revenue Bond and Pledging Project Revenues and Collateral to Secure the Payment of the Revenue Bond; and Creating Special Funds and Accounts for the Administration of Funds for Operation of the System and Retirement of the Revenue Bond and Providing for a Segregated Special Charge or Surcharge for the Payment of the Bonds, as follows:

**RESOLUTION NO. #R2021-49**

**RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING PROJECT REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND AND PROVIDING FOR A SEGREGATED SPECIAL CHARGE OR SURCHARGE FOR THE PAYMENT OF THE 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 of waterworks for the purpose of providing water and water supply for domestic, municipal, together with extensions, additions, and necessary appurtenances; and,

**WHEREAS**, a municipality is authorized by Section 6 of the Act to issue revenue bonds to defray the cost of extensions, additions and improvements to any utility previously owned without pledging its credit and is authorized to pledge the net income or revenues from the Project in accordance with Section 15 of the Act; and,

**WHEREAS**, the City of Mitchell (the "City") currently operates a water distribution system to supply municipal, industrial and domestic water to its inhabitants and has determined that improvements to the drinking water facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its drinking water system; and,

**WHEREAS**, the City has determined to issue its revenue bonds to finance the improvements to its system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes (the “System”) and has applied to the South Dakota Conservancy District (the “District”) for a Drinking Water State Revolving Fund Loan to finance the improvements;

**WHEREAS**, the City shall adopt special rates or surcharges for the improvements to be pledged, segregated and used for the payment of the Bonds.

**NOW THEREFORE BE IT RESOLVED** by the City as follows:

**SECTION 1. Definitions.** The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. 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.

“**Act**” means South Dakota Codified Laws Chapter 9-40.

“**Loan**” means the Loan made by the South Dakota Conservancy District to the City pursuant to the terms of the Loan Agreement and as evidenced by the Revenue Bond.

“**Project**” means the City of Mitchell West Water Tower Rehabilitation Project.

“**Revenue Bond**” means the revenue bond or bonds issued the date of the Loan Agreement by the City to the South Dakota Conservancy District to evidence the City’s obligation to repay the principal of and pay interest and Administrative Expense Surcharge on the Loan.

“**System**” means the City’s system of waterworks used for the purpose of providing water and water supply for domestic, municipal, and industrial purposes.

**SECTION 2. Declaration of Necessity and Findings.**

**2.1. Declaration of Necessity.** The City hereby declares and determines it is necessary to construct and finance improvements to its drinking water facilities within its System described as the Project.

**2.2. Findings.** The City does hereby find as follows:

**2.2.1.** 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.

**2.2.2.** 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-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed,



the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

2.2.3. The City hereby determines and finds that for the purposes of the Act, including, in particular, Sections 15 and 17 of the Act, that only the net income from the Project financed by the Revenue Bond be pledged for its payment.

### **SECTION 3. Authorization of Loan, Pledge of Revenue and Security.**

3.1. **Authorization of Loan.** The City hereby determines and declares it necessary to finance up to \$1,175,000 of the costs of the Project through the issuance of bonds payable from the revenue of the Project and other funds secured by the City. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

3.2. **Approval of Loan Agreement.** The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which is on file with the City Finance Officer (the "Finance Officer") and open to public inspection, between the City as Borrower and 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.

3.3. **Approval of Revenue Bond.** The issuance of a revenue bond in a principal amount not to exceed \$1,175,000 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 Bond") 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 Bond and deliver the Revenue Bond 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 Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond 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 Section 19 of the Act.

**3.4. Pledge of Revenues.** The Revenue Bond 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 Project 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 Bond and shall be used for no other purpose than to pay the principal, interest and Administrative Surcharge on the Revenue Bond, 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 Project or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond 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 Project, and depreciation, and the Rate Resolution 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 Bond, 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 3 or any other covenant or agreement in the Loan Agreement.

**SECTION 4. Special Charge or Surcharge for Revenue Bond.** The City does hereby create the Revenue Bond Special-Surcharge District (the "Surcharge District") which shall include all users which benefit from the Project. There shall be charged a special charge or surcharge pursuant to Section 15 of the Act for the services provided by Project financed by the Revenue Bond. The special charge or surcharge shall be segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements and shall be 110% of the debt service requirements on the Revenue Bond.

**4.1. Rates and collection.** The rate herein specific will be collected as a special charge or surcharge for the Project. This special charge or surcharge shall remain in effect until such time as the Revenue Bond is defeased or paid in full.

**4.2. Initial Surcharge.** The initial special charge or surcharge shall be set by resolution and collected at the same time as other charges of the utility. All users within the Surcharge District which benefit from the Project, current and future, shall be charged the special charge or surcharge. The special charge or surcharge is found to be equitable for the services provided by the Project. The special charge or surcharge shall begin at such time as will produce sufficient revenue to pay principal, interest and Administrative Surcharge on the Revenue Bond when due.

**4.3. Segregation.** The Finance Officer shall set up bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue, special charges and surcharges.

**4.4. Periodic review.** The amount of the surcharge shall be reviewed from time to time, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the Loan Agreement's rate covenant and to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due. The surcharge may be set by resolution in accordance with this Section. The rate resolution shall be necessary for the support of government and shall be effective upon passage.

**SECTION 5. Additional Bonds.** As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System or Project 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.

**SECTION 6. Project Fund Accounts.** For the purpose of application and proper allocation of the income of the Project and to secure the payment of principal, Administrative Surcharge and interest on the Revenue Bond, the following mandatory asset segregations shall be included in the water system account of the City and shall be used solely for the following respective purposes until payment in full of the principal, interest and Administrative Surcharge on the Revenue Bond:

**6.1. Project Revenue Account.** There shall be deposited periodically into the Project Revenue Account the net revenues as defined in Section 17 of the Act derived from the operation of the Project collected pursuant to the resolutions and ordinances of the City of Mitchell, South Dakota (collectively the "Rate Resolution"). Moneys from the Project Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

**6.2. Project Debt Service Account.** Out of the revenues in the Project Revenue Account, there shall be set aside no later than the 25<sup>th</sup> day of each month into the account designated Project Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal of, interest and Administrative Surcharge on the Revenue Bonds and any reserve determined by the City's governing body to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and Administrative Surcharge payable on the following February 15, May 15, August 15 or November 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.

**6.3. Depreciation Account.** There shall be established a General Depreciation Account. Out of the revenues of the Project Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the Common Council to be a proper and adequate amount for repair and depreciation of the Project.

**6.4. Project Surplus Account.** There shall be established the Project Surplus Account. Revenues remaining in the Project 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 transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Common Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

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

- (a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;
- (b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account and the Project 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:
- (c) 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
- (d) To be used for any other authorized municipal purpose designated by the Common Council.
- (e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund 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 provided in this Section.

**SECTION 7. Approval of Paying Agent/Registrar.** The Revenue Bond shall be payable at the office of U.S. Bank National Association, St. Paul, Minnesota, hereby designated as paying agent and registrar.

**SECTION 8. Approval of Bond Counsel.** Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

**SECTION 9. Tax Matters.** The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (“the Code”) and applicable Treasury Regulations (the “Regulations”).

**SECTION 10. Covenants.** The City hereby covenants and agrees with the District and other owners of the Revenue Bond as follows:

**10.1.** The City will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

**10.2.** The City agrees and covenants that it will promptly construct the improvements included in the Project.

**10.3.** The City covenants and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project 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 Bond, 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 distribution of water for municipal, industrial, and domestic purposes within the City.

**10.4.** The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain 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 Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond 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 Bond shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to Section 19 of the Act.

**SECTION 11. Depositories.** The Finance Officer shall cause all moneys pertaining to the Funds and 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 Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and 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 Fund 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 Fund or 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.

**SECTION 12. Consent to Appointment.** In the event of mismanagement of the Project, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the Project are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to Section 33 of the Act, and agrees that the receiver will have the powers set forth therein, and in Sections 34 and 35 of the Act to operate and administer the Project, and charge and collect rates as described therein.

**SECTION 13. Severability.** If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, 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 Bond, or any other Loan Document.

**SECTION 14. Repeal of Resolution.** At such time as the Project Revenue Bond is defeased or paid in full, this Resolution and the special charge or surcharge shall automatically be repealed without any further action of the City.

**SECTION 15. 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.

**SECTION 16. Effective Date.** This Resolution shall take effect on the 20<sup>th</sup> day following its publication, unless suspended by a referendum.

Motion carried and resolution declared duly adopted.

#### **HEARING:**

A public hearing was held for the Mitchell Wastewater Treatment Facility Project. The City is seeking up to \$10,000,000.00 from the CWSRF program and \$1,087,000 from the Non-Point Source program. The expected loan term for the Clean Water SRF loan is 1.375% for 30 years. Public Works Director Joe Schroeder discussed the proposed project, the proposed financing, and the source of repayment for the loan. There were no comments from the public.

#### **RESOLUTIONS:**

Moved by McCardle, seconded by Rice, to approve Resolution #R2021-50, a Resolution Authorizing an Application for Financial Assistance, Authorizing the Execution and Submittal of the Application, and Designating an Authorized Representative to Certify and Sign Payment Requests, as follows:

**RESOLUTION NO. #R2021-50**

RESOLUTION AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE, AUTHORIZING THE EXECUTION AND SUBMITTAL OF THE APPLICATION, AND DESIGNATING AN AUTHORIZED REPRESENTATIVE TO CERTIFY AND SIGN PAYMENT REQUESTS.

WHEREAS, the **City of Mitchell** (the “City”) has determined it is necessary to proceed with major upgrades to the North Plant of the City’s Wastewater Treatment Facility and the implementation of Non-Point Source Measures (the “Projects”); and

WHEREAS, the City has determined that financial assistance will be necessary to undertake the Projects and an application for financial assistance to the South Dakota Board of Water and Natural Resources (the “Board”) is being prepared; and

WHEREAS, it is necessary to designate an authorized representative to execute and submit the Application on behalf of the City and to certify and sign payment requests in the event financial assistance is awarded for the Projects,

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. The City hereby approves the submission of an Application for financial assistance in an amount not to exceed **\$10,000,000** for the Mitchell Wastewater Treatment Facility Project and **\$1,087,000** for Non-Point Source Measures to the South Dakota Board of Water and Natural Resources for the Projects.
2. The Mayor is hereby authorized to execute the Application and submit it to the South Dakota Board of Water and Natural Resources, and to execute and deliver such other documents and perform all acts necessary to effectuate the Application for financial assistance.
3. The Mayor is hereby designated as the authorized representative of the City to do all things on its behalf to certify and sign payment requests in the event financial assistance is awarded for the Projects.

Motion carried and resolution declared duly adopted.

Moved by Allen, seconded by Tjarks, to approve Resolution #R2021-51, Amending the City’s Water & Sewer Rate Resolution to Include a Surcharge for the Water Tower Repair Project, as follows:

**Resolution #R2021-51**  
**A RESOLUTION AMENDING THE CITY OF MITCHELL WATER & SEWER RATES AND FEES TO INCLUDE A SURCHARGE FOR THE WEST WATER TOWER PROJECT**

IT IS RESOLVED by the City Council of the City of Mitchell, SD that effective September 1, 2021 rates be set at:

**Water Rates**

\$9.21 base fee

\$4.15 per unit charge

*Water Rates include the following surcharges that are segregated from the total fees collected:*

*\$1.78 /month/user for DWSRF-02 (1 million gallon Storage Tank)*

*\$.85/ month/ user for DWSRF-05 (West Water Tower Repairs).*

**Sewer Rates**

\$20.01 base fee

\$3.11 per unit charge.

*Sewer Rates include the following surcharges that are segregated from the total fees collected:*

*\$8.05/month/user for CW-05 (Sanborn Phase II)*

*\$3.70 /month/user for CW-06 (East Central Drainage Phase I)*

*\$.99/month/user for CW-07 (East Central Drainage Phase II)*

*\$1.11/month/user for CW-08 (Daily Drive Lift Station)*

Motion carried and resolution declared duly adopted.

Moved by Smith, seconded by Tjarks, to approve Resolution #R2021-52, Plat of Lot 15 in the Replat of Tract A and Lot 3A & Lot 3B in Tract D, Wild Oak Golf Club Addition to the City of Mitchell, Davison County, South Dakota, as follows:

**RESOLUTION NO. R2021-52**

WHEREAS, It appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 12<sup>th</sup> day of July, 2021; and

WHEREAS, it appears from an examination of the plat LOT 15 IN THE REPLAT OF TRACT A AND LOT 3A & 3B IN TRACT D, WILD OAK GOLF CLUB ADDITION TO THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA as prepared by Nathan L. Jibben, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat LOT 15 IN THE REPLAT OF TRACT A AND LOT 3A & 3B IN TRACT D, WILD OAK GOLF CLUB ADDITION TO THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA prepared by Nathan L. Jibben, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.



Motion carried and resolution declared duly adopted.

Moved by Rice, seconded by Sabers, to approve Resolution #R2021-53, Dissolving Tax Increment District #17, as follows:

**RESOLUTION #R2021-53**  
**Resolution Dissolving Tax Increment District #17**

**PREAMBLE:**

WHEREAS, Tax Increment District #17, hereinafter referred to as TID #17, was established on or about May 7, 2012; and

WHEREAS, the positive tax increments during the term of this TID have been deposited in a special fund denominated "Tax Increment District Number Seventeen", for the payment of the incurred authorized debt and expenses of the TID; and

WHEREAS, all debts and expenses of TID #17 have been paid in full, and pursuant to SDCL 11-9-46, the TID shall terminate and the District will be dissolved when the payment of all projected costs and all tax incremental bonds and notes have been paid;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MITCHELL:

That Tax Increment District #17 be, and it is hereby, dissolved, inasmuch as the payment of all projected costs and all tax incremental bonds and notes have been paid in full.

Motion carried and resolution declared duly adopted.

**ORDINANCES:**

Moved by Rice, seconded by McCardle, to place Ordinance #O2021-10, Establishing Time Periods for Annual Appropriation Proceedings on second reading. Motion carried. Moved by Tjarks, seconded by Smith, to adopt Ordinance #O2021-10, Establishing Time Periods for Annual Appropriation Proceedings, as follows:

**ORDINANCE #O2021-10**  
**AN ORDINANCE ESTABLISHING TIME PERIODS FOR ANNUAL APPROPRIATION PROCEEDINGS.**

WHEREAS, South Dakota Codified Laws (SDCL) sections 9-21-34 and 9-21-34.1 were enacted in 2021 for the purpose of providing municipalities with certain flexibilities with budget proceedings; and

WHEREAS, the above referenced sections became effective July 1, 2021; and

WHEREAS, the City of Mitchell desires to utilize the flexibility these statutes provide in order to more accurately prepare and adopt budgets for subsequent fiscal years.

**BE IT ORDAINED BY THE CITY OF MITCHELL, SOUTH DAKOTA AS FOLLOWS:**

Section 1.

That a NEW SECTION be ADDED to the Mitchell City Code under Chapter 2-1: General Finance Provisions, to read as follows:

“2-1-5: Time Periods for Annual Appropriation Proceedings:

A. No later than the first regular city council meeting in September, the city council shall set the date for a hearing on tax levies for the upcoming fiscal year.

B. No later than the second regular city council meeting in September, the city council shall hold a hearing regarding the tax levies for the upcoming fiscal year. At the close of the hearing, the city council shall set such tax levies and direct the finance officer to certify such tax levies to the Davison County auditor as required by law.

C. On or before October 1<sup>st</sup>, the city finance officer shall certify the tax levies set by the city council for the upcoming fiscal year to the Davison County auditor in the form required by law.

D. No later than the first regular city council meeting in November, the city council shall introduce the City’s annual appropriation ordinance for the upcoming fiscal year.

E. No later than the second regular city council meeting in November, the city council shall finalize and adopt the annual appropriation ordinance for the upcoming fiscal year.

Section 2.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.


Section 3.

The City Finance Officer shall cause notice of adoption of this ordinance to be published in the official newspaper and twenty (20) days after the completed publication, unless the referendum is invoked, this ordinance shall become effective.

Members present voting aye: Allen, Doescher, McCardle, Rice, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

**ADJOURN:**

There being no further business to come before the meeting, Mayor Everson adjourned the meeting.

  
\_\_\_\_\_  
Michelle Bathke  
Finance Officer

Published once at the approximate cost of \_\_\_\_\_.